

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

In the Matter of )
)
Numbering Resource Optimization ) CC Docket No. 99-200
)
Petition for Delegated Authority by the Public )
Utilities Commission of Ohio )
)
Petition of the New York State Department of )
Public Service for Mandatory Pooling )
)
Petition of the Washington Utilities and )
Transportation Commission for Mandatory )
Number Pooling )
)
The New Mexico Public Regulation )
Commission's Petition for Delegated Authority to )
Implement Additional Number Conservation )
Measures )

ORDER

Adopted: November 9, 2006

Released: November 9, 2006

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant a petition filed by the New Mexico Public Regulation Commission (New Mexico PRC), and grant in part petitions filed by the Public Utilities Commission of Ohio (Ohio Commission), the New York State Department of Public Service (New York DPS), and the Washington Utilities and Transportation Commission (Washington UTC), for delegated authority to implement mandatory thousands-block number pooling. For the reasons discussed below, we find that the petitioners have demonstrated the special circumstances necessary to justify delegation of authority to require thousands-block number pooling in numbering plan areas (NPAs) forecasted to exhaust within the next five years. In granting these petitions, we permit these states to optimize numbering resources and further extend the life of the NPAs in question. Specifically, we grant the following:

1 See Petition for Delegated Authority by the Public Utilities Commission of Ohio, CC Docket No. 99-200 (filed Aug. 17, 2005) (Ohio Petition); Petition of the New York State Department of Public Service for Mandatory Number Pooling, CC Docket No. 99-200 (filed Aug. 26, 2005) (New York Petition); Petition of the Washington Utilities and Transportation Commission for Mandatory Number Pooling, CC Docket No. 99-200 (filed Dec. 6, 2005) (Washington Petition); and The New Mexico Public Regulation Commission's Comments and Petition to the FCC's February 17, 2006 Order and Fifth Further Notice of Proposed Rulemaking, CC Docket No. 99-200 (filed May 4, 2006) (New Mexico Petition). See also Letter dated September 6, 2005, filed by the New York DPS to clarify its petition for mandatory number pooling (New York DPS Letter) and Supplement dated November 8, 2006, filed by the New York DPS (New York DPS Supplement).

- To the Ohio Commission, the authority to implement mandatory thousands-block number pooling in the 740 and 937 NPAs.
- To the New York DPS, the authority to implement mandatory thousands-block number pooling in the 212/646, 315, 518, 631 and 845 NPAs.
- To the Washington UTC, the authority to implement mandatory thousands-block number pooling in the 360 and 509 NPAs.
- To the New Mexico PRC, the authority to implement mandatory thousands-block number pooling in the 505 NPA.

## II. BACKGROUND

### A. The 1996 Act and Commission Rules and Orders

2. In the *NRO First Report and Order*, the Federal Communications Commission (Commission) determined that implementation of thousands-block number pooling is essential to extending the life of the North American Numbering Plan (NANP) by making the assignment and use of NXX codes more efficient.<sup>2</sup> Therefore, the Commission adopted national thousands-block number pooling as a valuable mechanism to remedy the inefficient allocation and use of numbering resources and required thousands-block pooling in the largest 100 Metropolitan Statistical Areas (MSAs) within nine months of selection of a pooling administrator.<sup>3</sup> The Commission also allowed state commissions previously delegated authority to implement thousands-block pooling to continue to do so.<sup>4</sup> The Commission stated that it would continue to consider state petitions for delegated authority to implement pooling outside the top 100 MSAs on a case-by-case basis.<sup>5</sup> The Commission delegated authority to the Common Carrier Bureau, now the Wireline Competition Bureau (Bureau), to rule on state petitions for

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<sup>2</sup> *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7625, para.122 (2000) (*NRO First Report and Order*). The NANP was established over 50 years ago by AT&T to facilitate the expansion of long distance calling. The NANP, the basic numbering scheme for the United States, Canada, and most Caribbean countries, is based on a 10-digit dialing pattern, NPA-NXX-XXXX, where N represents any digit from 2 through 9 and X represents any digit from 0 through 9. Thousands-block number pooling is a numbering resource optimization measure in which 10,000 numbers in an NXX are divided into ten sequential blocks of 1,000 numbers and allocated to different service providers (or different switches) within a rate center. See *Numbering Resource Optimization*, Fourth Report and Order in CC Docket No. 99-200 and CC Docket No. 95-116, 18 FCC Rcd 12472, 12474, para. 5 (2003) (*NRO Fourth Report and Order*).

<sup>3</sup> *NRO First Report and Order*, 15 FCC Rcd at 7625, 7644-45, paras. 122, 157-158. MSAs, designated by the Bureau of Census, follow geographic borders and are defined using statistics that are widely recognized as indicative of metropolitan character. See *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Memorandum Opinion and Order, 12 FCC Rcd 8115, 8122, para. 17, n. 26 (1997).

<sup>4</sup> Section 251(e)(1) of the Communications Act of 1934, as amended (the Act), allows the Commission to delegate to state commissions jurisdiction over numbering administration. 47 U.S.C. § 251(e)(1).

<sup>5</sup> *NRO First Report and Order*, 15 FCC Rcd at 7651, para. 169. At the time the *NRO First Report and Order* was adopted, several states already had delegated authority to implement thousands-block pooling and several more states had petitions pending with the Commission. *Id.* The Commission observed that the national pooling framework, when adopted, would supersede the interim delegations of authority to state commissions. *Id.*

delegated authority to implement number conservation measures, including thousands-block number pooling, where no new issues were raised.<sup>6</sup>

3. In implementing thousands-block number pooling, the Commission said that state petitions for delegated authority must demonstrate that: (1) an NPA in its state is in jeopardy; (2) the NPA in question has a remaining life span of at least one year; and (3) the NPA is in one of the largest 100 MSAs or, alternatively, the majority of wireline carriers in the NPA are local number portability (LNP)-capable.<sup>7</sup> The Commission recognized that there may be “special circumstances” where pooling would be of benefit in NPAs that do not meet all three criteria and said that pooling may be authorized in such an NPA upon a satisfactory showing by the state commission of such special circumstances.<sup>8</sup>

4. National rollout of thousands-block number pooling commenced on March 15, 2002, in the 100 largest MSAs and area codes previously subject to pooling pursuant to state delegation orders.<sup>9</sup> All carriers operating within the 100 largest MSAs, except those specifically exempted by the order, were required to participate in thousands-block number pooling in accordance with the national rollout schedule.<sup>10</sup> The Commission specifically exempted from the pooling requirement rural telephone companies and Tier III Commercial Mobile Radio Service (CMRS) providers that have not received a specific request for the provision of LNP from another carrier, as well as carriers that are the only service provider receiving numbering resources in a given rate center.<sup>11</sup> In exempting certain carriers from the pooling requirement, the Commission recognized that pooling is most effective in areas where competition exists and confirmed that “it is reasonable to require LNP only in areas where competition dictates its demand.”<sup>12</sup> The Commission directed the North American Numbering Plan Administrator (NANPA) to cease assignment of NXX codes to carriers after they were required to participate in pooling.<sup>13</sup> Instead, carriers required to participate in pooling would receive numbering resources from the national thousands-block number Pooling Administrator responsible for administering numbers in thousands-blocks.<sup>14</sup>

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<sup>6</sup> *NRO First Report and Order*, 15 FCC Rcd at 7651-52, para. 170.

<sup>7</sup> *Id.* These three criteria were adopted before implementation of nationwide thousands-block number pooling and before the Commission recognized that full LNP capability is not necessary for participation in pooling. See *NRO Fourth Report and Order*, 18 FCC Rcd at 12476, para. 11 (recognizing that full LNP capability is not necessary for participation in pooling but the underlying architecture, Location Routing Number (LRN), must be deployed). See also *Numbering Resource Optimization*, CC Docket No. 99-200, Third Report and Order and Second Order on Reconsideration, 17 FCC Rcd 252, 262, para. 21, n. 47 (2001) (*NRO Third Report and Order*). In the *NRO Third Report and Order*, the Commission rejected a request to delegate authority to the states to determine on a case-by-case basis whether to extend pooling requirements. *NRO Third Report and Order*, 17 FCC Rcd at 262, para. 21. The Commission explained that uniform national standards for pooling are necessary to minimize confusion and additional expense related to compliance with inconsistent regulatory requirements. *Id.*

<sup>8</sup> *NRO First Report and Order*, 15 FCC Rcd at 7651-52, para. 170.

<sup>9</sup> *Numbering Resource Optimization*, Order, 17 FCC Rcd 7347, 7348, paras. 3-4 (Wireline Comp. Bur. 2002) (*Pooling Rollout Order*).

<sup>10</sup> *NRO Fourth Report and Order*, 18 FCC Rcd at 12477, para. 14.

<sup>11</sup> *Id.* at 12473, para. 1. Tier III carriers are non-nationwide CMRS providers with no more than 500,000 subscribers as of the end of 2001. See *id.* at 12479, n. 50.

<sup>12</sup> *Id.* at 12476, 12478, paras. 11, 17.

<sup>13</sup> *Id.* at 12477, para. 14.

<sup>14</sup> *Id.*

5. As discussed above, the Commission concluded that mandatory pooling should initially take place in the largest 100 MSAs.<sup>15</sup> In the *Pooling Rollout Order*, the Bureau explained that it would consider extending pooling outside of the top 100 MSAs after pooling was implemented in the top 100 MSAs.<sup>16</sup> The Bureau also encouraged voluntary pooling in areas adjoining qualifying MSAs.<sup>17</sup> Since the completion of the national rollout of pooling in the top 100 MSAs, the Commission has extended pooling in response to five petitions from state utility commissions requesting permission to expand the scope of thousands-block pooling.<sup>18</sup>

### B. The Petitions

6. Between August 17, 2005 and May 4, 2006, the Commission received four petitions from state utility commissions requesting permission to expand the scope of thousands-block pooling.<sup>19</sup> The petitions are similar in that each state asserts that thousands-block pooling is a proactive measure to forestall area code exhaust in the area codes listed. In two of the states (Ohio and Washington), there is an optional pooling mechanism that is being underutilized by the carriers. Accordingly, state petitioners argue that mandatory thousands-block number pooling will likely postpone the need for area code relief in their respective NPAs.

7. On November 28, and December 21, 2005, the Bureau released public notices seeking comment on the New York and Ohio Petitions, respectively.<sup>20</sup> The Bureau released a public notice seeking comment on the Washington Petition on January 3, 2006, and sought comment on the New Mexico petition on July 28, 2006.<sup>21</sup> Several parties filed comments and reply comments.<sup>22</sup>

## III. DISCUSSION

8. In this Order, we grant, to the extent discussed herein, petitions for delegated authority to implement mandatory thousands-block number pooling filed by the Ohio Commission, the New York DPS, the Washington UTC and the New Mexico PRC. As noted previously, the Commission has recognized that it may authorize pooling in an NPA that does not meet each criterion for pooling

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<sup>15</sup> See *NRO First Report and Order*, 15 FCC Rcd at 7645, para. 158.

<sup>16</sup> *Pooling Rollout Order*, 17 FCC Rcd at 7348, para. 3.

<sup>17</sup> *Id.* at 7348, para. 4.

<sup>18</sup> *Numbering Resource Optimization*, Order and Fifth Further Notice of Proposed Rulemaking, 21 FCC Rcd 1833 (2006).

<sup>19</sup> Specifically, the Ohio Commission requested delegated authority for mandatory thousands-block number pooling in the 330/234, 419/567, 740 and 937 NPAs; the New York DPS in the 212/646, 315, 516, 518, 585, 607, 631, 761, 718/347, 845, 914, and 917 NPAs; the Washington UTC in the 206, 360, and 509 NPAs; and New the Mexico PRC in the 505 NPA. The New York DPS subsequently amended its request to reflect that mandatory number pooling has already been granted in the 917 NPA. See New York DPS Supplement at 1.

<sup>20</sup> *The Wireline Competition Bureau Seeks Comment on the Petition of the New York State Department of Public Service for Mandatory Number Pooling*, Public Notice, 20 FCC Rcd 18981 (2005); *The Wireline Competition Bureau Seeks Comment on Petition of the Public Utilities Commission of Ohio for Mandatory Number Pooling*, Public Notice, 20 FCC Rcd 20176 (2005).

<sup>21</sup> *The Wireline Competition Bureau Seeks Comment on Petition for Mandatory Number Pooling Filed by the Washington Utilities and Transportation Commission*, Public Notice, 21 FCC Rcd 1 (2006); *Pleading Cycle Established for Comments on the New Mexico Public Regulation Commission's Petition for Delegated Authority to Implement Additional Number Conservation Measures*, Public Notice, 21 FCC Rcd 8654 (2006).

<sup>22</sup> A list of entities filing comments and reply comments is in the attached Appendix.

authority.<sup>23</sup> The Commission has also extended pooling outside the top 100 MSAs, and has determined that full LNP capability is not necessary for pooling participation.<sup>24</sup> Given the current requirements for pooling authority and in light of the record before us, we find that the “special circumstances” discussed below justify delegation of authority to require pooling in the specified NPAs.

#### A. Pooling Authority Criteria and Special Circumstances Showing

9. First, with regard to the first criterion, jeopardy status, we note that none of the petitions before us present jeopardy situations as defined by industry standards.<sup>25</sup> While some of the NPAs are expected to exhaust in the near future, many others have later exhaust dates. For instance, the 740 and 937 NPAs in Ohio are projected to exhaust in the first quarter of 2008 and second quarter of 2009, respectively;<sup>26</sup> the 360 and 509 NPAs in Washington in the third quarter of 2007 and the first quarter of 2011, respectively;<sup>27</sup> and the 505 NPA in New Mexico in the first quarter of 2009.<sup>28</sup> In contrast, the 330/234 and 419/567 NPAs in Ohio are projected to exhaust in the third quarter of 2026 and the fourth quarter of 2017, respectively;<sup>29</sup> and the 206 in Washington in the fourth quarter of 2023.<sup>30</sup> The Ohio Commission argues that although the 330/234 and 419/567 NPAs have later exhaust dates, it is appropriate to deal with its optional pooling problems at this time, rather than wait for the codes near exhaust and continued low utilization.<sup>31</sup>

10. In addition, petitioners argue that the increased demand for numbering resources, coupled with low utilization rates, will accelerate code exhaust predictions.<sup>32</sup> For example, the Ohio Commission states that the 740 NPA, Ohio’s largest and most rural NPA, which is forecasted to exhaust in the first quarter of 2008, had 216 blocks assigned in all of 2004. In the first half of 2005 alone, however, 152 blocks were assigned, representing 70 percent of the total numbers assigned in 2004.<sup>33</sup> Further, the Ohio Commission reported that the 740 NPA had only a 27 percent utilization of numbers at the end of 2004.<sup>34</sup> Similarly, the New Mexico PRC indicates that, during 2005, the total code assignment for its 505 NPA was 31 codes or 2.58 codes per month, up from 22 code assignments in 2004 and 15 code assignments in

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<sup>23</sup> *NRO First Report and Order*, 15 FCC Rcd at 7651-52, para. 170; *see* para. 3, *supra*.

<sup>24</sup> *NRO Fourth Report and Order*, 18 FCC Rcd at 12476, para 11; *see also* n. 7 *supra*.

<sup>25</sup> The NPA Code Relief Planning and Notification Guidelines (ATIS-0300061) define a jeopardy NPA as existing “when the forecasted and/or actual demand for CO Code resources will exceed the known supply during the planning/implementation interval for relief. Accordingly, pending exhaust of CO Code resources within an NPA does not represent a jeopardy condition if NPA relief has been or can be planned and the additional CO Codes associated with the NPA will be implemented in time to satisfy the need for new CO codes.”

<sup>26</sup> Ohio Petition at 5.

<sup>27</sup> Washington Petition at 7.

<sup>28</sup> New Mexico Petition at 3. The New Mexico PRC indicates that it is undertaking relief planning of the 505 NPA concurrent with its petition. *Id.* at 6.

<sup>29</sup> Ohio Petition at 5.

<sup>30</sup> Washington Petition at 7.

<sup>31</sup> Ohio Petition at 8. *See also* Washington Petition at 8 (also indicating that optional pooling problems should be dealt with now rather than waiting until near exhaust and continued low utilization).

<sup>32</sup> Ohio Petition at 5, 7; New York Petition at ii; Washington Petition at 3-4; New Mexico Petition at 7.

<sup>33</sup> Ohio Petition at 7.

<sup>34</sup> *Id.* at 5.

2003.<sup>35</sup> The State of New Mexico has already begun relief planning steps with NANPA for the 505 NPA, projected to exhaust in the first quarter of 2009.<sup>36</sup> The Washington UTC states that mandatory pooling will extend the exhaust date of the 360 NPA currently forecasted to exhaust in 2007, as well as the 509 NPA forecasted to exhaust in 2011.<sup>37</sup> Likewise, Sprint has indicated that carrier utilization rates in the 360 and 509 NPAs in Washington are as low as 7.13 percent for carriers not participating in pooling.<sup>38</sup> The petitioners all maintain that mandatory pooling is necessary given the increase in numbering activity in their states, and will result in a higher utilization percentage once numbers are assigned.<sup>39</sup>

11. We note that while the 740, 937, 212/646, 315, 518, 631, 845, 360, 509 and 505 NPAs are not in jeopardy as defined by industry standards, each is projected to exhaust within five years.<sup>40</sup> Accordingly, it is most efficient and in the public interest to permit state petitioners to implement mandatory thousands-block number pooling at this time for these NPAs. We find that a denial of the petitions with respect to these specified NPAs would be an inefficient use of resources since the state commissions would have to refile the petitions in the near future when the NPAs in question will be in jeopardy. Further, we believe that strict application of the jeopardy requirement would only further delay the state commissions' ability to optimize numbering resources. We do not find it necessary at this time to grant delegated authority to implement mandatory thousands-block number pooling to the state commissions for the remaining NPAs<sup>41</sup> since those NPAs are currently not in jeopardy and are not projected to exhaust for the next six to twenty years. We make clear that while the five years to exhaust timeframe is appropriate given the specific circumstances here, we do not intend to establish it as a bright line test in all cases.

12. With regard to the second criterion, we note that all petitioners have demonstrated that the NPAs in question have a remaining life span of at least a year and thus satisfy the test.<sup>42</sup> Finally, although the third criterion, that the NPA is in one of the largest 100 MSAs or the majority of wireline carriers in the NPA are LNP-capable, is not met, special circumstances warrant granting the petitions considered herein. In particular, these petitions seek authority to implement pooling outside of the largest 100 MSAs, and we have since determined that pooling can be implemented without full LNP capability.<sup>43</sup> Nevertheless, each state commission demonstrates that LNP availability is widespread in their respective states.<sup>44</sup> As several commenters observe, allowing states to mandate pooling outside of the top 100 MSAs will delay the need for area code relief by using numbering resources more efficiently.<sup>45</sup> Demand for numbering resources in these states is increasing in rural rate centers, where number pooling is not

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<sup>35</sup> New Mexico Petition at 4.

<sup>36</sup> New Mexico Petition at 3.

<sup>37</sup> Washington Petition at 6..

<sup>38</sup> Sprint Comments at 4.

<sup>39</sup> Ohio Petition at 5-7; New York Petition at ii-iii, Washington Petition at 3-5; New Mexico Petition at 7.

<sup>40</sup> See NANPA 2005 Annual Report, Attachment 6 – 2005 NRUF and NPA Exhaust Analysis (NANPA 2005 Report).

<sup>41</sup> The state commissions also requested delegated authority for mandatory thousands-block number pooling in the 330/234 and 419/567 NPAs in Ohio; the 516, 585, 607, 761, 718/347, and 914 NPAs in New York; and the 206 NPA in Washington.

<sup>42</sup> Ohio Petition at 5; Washington Petition at 7; New Mexico Petition at 3; NANPA 2005 Report.

<sup>43</sup> See *supra* at para. 8. and n. 7.

<sup>44</sup> Ohio Petition at 3; New York Petition at iii; Washington Petition at 3; New Mexico Petition at 3; *see supra* n. 9.

<sup>45</sup> See Sprint Comments at 2-3; New Mexico Wireless Providers at 3; NARUC Reply Comments at 3-4.

mandatory, due to additional wireless and competitive carriers entering those areas.<sup>46</sup> The petitioners have demonstrated that many carriers are not participating in optional pooling and, instead, continue to request full NXX codes in these NPAs.<sup>47</sup>

## B. Other Issues

13. Commenters have raised concerns about the impact on rural carriers of mandatory pooling in rural areas. Specifically, the National Telecommunications Cooperative Association (NTCA) asks that we deny New Mexico's petition for failure to include financial impact data for rural carriers or, at a minimum, that there be a requirement that number pooling does not jeopardize rural carriers' LNP exemption.<sup>48</sup> The New York State Telecommunications Association, Inc. (NYSTA) supports the number resource conservation mechanisms associated with thousands-block number pooling, but indicates that investments by rural carriers to become pooling ready could be significant and proposes that rural carriers be given the opportunity to request a waiver of the mandatory pooling requirement in the state of New York.<sup>49</sup> While NYSTA acknowledges that all incumbent providers were directed in the state of New York to become LNP-capable, it argues that rural carriers have never been required to become pooling capable, absent an LNP request, and thus all carriers are not pooling capable.<sup>50</sup> For some switches, it explains, the software for both LNP and pooling are contained in the upgrade, but a separate license is necessary to implement each.<sup>51</sup> For other switches, it further explains, LNP software upgrades do not include pooling software, requiring the purchase of pooling software and a license fee.<sup>52</sup> NYSTA predicts that the cost to become pooling ready can range from \$3,000 to \$50,000 per switch, depending on the manufacturer of the switch.<sup>53</sup>

14. We are guided by the principle, expressed in our pooling precedent, that it is reasonable to require LNP only in areas where competition dictates demand.<sup>54</sup> For this reason, the Commission has exempted from pooling rural telephone companies and Tier III CMRS providers that have not yet received a specific request for the provision of LNP from another carrier and carriers that are the only service provider receiving numbering resources in a given rate center.<sup>55</sup> We therefore mandate that the state commissions, in exercising the authority delegated to them herein to implement number pooling, implement this delegation consistent with the federal exemption for these carriers, as described above. Accordingly, we expect that rural carriers who are not LNP capable will not be required to implement pooling solely as a result of the delegation of authority set forth in this Order.

15. With regard to NYSTA's concern for cost recovery by rural carriers, we note, as explained in the *NRO First Report and Order*, that the Commission concluded that costs of numbering administration, specifically the costs of thousands-block number pooling, will be recovered through an

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<sup>46</sup> Ohio Petition at 7; New York Petition at ii; Washington Petition at 3-4; New Mexico Petition at 7.

<sup>47</sup> See Ohio Petition at 6-7; Washington Petition at 7-8.

<sup>48</sup> NTCA Comments at 3.

<sup>49</sup> NYSTA Comments at 6.

<sup>50</sup> NYSTA Comments at 4 -5.

<sup>51</sup> *Id.*

<sup>52</sup> NYSTA Comments at 5.

<sup>53</sup> NYSTA Comments at 4-5.

<sup>54</sup> *NRO Fourth Report and Order*, 18 FCC Rcd at 12476, para. 11.

<sup>55</sup> *Id.* at 12473, para. 1.

exclusive federal recovery mechanism to enable the Commission to satisfy its competitively neutral mandate and to minimize the administrative and enforcement difficulties that might arise if jurisdiction over numbering administration cost recovery were divided.<sup>56</sup> The Commission addressed the specifics of that mechanism in *NRO Third Report and Order*, concluding, in particular, that rate of return carriers will recover their costs in their interstate access charge in the ordinary course.<sup>57</sup> We believe that the availability of such cost recovery mechanisms should allay the NYSTA's concerns. In addition, given that we have delegated the New York DPS authority to implement mandatory number pooling in a limited number of NPAs, we do not anticipate that rural carriers will require a waiver of the pooling requirement. Rural carriers, however, retain the option of filing a petition to demonstrate that they meet the standard to have this requirement waived.

#### IV. CONCLUSION

16. Petitioners have demonstrated that pooling has the potential to be most beneficial in NPAs forecasted to exhaust within the next five years. Given that the NPAs are expected to experience an increase in demand for numbering resources and have low utilization rates, it is most efficient and in the public interest to permit the state petitioners to implement mandatory thousands-block number pooling in those NPAs at this time. The petitioners observe, and we agree, that mandatory thousands-block number pooling would extend the life of these NPAs by putting to use the resources that otherwise would be stranded.<sup>58</sup> On the other hand, denying the petitions for NPAs forecasted to exhaust within the next five years would allow carriers to continue to request 10,000 blocks of numbers when fewer numbers may be needed to serve their customers, further hastening the exhaust of these NPAs. We find that this is a special circumstance that warrants our delegation of authority to these states to implement mandatory thousands-block number pooling even though the petitioners did not meet all of the Commission's criteria for such delegation.

17. Therefore, for all of the reasons stated above, we determine that the petitioners have demonstrated the special circumstances necessary to justify delegation of authority to require pooling for NPAs forecasted to exhaust within the next five years, and we hereby grant: the Ohio Commission authority to implement mandatory thousands-block number pooling in the 740 and 937 NPAs; the New York State DPS authority to implement mandatory thousands-block number pooling in the 212/646, 315, 518, 631, and 845 NPAs; the Washington UTC authority to implement mandatory thousands-block number pooling in the 360 and 509 NPAs; and the New Mexico PRC the authority to implement mandatory thousands-block number pooling in the 505 NPA.

#### V. ORDERING CLAUSES

18. ACCORDINGLY, pursuant to the authority contained in sections 1, 4(i), and 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, and sections 0.91, 0.291 and 52.9(b) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291 and 52.9(b), IT IS ORDERED that: the New Mexico Public Regulation Commission's Petition for Delegated Authority to Implement Additional Number Conservation Measures IS GRANTED; and the Petition for Delegated Authority of the Public Utilities Commission of Ohio, the Petition of the New York State Department of Public Service for

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<sup>56</sup> *NRO First Report and Order*, 15 FCC Rcd at 7663-4, para. 196.

<sup>57</sup> See *NRO Third Report and Order*, 17 FCC Rcd at 264, para. 25. See also *NRO Fourth Report and Order*, 18 FCC Rcd at 12479, n. 47, for further discussion regarding cost recovery for rural carriers.

<sup>58</sup> Ohio Petition at 5; New York Petition at iii; Washington Petition at 4; New Mexico Petition at 3, 7.



Mandatory Number Pooling, and the Petition of the Washington Utilities and Transportation Commission for Mandatory Number Pooling ARE GRANTED to the extent set forth herein.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin  
Chief, Wireline Competition Bureau

**Appendix****List of Parties****Numbering Resource Optimization Order****A. Parties Filing Comments to the New York Petition**

New York State Telecommunications Association, Inc. (NYSTA)

**B. Parties Filing Comments to the Washington Petition**

Sprint Nextel Corporation (Sprint)

**C. Parties Filing Comments to the New Mexico Petition**

The National Telecommunications Cooperative Association (NCTA)

The New Mexico Wireless Providers

The Public Utilities Commission of Ohio (Ohio Commission)

**D. Parties Filing Reply Comments to the New Mexico Petition**

National Association of Regulatory Utility Commissioners (NARUC)