

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of a Proposed Rulemaking to)
Create Chapter 37 - Number Pooling and) Case No. TX-2007-0086
Number Conservation Efforts.)

AT&T MISSOURI'S COMMENTS

AT&T Missouri¹ respectfully submits its Comments on the Commission's proposed Number Pooling and Number Conservation Efforts rules, 4 CSR 240-37.010 through 4 CSR 240-37.060, as published on November 1, 2006 (31 Mo. Reg. 1758 – 1764).

As AT&T Missouri explains further below, most of the proposed rules are generally consistent with responsible numbering resources management and with the FCC's limited delegation to the states of its plenary authority over numbering resources. However, in limited but important respects regarding reporting and data collection matters, the Commission's proposed rules should be modified, to avoid placing obligations upon telecommunications companies such as AT&T Missouri which are both unnecessary and unduly burdensome and which are beyond those the FCC has itself imposed or has authorized the states to impose. None of AT&T Missouri's proposed changes would in any way compromise the collective efforts of government and industry to both preserve and make the best use of numbering resources.

AT&T Missouri supports number conservation measures and believes it to be in all parties' interests that the industry and the Commission work together to ensure telephone numbers are used appropriately while meeting customer needs. AT&T Missouri supports the Commission's goal to implement thousands-block number pooling throughout the remaining portions of Missouri where number pooling was not mandated by the FCC. In fact, AT&T Missouri has already implemented thousand block number pooling in all of its service areas

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throughout Missouri even though it was not required to do so. While AT&T Missouri supports the Commission's overall goal in this rulemaking, a few specific changes to certain of the proposed rules should be made since they would impose Missouri-specific requirements on carriers where the costs to implement will outweigh the perceived benefits.

4 CSR 240-37.020 – Definitions:

As proposed, subsection (8) would state that the FCC Form U1 of Form 502 indicates a carrier's "current" numbering resource utilization level. This would be an incorrect statement because, as the FCC's rules provide, these forms provide information compiled twice annually. FCC Rule 52.15(f)(6), entitled "Reporting Frequency," states: "Reporting carriers shall file forecast and utilization reports semi-annually on or before February 1 for the preceding reporting period ending on December 31, and on or before August 1 for the preceding reporting period ending on June 30."² To correct the proposed rule, AT&T Missouri suggests that the word "reported" be substituted for the word "current" so that Section 37.020(8) would thus read as follows:

FCC Form U1 of Form 502 indicates a carrier's reported
numbering resource utilization level.

Additionally, proposed subsection (14) would indicate that the North American Numbering Plan Administrator ("NANPA") is responsible for coordination and administration of the North American Numbering dialing "plans." As there is but one plan, AT&T Missouri suggests substituting the word "plan" for "plans" so that Section 37.020(8) would thus read as follows:

² 47 CFR § 52.15(f)(6); In the Matter of Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000), Appendix A.

North American Numbering Plan Administrator is responsible for coordination and administration of the North American Numbering dialing plan.

4 CSR 240-37.030 – Thousands-block Number Pooling:

Subsection (4)(A) would provide, in pertinent part: “A carrier that opens an uncontaminated thousands-block prior to assigning all available telephone numbers within an opened thousands-block . . . shall, within ten (10) days of opening the uncontaminated thousands-block, submit a report via the commission’s Electronic Filing and Information System (EFIS)” unless the assignment was previously approved pursuant to the Commission’s proposed rule relating to overturning NANPA denials of requests for additional numbering resources.(emphasis added). For several reasons, AT&T Missouri respectfully submits that this proposed rule be withdrawn.

The additional reporting obligation that would be imposed by the proposed rule should not be adopted. AT&T Missouri already executes responsible number assignment methods and processes. To the best of AT&T Missouri’s knowledge, this obligation has no counterpart in any other state in the nation, and complying with it would require AT&T Missouri to implement Missouri-specific expensive and time-intensive process changes, none of which could be accomplished within 30 days, as would be required by proposed rule 4 CSR 240-37.010(2).³ AT&T Missouri already complies with a number of FCC-related reporting obligations designed to foster responsible number assignment. The proposed rule’s reporting requirements would both exceed the states’ authority to alter to those existing federal obligations and would not likely yield any more meaningful information upon which the Commission could act. In all events, as explained below, the obligation that would be imposed by the Commission’s proposed

³ This proposed rule would require that “[a]ll carriers shall be in compliance with this chapter within thirty (30) days after the effective date of this rule.”

rule must be limited to that stated in FCC Rule 52.15(j)(2),⁴ which merely requires that a service provider “be prepared to demonstrate” when called upon (not “submit a report” in every instance) two of the three items required by the Commission’s proposed rule.

AT&T Missouri already has in place methods and procedures to ensure that, to the extent possible, it assigns numbers within contaminated blocks before assigning them from uncontaminated blocks. For example, when an AT&T Missouri customer’s service order involves number assignment, and the customer makes no specific request for a specific number, AT&T Missouri’s automated numbering system searches for the first available number(s) from among numbers in contaminated blocks to satisfy the request. On the other hand, where, for example, a customer’s request for large groups of number or consecutive numbers cannot be met solely from uncontaminated blocks, the request is addressed by manual processes and procedures. Only in the event that the contaminated blocks cannot satisfy the request (e.g., a customer needs 500 consecutive numbers that cannot be satisfied by existing contaminated blocks) will numbers within an uncontaminated block be assigned to the customer. The additional reporting requirement that would be imposed by the proposed rule would not improve or otherwise benefit these already effective processes.

In addition, to the best of AT&T Missouri’s knowledge, the reporting obligation, if adopted, would be unique to Missouri among all states in the nation. Consequently, expensive and time-intensive process changes would be required to be developed and implemented. Currently, over 200 individuals working in multiple states may assist in performing Missouri number assignments when such assignments are manual. Methods and procedures unique to Missouri would have to be developed in order to comply with the new reporting requirement,

⁴ 47 CFR § 52.15(j)(2)(i), (ii).

including a process incorporating reporting through a single point (i.e., EFIS), and these individuals would have to undergo training to carry them out. These costly and burdensome measures would not be offset by any tangible benefits that the new reporting requirement is presumably intended to achieve.

In fact, as a result of its several Numbering Resource Optimization orders, the FCC's Rule 52.15 already establishes a multitude of reporting obligations and guidelines pertaining to a variety of comprehensive number resource management processes. These include Data Collection Procedures,⁵ Forecasting Data Reporting,⁶ Utilization Data Reporting,⁷ Reporting Frequency,⁸ Applications for Initial Numbering Resources,⁹ Application for Growth Numbering Resources,¹⁰ Reclamation of Numbering Resources,¹¹ and Sequential Number Assignments.¹² Such reporting is sufficient to ensure responsible number resource management, and while the FCC has delegated to the states the authority to reduce reporting requirements, it certainly has not delegated authority to require more. For example, the FCC's Rule 52.15(f)(6)(ii), which requires the filing of semi-annual forecast and utilization reports, provides that "[s]tate commissions may reduce the reporting frequency for NPAs in their states to annual[,]"¹³ but it does not allow the state commissions either to increase the frequency of reporting or to impose greater reporting obligations.

⁵ 47 CFR § 52.15(f)(3).

⁶ 47 CFR § 52.15(f)(4).

⁷ 47 CFR § 52.15(f)(5).

⁸ 47 CFR § 52.15(f)(6).

⁹ 47 CFR § 52.15(g)(1), (2).

¹⁰ 47 CFR § 52.15(g)(3).

¹¹ 47 CFR § 52.15(i).

¹² 47 CFR § 52.15(j).

¹³ 47 CFR § 52.15(f)(6)(ii).

Equally significant as a practical matter is that there is no indication as to what purpose allowable under federal law would be achieved by adopting the proposed rule's additional reporting obligation, whether that purpose is already effectively achieved by current reporting obligations required by federal law, or even what the Commission or its Staff would do with the information it would receive from the multiple Missouri service providers that would be required to undertake the new reporting.¹⁴ These concerns are particularly significant given that the information that would be provided by these service providers would likely be quite voluminous.

During the twelve-month period from November 2005 through October 2006, NeuStar, Inc., in its capacity as the Number Pooling Administrator, made approximately 1,239 assignments of thousands-blocks to Missouri carriers, 26 of which were made to AT&T Missouri. It is not clear how many of these instances would have triggered the reporting requirements that would be imposed by the Commission's proposed rule, but AT&T Missouri's expectation based on experience is that in many instances, service providers do not assign every available telephone number from a contaminated block before assigning numbers from an uncontaminated block. This is due to the fact that it can be very difficult for a service provider to match exactly its customers' service demands (and consequent telephone number assignments) with the service provider's available numbers drawn from its contaminated block reserves. These practical realities signal a great amount of work for both the industry and the

¹⁴ While the Telecommunications Act of 1996 confers on the FCC "plenary jurisdiction over numbering resources," the FCC has delegated authority to the states with respect to certain specific aspects of numbering resource management, including authority to make area code relief decisions, establish utilization thresholds different from the national threshold, order sequential number assignments, reclaim unused NXX codes and implement code sharing trials. In the Matter of Numbering Resource Optimization, Third Report and Order and Second Order on Reconsideration, 17 FCC Rcd 252 (2001), ¶ 10; see also, 47 U.S.C. § 251(e)(1) (stating that "the [FCC] shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertains to the United States" and that "[n]othing in this paragraph shall preclude the [FCC] from delegating to State commissions or other entities all or any portion of such jurisdiction"). As noted, however, the rule proposed here would require reporting not required by the FCC's rules.

Commission's Staff (e.g., processing approximately 100 such reports per month) that is neither required by the FCC nor justified by any considerations known to AT&T Missouri.

Finally, proposed subsection (4)(A)(1)-(3) would require that the report include three items of information: a genuine request from a customer detailing the specific need for telephone numbers; a detailed explanation as to the carrier's inability to meet the specific customer request; and "a demonstration that the carrier has a verifiable need for the assignment and has exhausted all other available remedies designed to avoid wasting numbering resources." The last of these three items is vague and unclear in that it does not identify precisely (if at all) what "remedies" the service provider should be expected to exhaust and report once the provider has already determined and provided a detailed explanation as to why it is unable to meet the specific customer's request. Furthermore, the FCC's rule directed to opening uncontaminated blocks before assigning all numbers in contaminated blocks requires no reporting at all, and further, only requires that the carrier "be prepared to demonstrate" the first two of these three items.¹⁵ Where the carrier has already fully identified a "genuine request from a customer" and explained its own "inability to meet the specific customer request," nothing more is required or justified.

For these reasons, subsection (4)(A) (including (1)-(3) thereof) should not be adopted.

4 CSR 240-37.060 – Reporting Requirements:

Proposed subsection 37.060(1) would provide that whenever a carrier assigns or transfers a thousands-block to an indirect carrier, "the carrier shall submit, within thirty (30) days, a notice via the commission's Electronic Filing and Information System (EFIS). The notice shall include: (A) The NPA/NXX of the thousands-block(s) assigned or transferred; and (B) The name of the indirect carrier receiving the thousands-block(s)." Proposed subsection 37.060(2) would

¹⁵ 47 CFR § 52.15(j)(2)(i), (ii).

provide, in part, that “[c]onsistent with federal audit authority, a carrier shall report, upon request by the commission staff, certain information to ensure compliance with commission and Federal Communications Commission numbering rules and to monitor and verify the validity and accuracy of carrier utilization data. Such information includes, but is not limited to, all number utilization, number utilization forecast and historical trend documentation and applications.” Proposed rule 37.060 should not be adopted.

With respect to both subsections, and as was noted above, the FCC alone has “plenary jurisdiction over numbering resources” and while the FCC has delegated authority to the states authority to reduce reporting requirements, it certainly has not delegated authority to them to require more. FCC Rule 52.15(f)(7) already addresses the scope of state commission’s “access to data” and its rule merely allows that “[s]tates shall have access to data reported to the NANPA provided that they have appropriate protections in place to prevent public disclosure of disaggregated, carrier-specific data.”¹⁶ The data that would be required to be reported to the Commission under proposed subsection (1) is not reported to NANPA, and the data that Staff could request under subsection (2) is not limited to that encompassed by the FCC’s rule, and because the Commission is without jurisdiction to require such reporting, the proposed rule should not be adopted.

Furthermore, subsection (1) should not be adopted for separate and independent reasons. AT&T Missouri provides telecommunications services to end user customers pursuant to Commission-approved tariffs. In conjunction with the provision of telecommunications services to meet customers’ requests, AT&T Missouri provides these customers the use of telephone numbers. When placing an order, a customer is not required to explain the nature of its business

¹⁶ 47 CFR § 52.15(f)(7).

nor is it required to explain how it ultimately will use the numbers that will be provided to it. Even more importantly for purposes of proposed subsection (1), AT&T Missouri does not seek to identify whether its customer would use the numbers provided it as an “indirect carrier,” that is, whether the customer would “provid[e] two-way voice service to the public capable of receiving calls from a provider of basic local telecommunications services that receives numbering resources from a carrier rather than receiving those telephone numbers directly from [NANPA] or the Thousands-Block Pooling Administrator.” (See, proposed rule 4 CSR 240-37.020(11)). AT&T Missouri does not have either the authority or ability to determine exactly how customers intend to use numbers AT&T Missouri provides them.

Moreover, proposed subsection (1) rule has no counterpart in any other state, to the best of AT&T Missouri’s knowledge. Thus, not unlike the case with regard to the Commission’s proposed subsection (4)(A), AT&T Missouri would be required to develop methods and procedures to implement this new reporting requirement, and personnel would have to undergo training regarding those methods and procedures. AT&T sales personnel located in various states who are responsible for servicing a client’s multi-state needs should not be required to implement a single-state reporting requirement that exceeds obligations imposed by the FCC’s rules.

Finally, even apart from the fact that the open-ended information reporting that would be imposed by proposed subsection (2) should not be adopted for the reasons stated above, such reporting cannot be imposed on the basis that the carrier would do so “[c]onsistent with federal audit authority,” as the proposed rule states. FCC Rule 52.15(k)(2) states that “[t]he [FCC’s] Enforcement Bureau will oversee the conduct and scope of all numbering audits conducted under the Commission’s jurisdiction, and determine the audit procedures necessary to perform the

audit.”¹⁷ The Commission has neither the authority to conduct an audit nor to impose reporting requirements on the basis of authority held exclusively by the FCC.

AT&T Missouri appreciates the opportunity to submit these Comments, and respectfully requests that the Commission modify the proposed Chapter 37 rules in accordance with them.

Respectfully submitted,

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¹⁷ 47 CFR § 52.15(k)(2).

CERTIFICATE OF SERVICE

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