

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of
Numbering Resource Optimization

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CC Docket No. 99-200

**COMMENTS IN SUPPORT OF WAIVERS OF SECTION 52.13 OF THE
COMMISSION’S RULES WITH RESPECT TO AREA CODES 207 AND 701**

Preliminary Statement

The North Dakota Public Service Commission (“NDPSC” or “North Dakota”) appreciates the opportunity to comment and the recognition of urgency in this matter. The NDPSC respectfully submits that the Federal Communications Commission (“Commission” or “FCC”) rules should be waived to ration numbering resources in Maine and North Dakota with the intent of forestalling exhaust until at least five years from now to provide the Commission additional time to make an informed decision about whether to permit an individual telephone number (“ITN”) pooling trials to be conducted in Maine, North Dakota, and other requesting states to slow the exhaust of numbering resources.

In 2019, the New Hampshire Public Utilities Commission (“New Hampshire or “NHPUC”) and the Maine Public Utilities Commission (“MPUC”) filed a request with the Commission for additional delegated authority to implement ITN pooling on a trial basis to conserve their respective area codes.¹ September 19, 2021, the NDPSC filed a petition requesting

¹ Petition by New Hampshire Public Utilities Commission For Additional Delegated Authority to Implement Number Optimization Measures for the 603 Area Code, *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (April 26, 2019); and Petition by Maine Public Utilities Commission for Additional Delegated Authority to Implement Number Optimization Measures in the 207 Area Code and Comments in Support of the Petition by the New Hampshire Public Utilities Commission for Additional Delegated Authority to Implement Number Optimization for the 603 Area Code, *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (June 26, 2019). This request was joined in by Maine requesting similar relief for Maine’s 207 area code.

the Commission grant the MPUC and NHPUC petitions and include North Dakota as part of the trial.²

On February 22, 2022, the Wireline Competition Bureau (“Bureau”) filed a public notice seeking comment on whether the circumstances in Maine and North Dakota support issuing a waiver of Section 52.13(b), (b)(3), and (d) of the Commission’s rules for up to five years and, during the pendency of the wavier, direct the North American Numbering Plan Administrator (“NANPA”) to deviate from certain Industry Numbering Committee (“INC”) Jeopardy procedure and implementation deadlines.

Discussion

As provided in its petition, North Dakota finds itself in a position with a large number of central office codes assigned, low utilization rates, and a fast-approaching area code exhaust.³ North Dakota’s 701 area code has an expected exhaust date in the fourth quarter of 2026. Agency interaction with the public has confirmed a strong sense of pride and identity coinciding with the 701 area code, along with other practical benefits of maintaining a single area code. As communicated by other states, the NDPSC has already taken significant steps to conserve number resources and would encourage the development of additional tools that allow additional efforts and prevent exhaustion.

NDPSC continues to submit that ITN pooling, assigning one or smaller blocks at a time rather than the blocks of 1,000 numbers, is in the State’s and broader public interest.

² Petition by the North Dakota Public Service Commission for Additional Delegated Authority to Implement Number Optimization measures in the 701 Area Code and Comments in Support of the Petition by the New Hampshire Public Utilities Commission and Maine Public Utilities Commission for Additional Delegated Authority to Implement Number Optimization Measures, *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (September 15, 2021).

³ According to the Number Planning Area Utilization, North Dakota has 297 rate centers and of those, 261 rate centers are utilizing less than 20 percent of the blocks issued, and 214 of 297 rate centers are utilizing five percent or less of the blocks issued. From 2018 through 2019, the utilization rate of the 701 area code only changed by one tenth of a percent. This illustrates the minimal utilization rate relative to the central office codes issued.

Accordingly, the NDPSC believes it is appropriate for the Bureau motion to conditionally waive 47 CFR §§ 52.13(b), (b)(3), and (d) for Maine and North Dakota to extend the availability of telephone numbers in 207 and 701 using Jeopardy procedures to allow enough time to investigate whether to permit requested ITN pooling trials and measure the success of any approved trials.

The rationing of number resources to ensure that Maine, North Dakota, and other requesting states are not exhausted for five years to consider ITN trial petitions and potentially conduct trials is an appropriate justification and provides an appropriate balance with the limitations and conditions provided by the bureau. Although evaluation of the technical, operation and cost considerations of ITN pooling trials and subsequent consideration by the Commission may take less than the five-year waiver period, the NDPSC would be opposed to a shorter waiver period. This would help ensure adequate implementation time if the ITN pooling is found to be feasible and, if not feasible, the opportunity to file additional comments or petitions that may help forestall the pending number exhaust.

The NDPSC believes that hardship for service providers within the state is unlikely, and to the extent that rationing falls below demand, it is likely to be a minimal impact. Based upon current monthly requests, an Interim Jeopardy waiver permitting a single area code per month should not be prejudicial and largely leave service providers unaffected with the absence of service providers inflating numbers or extraordinary changes. The NDPSC also believes that Standard Jeopardy conditioned upon the requirement for NANPA to work with industry to develop a schedule and process they see fit for scheduling less-than-monthly lotteries to accommodate will have a minimal inconvenience, if any impact, on service providers.

The NDPSC continues to work cooperatively with service providers to slow number utilization. In addition to some past success in obtaining returned number blocks,

communications with local industry groups have expressed some support toward the voluntary relinquishment of central office codes. The NDPSC intends to begin a more aggressive approach during the pendency of the Jeopardy procedures. With the remaining 60 existing central office codes and the NDPSC's planned mitigation efforts⁴, there may be room for industry consensus retaining a monthly lottery and no anticipated negative effect to service provider operations. Furthermore, the possibility of extended rationing may prod for better industry and NDPSC cooperation and the development of new conservation techniques to extend the single area code status. If novel conservation techniques are developed, this may also provide an example to other states (not limited to single area code states) in preventing exhaustion of their area codes and could have the cumulative benefit of extending the broader exhaustion of the NANP.

The NDPSC submits that proceeding with the waiver and conditions is consistent with the requirement in section 251(e)(1). The Commission is vested with exclusive authority over numbering administration and may delegate that authority to states or other entities.⁵ Based upon the unique steps discussed to evaluate conservation actions to reduce the inefficient allocation of numbers and "limited circumstances" in which the waiver and conditions are applied, the proposed steps are reasonable and the numbers will be available on an equitable basis.⁶ Furthermore, the actions will be consistent with protecting customers from the expense and inconvenience that results from the implementation of new area codes and efficient use of numbering resources.

⁴ In 2022, North Dakota no new central office codes have been issued.

⁵ *Sprint Corp. v. F.C.C.*, 331 F.3d 952, 954 (D.C. Cir. 2003)

⁶ *See* Id. at 955 (Discussing the efforts taken to slow exhaustion, moving from 10,000 number blocks to batches of 1,000 and requiring demonstrations of need. The court also notes the enormous costs of conversion to an eleven digit system between \$50 to \$150 billion dollars at the time). *See also* Id. at 959.

Conclusion

The NDPSC continues to believe that the current 1,000 block regime is not an efficient use of numbering resources as demonstrated by the millions of numbers in 701 that are unutilized. Furthermore, the implementation of ITN pooling or other methods to prevent exhaustion provides broader benefits to the NANP in the decades to come. Therefore, the NDPSC respectfully requests that the waiver be approved with the described conditions to allow consideration and implementation of ITN pooling methods for the area codes 207 and 701. The NDPSC also supports requests from other states to be included in the waiver and pilot.

Respectfully submitted,

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