DT 00-001

Implementation of Number Conservation Methods Authorized by the Federal communications Commission

Order Adopting Allocation of Shared Pooling Costs for the Number Pooling Trial in the 603 Area Code

O R D E R N O. 23,852

November 29, 2001

APPEARANCES: Gregory M. Kennan, Esq. for Verizon New Hampshire; Devine, Millimet & Branch by Frederick J. Coolbroth, Esq. for Merrimack County Telephone Co., Granite State Telephone, Inc., Dunbarton Telephone Co., Wilton Telephone Co., Hollis Telephone Co., Northland Telephone Co. of Maine, Inc., Bretton Woods Telephone Co., and Dixville Telephone Co.; Ms. Pat Jacobs for AT&T and AT&T Broadband of New Hampshire; Office of Consumer Advocate by Anne Ross, Esq. on behalf of residential ratepayers; and E. Barclay Jackson, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On July 13, 2001, the New Hampshire Public Utilities Commission(Commission) issued Order Nisi No. 23,742 establishing a method to allocate the costs of the Thousand Block Number Pooling Trial administered by NeuStar, Inc. (NeuStar), the entity appointed by the Federal Communications Commission (FCC) to administer the roll out of national number pooling. The order required that the non-recurring and recurring costs of the New Hampshire number pooling trial be allocated based on percentage of thousand blocks held by each carrier. The Order established August 2, 2001 as the date by which interested parties could submit comments on the methodology to the Commission.

On August 2, 2001, the Commission received comments from Verizon New Hampshire (Verizon) and Cingular Wireless (Cingular). As a result of those comments, Commission Staff (Staff) contacted NeuStar and requested that NeuStar await further direction from the Commission before implementing the provisions of Order No. 23,742. NeuStar agreed to postpone such implementation. In addition, the Commission decided to hold a hearing regarding the appropriate allocation of the non-recurring and recurring costs associated with the Thousand Block Number Pooling Trial. By Order No. 23,762 issued August 22, 2001, the Commission stayed Order Nisi No. 23,742, established a hearing date of September 17, 2001, ordered parties wishing to present evidence to prefile testimony and exhibits by September 12, 2001 and directed all other interested parties wishing to file comments to do so by September 12, 2001.

A hearing was held as scheduled on September 17, 2001.

II. POSITIONS OF THE PARTIES AND STAFF

A. Verizon

Verizon's witness, Michael O'Connor, testified at the hearing and proposed that the Commission adopt a methodology similar to the Local Number Portability (LNP) cost allocation methodology adopted by the FCC which is based on carrier revenues. More specifically, Verizon recommends that each carrier's portion of the pooling administration shared industry costs for New Hampshire's state pooling trial be based on the carrier's percentage of total revenues received from end-users in the Northeast Number Portability Administration Center (NPAC) region (*i.e.*, all six New England states plus New York). In support of its position, Verizon argues that this cost allocation is competitively neutral and has been endorsed by the Federal Communications Commission as the means by which to collect the shared industry costs for the administration of the North American Numbering Plan (NANP) and for Local Number Portability (LNP). Verizon noted that the FCC explicitly rejected a number-based allocation scheme for allocating LNP shared costs, *see In re Telephone Number Portability, CC docket No. 95-116, Third Report and order, FCC 98-82, at 110, released May 12, 1998,* and had also determined that the allocation of shared industry costs based on the quantity of numbers held by a carrier does not comply with section 251(e)(2) of the Telecommunications Act of 1996 which requires that the cost of numbering administration be allocated on a competitively neutral manner. *See In the Matter of Number Resource Optimization, CC Docket No. 99-200, at 207, released March 31, 2000.*

Lastly, Verizon argues that because the time period for a New Hampshire-specific methodology for allocating thousands-block number pooling (TNP) costs will expire on March 15, 2002 when the national rollout of pooling begins, it is not worth the expense associated with administering them in a manner different from other pooling costs. According to Verizon, such expense could include costs associated with a true-up if a successful challenge were made to the Commission's proposed methodology.

B. AT&T **and AT&T Broadband of New Hampshire**

AT&T witness Paul LaGattuta testified at the hearing. He essentially agreed with Verizon's position concerning the appropriate cost allocation for TNP costs. In addition to echoing Verizon's argument that the revenue-based cost allocation was competitively neutral, Mr. LaGattuta also stated that it would be more administratively convenient for AT&T to handle payment of all bills associated with numbering issues (*i.e.*, North American Numbering Plan (NANP), LNP and TNP) if the cost allocation methodologies were consistent for each issue and among the states that render such bills. He indicated that AT&T favored the revenue-based methodology even though that methodology would result in AT&T bearing a higher share of NeuStar's cost than it would bear if the number-based methodology for cost allocation were employed.

C. Independent Telephone Companies

On behalf of his clients, certain independent telephone companies, Attorney Coolbroth stated that they reviewed the filings and understand the policy arguments on both sides. He further stated that his clients have calculated the impact on these companies and because it is so small, they decided to take no position.

D. Other Commenters

1. AT&T Wireless Services, Inc.

AT&T Wireless supports allocating both non-recurring and recurring costs of the pooling trial based upon the carrier's percentage of thousand blocks. AT&T Wireless argues that this methodology is an approximate measure of the carrier's use of the pooling and numbering systems and is significantly easier to administer than a revenue based approach. In support of its position, AT&T Wireless notes that the number of telephone numbers assigned to a carrier is readily ascertainable and verifiable because it is published in the Local Exchange Routing Guide (LERG). AT&T Wireless also argues that this Commission cannot adopt a cost methodology that is based on carriers' percentages of interstate and international revenues because those revenues are not subject to this Commission's jurisdiction. Lastly, AT&T Wireless asserts that the allocation factor established by the FCC for LNP is inappropriate here because that factor was established on a regional basis and not all carriers in the region provide service in New Hampshire or are subject to the Commission's jurisdiction. Thus, according to AT&T Wireless, if the Commission used the national allocator, it would likely collect less than 100% of its costs.

2. VoiceStream Wireless Inc.

VoiceStream recommends that the Commission employ a methodology similar to that used by the FCC to assess non-recurring and recurring costs for LNP. VoiceStream argues that this revenues-based methodology is easier to implement, equitable, competitively neutral and will provide a more efficient transition to the national rollout of thousand block pooling.

3. Nextel Communications, Inc.

Nextel, a wireless carrier, argues that the Commission's July 13, 2001 order took the correct approach and that NeuStar's costs should be assessed against carriers based upon their respective holdings of 1000 number blocks. Nextel cites a California Public Utilities Commission (CAPC) order which found this method of allocating shared pooling costs appropriate. Nextel asserts that this is a good approximation of the carrier's use of the pooling and numbering systems and that information about the numbers held is publicly available and therefore more easily verifiable than revenue information over which the Commission lacks jurisdiction. In addition, Nextel states that many carriers do not maintain revenues on a state by state basis; a substantial effort to create that information would be required for some carriers, including Nextel.

4. Cingular Wireless LLC

Cingular urges the Commission to adopt the FCC's LNP cost allocation methodology which is based on a carrier's in-region, interstate and international revenue. Cingular believes that the Commission's proposed cost allocation based on numbers held is discriminatory for the following reason: because wireless carriers like Cingular are not LNP-capable, they will have larger number inventories than LNP-capable carriers and will therefore be paying a disproportionately higher share of the number pooling trial costs and will be hurt in the marketplace.

E. Office of Consumer Advocate

The Office of Consumer Advocate (OCA) indicated its support for Commission Staff's position and argued that the Commission's July 13, 2001 order should be implemented. The OCA stated that the Commission has the authority to establish a competitively neutral cost allocation methodology. The OCA also noted that the evidence adduced at the hearing revealed that the impact of the Commission's original order on the major carriers that have participated in this proceeding is very small and is insufficient to prevent the Commission from implementing its original order. The OCA also disputed Verizon's true-up cost argument by stating that it would be unlikely that such costs would be incurred. According to the OCA, because of the small amount of money at stake, it would be unlikely that a carrier would institute a challenge that may ultimately require such a true-up.

F. Staff

Staff indicated its support for the Commission's original order. Staff noted that the FCC will be using the revenues-based methodology commencing March 15, 2002 and that until that time, a state commission is authorized to impose its own methodology for allocating costs associated with a trial number pooling effort, so long as the methodology is competitively neutral. In support of its position, Staff also cites the California Commission order which determined that allocating pooling costs on the basis of the number blocks held by each carrier is fairer in that it matches costs with the cost causers and has some rational connection to the goal of the effort of number optimization. Staff also indicated that in the interests of fairness and ease of verification, the thousands-block method is preferable.

Staff also disputes Verizon's allegation that the FCC has found the thousands-block method unacceptable. Staff asserted that the FCC specifically rejected a minutes-of-use per number or line as the basis upon which to allocate costs but did not forbid the thousands-block methodology. Lastly, Staff indicated that carriers' claims that they will incur true-up costs is speculative and therefore should not bar the Commission from proceeding as it originally intended.

III. COMMISSION ANALYSIS

The issue before the Commission is essentially a policy decision which is bound only by the FCC's directive that the Commission establish a methodology for allocating NeuStar's New Hampshire number pooling trial costs to carriers in a competitively neutral manner. *See Re the Matter of New Hampshire Public Utilities Commission's Petition for Additional Delegated Authority to Implement Number Optimization Measures in the 603 Area Code,* DA 99-2634 released November 30, 1999. After carefully considering the arguments and information set forth in the written comments as well as the evidence and arguments presented at the hearing, we adopt the cost-allocation methodology set forth in our July 13, 2001 order, Order No. 23,742. For the reasons discussed below, we find this methodology to be objective, reasonable and consistent with the competitive neutrality condition imposed by the FCC in its order delegating to this Commission the authority to implement number pooling as a means of delaying the exhaust of the 603 area code.

We agree with the California Public Utility

Commission’s finding that the thousands-block methodology is not discriminatory. The California Commission correctly observed that “...the use of thousand-blocks as a cost allocator conforms to the principle of competitive neutrality in that it effectively takes from all carriers (both LNP and non-LNP carriers) equally, recovering costs uniformly, irrespective of whether the carrier participates in pooling.” *Decision 01-08-028, Orders Instituting Rulemaking and Investigation on the Commission’s Own Motion into Competition for Local Exchange Service,* California Public Utilities Commission, (August 2, 2001) at 7.

Telephone numbers in New Hampshire constitute a scarce public resource. That scarcity warrants that each carrier be required to assume the costs of conserving this important resource in direct proportion to the drain the carrier places on the resource. This approach can hardly be viewed as discriminatory or anti-competitive. “(I)rrespective of how much revenue a carrier generates from a given number block, the draw down of each thousand-number block from the pool still affects other carriers in the same manner.” *Id.* at 8.

Further, we find that the difficulty associated with obtaining and verifying revenues of those carriers that are not subject to this Commission’s jurisdiction renders the revenue-based model not only impractical from an administrative perspective, but also discriminatory as to those carriers that do not segregate their revenues on a state-by-state basis and who would have to undertake a substantial effort to do so.

We find that allocating both recurring and non-recurring costs of the pooling trial based on the percentage of thousands-blocks held[1] is likely to be more accurate and efficient because numbering information, unlike revenue information, is publicly available. Billing according to a revenue-based methodology poses a greater potential for billing errors and delayed billing given that some carriers' revenue information is confidential, not readily available, and therefore difficult to verify. Thus, all carriers, as well as NeuStar, would be disadvantaged by such a billing system.

Finally, we agree with Staff and the OCA that the so-called "true-up" argument is speculative at best, and therefore

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[1]For purposes of this calculation, "thousands-blocks held" is the number of thousands-blocks a carrier actually retains. For example, a carrier assigned an NXX code in the LERG who returns 9 blocks to the pool, shall only be assessed based on the one block held.

does not compel a result different from the one reached herein.

Based upon the foregoing, it is hereby

ORDERED, that NeuStar shall allocate the non-recurring and recurring costs associated with the New Hampshire thousands-block pooling trial among all carriers, regardless of LNP capability, based on a percentage representing the total number of thousands-blocks within the 603 area code held by each carrier to the total number of thousands-blocks held by all carriers in the 603 area code; and it is

FURTHER ORDERED, that whole NXX codes assigned to any carrier, including those assigned prior to implementation of the pool, shall be counted as 10 blocks for purposes of determining the above percentage; and it is

FURTHER ORDERED, that NeuStar is instructed to calculate the percentage of shared industry costs attributable to each carrier accordingly.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of November, 2001.

Susan S. Geiger Commissioner	Nancy Brockway Commissioner

Attested by:

Claire D. DiCicco
Assistant Secretary