

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of	)	
	)	Docket No. UT-991627
Mandatory Number Pooling	)	
Trial in Area Code 509	)	XO COMMENTS ON QWEST
	)	REQUEST TO BE EXCUSED
	)	FROM PARTICIPATION
_____	)	

Pursuant to the Notice of Opportunity to File Initial Comments (March 1, 2001) dated February 15, 2001, in the above-referenced docket, XO Washington, Inc. (“XO”), provides the following Comments on the request of Qwest Corporation (“Qwest”) to be excused from the requirement to participate in number pooling. XO opposes Qwest’s request.

**DISCUSSION**

Qwest requests that the Commission absolve Qwest from its obligations as a telecommunications industry participant and largest incumbent local exchange company in Washington, impose the burden of telephone number conservation efforts on all other carriers offering local service in the 509 NPA, and to undermine the effectiveness of those efforts. The Commission should deny Qwest’s request. Qwest provides insufficient factual support for its cost estimates, which have consistently been overstated in the past. Qwest also provides no support for its estimates of the number of telephone numbers Qwest could contribute to number pooling, relying on averages that would conceal a need in the immediate future for additional NXX codes that could be shared with other providers.

More significantly, Qwest ignores the importance of its participation as a user, if not as a contributor, of partial NXX codes. Unless Qwest obtains thousand-number blocks from prefixes assigned to other carriers, many of those blocks will remain unused, thwarting the Commission's and the industry's efforts to maximize the life of the 509 NPA. Qwest's proposal to use prefix utilization to determine which carriers should participate in number pooling fails to address these concerns and represents nothing more than Qwest's self-serving and unsuccessful attempt to justify its exclusion from numbering resource conservation measures by assessing blame for prefix shortages on every carrier but itself.

Qwest's proposal is also anticompetitive. Qwest would have competing local exchange companies ("CLECs") and their customers bear the entire financial burden of number conservation in eastern Washington, further raising the bar to local market entry and penalizing consumers who opt to obtain service from a provider other than Qwest. Qwest would also enjoy a market advantage through access to more desirable telephone numbers than those included in thousand-number blocks. Accordingly, the Commission either should deny Qwest's Petition to waive its participation in the 509 NPA number pooling trial, or should refuse to require any carrier to participate in such a trial.

**1. The reasonableness of Qwest's estimates of its costs to participate in the 509 number pooling trial.**

XO does not have access to any data underlying Qwest's estimates of its costs to participate in the 509 number pooling trial and so lacks an empirical basis to determine the reasonableness of those estimates. Qwest, however, consistently overestimates its costs to provide facilities and services. *See, e.g.*, Docket No. UT-003013, Thirteenth Supplemental Order (Jan. 31, 2001) (finding Qwest's collocation and OSS cost estimates

to be excessive). XO thus recommends that the Commission refuse to accept Qwest's estimates without an evidentiary hearing or other proceeding that would enable the Commission and interested parties to examine and evaluate those estimates.

**2. The effect of Qwest's participation in the 509 number pooling trial on the allocation to Washington state operations of cost to implement the modifications to Qwest's Operating Support Systems (OSS) and Service Control Points (SCP) across its territory.**

XO has no comments on this issue at this time.

**3. The reasonableness of Qwest's estimates of the numbering resources (thousand-number blocks) that it would contribute to a number pooling trial.**

As with Qwest's cost estimates, XO does not have access to the data on which Qwest relied to estimate the numbering resources that it would contribute to number pooling, but Qwest's estimates on their face fail to consider several important factors. Qwest's estimates rely on an average of all of its numbers, but such a calculation is misleading. Even if Qwest's average utilization is 75%, Qwest may be nearing exhaust of the prefixes in one rate center while prefixes in other rate centers have 50% utilization. Accordingly, Qwest may need additional prefixes in some rate centers in the near future, which would generate more number resources assigned to Qwest that would be available for pooling. Indeed, Qwest will likely need additional number resources in the very near future if its utilization of existing prefixes and level of growth are as Qwest has represented. The Commission, therefore, should examine Qwest's utilization on a rate center, not MSA, basis and should consider Qwest's need for additional number resources in the near future before relying on Qwest's estimates.

Qwest also improperly focuses on the numbers it could *contribute* to number pooling, ignoring the numbers Qwest – and, in many cases, only Qwest – could *withdraw*

from such pooling. Number pooling is a reciprocal undertaking. Even assuming without conceding that Qwest has fewer thousand number blocks to provide to other carriers, Qwest is the only provider that would be in a position to take spare numbers in NXXs assigned to virtually every, if not every, other provider. If, for example, Qwest and two CLECs offer service in a given rate center and an NXX code is to be shared, each CLEC may need only one 1,000 number block, leaving as many as 8,000 numbers unused if Qwest does not participate in number pooling. Indeed, Qwest identifies only five competitors in the most populous rate center, which potentially could strand 5,000 numbers in an NXX even if all competitors shared that NXX.

As a practical matter, moreover, number pooling cannot succeed without Qwest's participation. Each CLEC is, and has been, required to obtain a full prefix for each rate center, and CLECs have obtained the requisite number of NXX codes and have assigned numbers from those codes to customers. CLECs thus may have thousand-number blocks in those codes that they can share with one or more other carriers, but if CLECs have a surplus of thousand-number blocks, CLECs will not be seeking to obtain more of those blocks from other CLECs. If Qwest is not assigned those thousand-number blocks when it needs additional number resources, those blocks will likely remain unused while Qwest is assigned full NXX codes. Number pooling under these circumstances cannot substantially extend the life of the 509 NPA.

Qwest's contribution to number pooling thus is not limited to the amount of number resources Qwest could contribute to the pool. Qwest has an equally, if not greater, impact on the success or failure of pooling as a means of number conservation

through its unique ability to use spare number resources in NXXs currently assigned to other providers.

**4. The likely effect on the date at which the 509 area code would reach exhaustion if Qwest is permitted to obtain full prefixes (NXXs) instead of thousand-number blocks.**

Number pooling cannot succeed in significantly delaying NPA exhaust if Qwest is permitted to obtain full prefixes instead of thousand-number blocks. CLECs' inability to match Qwest's utilization stems in large measure from Qwest's requirement that each CLEC be assigned an NXX in each rate center in the Spokane MSA in which the CLEC has local customers, even if the CLEC needs no more than 1,000 telephone numbers. Qwest has refused to port unassigned numbers to CLECs, even as a means of more efficiently using numbering resources. *See* Docket Nos. UT-003022 & 003040, Qwest SGAT Section 10.2. As discussed above, if Qwest does not participate in number pooling at least by obtaining thousand-number blocks, the blocks that CLECs contribute to the number pool will largely remain unused, and number pooling will not significantly postpone exhaust of the 509 NPA.

Qwest disagrees, claiming that "if ELI, XO and Connect each returned all but three NXX codes, 530,000 telephone numbers would be available for contribution to the pool." Qwest Petition at 11 n.31. Qwest, however, does not explain how it would even be possible for these CLECs to share three NXX codes in Spokane. Not only must each rate center have a unique prefix, each of the CLECs that Qwest identifies presumably has assigned numbers out of at least one code in each rate center in which it has local customers. Qwest thus cannot credibly claim that 530,000 telephone numbers can be made available unless Qwest (a) is reversing its position that one NXX code cannot be

spread among multiple rate centers and (b) is assuming that the customers of at least two of these CLECs would be compelled to surrender their telephone numbers and be reassigned numbers out of the NXX code assigned to the third CLEC. Even if these three CLECs can contribute a substantial number of thousand-number blocks from the NXX codes they have been assigned, Qwest also fails to identify the carrier(s) that would use these numbers if Qwest is not a number pool participant. Like its other estimates, Qwest's estimates of the amount of telephone numbers that would be reused if CLECs alone participate in number pooling are unrealistic, and number pooling under such circumstances will not produce the number conservation the Commission seeks.

**5. Any limitations on the WUTC's discretion arising from the delegation of authority under which the WUTC ordered number pooling, federal rules, or industry guidelines.**

XO takes no position at this time on the authority, or limitations on the authority, of the Commission to order number pooling in the 509 NPA.

**6. The feasibility of excluding from mandatory number pooling any telephone prefix assigned to any service provider, if that prefix has more than a specified utilization level, such as 60 percent or 75 percent.**

Qwest's proposal to exclude telephone prefixes with more than a 60 to 75 percent utilization from mandatory number pooling is self-serving and provides no reasoned basis on which to determine which carriers should be excused from participating in such conservation measures. Any carrier with at least one NXX code that has a utilization level lower than 60 to 75% would be required to participate in the number pooling and incur the entire expenses associated with that participation. Not coincidentally, every local exchange provider except Qwest has at least one such code, leaving Qwest as the only carrier that would be able to satisfy the utilization requirement. Presumably,

Qwest's proposal only applies now, when Qwest is assured of satisfying it, and would not trigger Qwest's future participation, for example, when Qwest requests assignment of a new NXX that obviously would not meet the utilization requirement. Such a proposal serves only to provide superficial legitimacy to Qwest's request that it alone be exempted from participation in number pooling.

Qwest's proposal to use NXX code utilization to determine when a carrier is required to participate in number pooling also inappropriately assumes that only those carriers that have codes with less than a certain utilization level are responsible for taking measures to delay number exhaust. Qwest, by requiring code assignments for each CLEC in each rate center, bears as much responsibility for the prefix shortage as any new entrant. A CLEC is unable to match Qwest's NXX code utilization levels not because of any inefficient use of number resources by the CLEC but because the CLEC must comply with industry call rating and routing requirements that Qwest refuses to mitigate. Prefix utilization levels, therefore, bear no reasonable relationship to the cause of number shortages or to the need for, or potential benefits of, number pooling and thus should not be a factor in determining which carriers are obligated to participate in such number conservation efforts.

**7. Whether granting a waiver to Qwest would result in any undue competitive advantage to Qwest.**

Granting a waiver to Qwest not only would undermine the number conservation goals of number pooling but would competitively disadvantage CLECs. CLECs alone would be required to incur the expense and inconvenience of participating in the number pooling trial, representing yet another barrier to entry and penalty on customer choice in eastern Washington. In addition, Qwest would gain a more subtle competitive

disadvantage. A full NXX code includes a variety of numbers that are desirable from a customer perspective, including consecutive number blocks and number combinations that correspond to words, acronyms, or radio station call letters on the telephone dial. Thousand-number blocks include only one-tenth of the numbers in an NXX code and, correspondingly, have fewer of the customer-preferred numbers. Qwest will enjoy a significant market advantage if it can continue to assign numbers out of complete NXX codes while CLECs are relegated to random thousand number blocks. Qwest offers to assign numbers sequentially, but Qwest does not offer to refuse to provide “vanity” or contiguous numbers. Even if Qwest made such an offer, moreover, the Commission would have no means of verifying that Qwest is not selectively assigning numbers to customers in response to customer requests.

**8. Whether, if the WUTC grants the waiver, it should include any conditions in addition to those proposed by Qwest.**

The Commission should not waive any local exchange provider’s obligation to participate in the number pooling trial. If Qwest is not required to participate, no carrier should be required to participate. If the Commission nevertheless waives Qwest’s participation in the number pooling trial while requiring every other carrier to participate, the Commission should do so only on the additional conditions that:

(a) Qwest provide the Commission with monthly reports of number assignments verifying that Qwest is assigning telephone numbers only in sequence and not out of sequence for marketing or other purposes; and

(b) If the Commission requires permanent number pooling in the 509 NPA following the trial, Qwest should be required to participate in that permanent number pooling.



**CONCLUSION**

The Commission, therefore, either should deny Qwest's request for waiver of the obligation to participate in the 509 NPA number pooling trial, or should not require any carrier to participate in such a trial.

RESPECTFULLY SUBMITTED this 1st day of March, 2001.

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By \_\_\_\_\_  
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