



January 25, 2024

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: In re Numbering Policies for Modern Communications, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, WC Dkt. Nos. 13-97, 07-243, 20-67 (rel. Sept. 22, 2023)

Dear Ms. Dortch:

The National Association of State Utility Consumer Advocates (NASUCA)¹ respectfully submits this letter to the Federal Communications Commission’s (FCC or Commission) on behalf of its members and the millions of consumers whose interests are represented by its members in response to the *Second Report and Order and Second Further Notice of Proposed Rulemaking* (FNPRM) in above listed dockets, issued on September 22, 2023.²

NASUCA supports the Commission’s goals in the FNPRM to (1) expand the duties of existing direct access authorization holders to be consistent with those adopted by the *Second Report and Order* for new applicants, (2) minimize harms that may arise from bad actors that access numbering resources indirectly, and (3) require direct access applicants to disclose a list of states where they intend to seek numbering resources.

There are serious abuses of our numbering resources and a need for additional oversight of the processes and procedures involved in the use of our nation’s telephone numbers. To address these issues:

¹ NASUCA is an association of 61 consumer advocates in 45 states and the District of Columbia, Barbados, Puerto Rico, and Jamaica. NASUCA’s members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts.

² *In re* Numbering Policies for Modern Communications, Telephone Number Requirements for IP-Enabled Service Providers, Implementation of TRACED Act Section 6(a) – Knowledge of Customers by Entities with Access to Numbering Resources, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, WC Dkt. Nos. 13-97, 07-243, 20-67 (rel. Sept. 22, 2023) (“*Second Report and Order*” and “*Second FNPRM*”)

- Voice service providers that access telephone numbers directly and those that access telephone numbers indirectly must all be held accountable for any abuse of our finite numbering resources.
- Service providers' and their customers' use of the short-term rental of massive amounts of telephone numbers and number rotation to circumvent existing law and STIR/SHAKEN authentication tools is also detrimental to federal and state agencies and law enforcement efforts to curb the harm to consumers resulting from illegal and harassing robocalls.
- All voice service providers with access to numbering resources, both directly and indirectly, should be subject to the new Commission rules requiring certifications, acknowledgments, proofs and declarations under penalty of perjury.
- All providers with access to numbering resources should also maintain the accuracy of its lists of contacts, ownership and affiliation as required by Commission rules.
- The FCC should explicitly prohibit the temporary rental of outward dialing telephone numbers, and as suggested by EPIC and Consumer Action, "hold the direct access authorized VoIP providers liable for downstream misuse of their numbering resources, and revoke authorization where appropriate."³
- And/or, the FCC should state unequivocally that service providers that engage in the practice of renting outward dialing telephone numbers on a temporary basis are violating existing regulations designed to combat illegal robocalls.

NASUCA applauds the Commission's diligent efforts over the last several years to combat the issues that allowed the voice network to become vulnerable to bad actors and allowed illegal robocalls to "continue to expose millions of consumers to harmful risks."⁴ In this proceeding, NASUCA supports the Commission's rulings in the *Second Report and Order* "to modify its rules and policies regarding direct access to numbers by providers of interconnected Voice Over Internet Protocol (VoIP) services," and to further "adopt guardrails to protect national security and law enforcement, safeguard the nation's finite numbering resources, reduce the opportunity for regulatory arbitrage and further promote public safety."⁵

NASUCA has reviewed the initial and reply comments filed in this docket and supports those commenters that recommend additional accountability for all voice service providers that use our nation's numbering resources.

NASUCA has been a long-time advocate both to protect our nation's numbering resources and to protect our consumers against harassing and harmful robocalls.

NASUCA has filed comments in several Commission proceedings over many years advocating to protect our nation's finite numbering resources. For example, when the Commission first considered providing VoIP providers direct access to numbers, NASUCA joined with the

³ Comments of Electronic Privacy Information Center and Consumer Action (dated Nov. 29, 2023) at 3.

⁴ *Second Report and Order* at ¶1.

⁵ *Id.*

New Jersey Division of Rate Counsel to file comments recognizing that “telephone numbers are a valuable and limited resource” and supporting recommendations “to pursue numbering optimization measures....”⁶ We argued that trials for VoIP provider access to direct numbers “should not jeopardize state and federal efforts to optimize the use of numbers, which are a public resource.”⁷ NASUCA and the New Jersey Rate Counsel also advocated to require VoIP providers seeking access to numbers “possess the technical, financial, and managerial qualifications to offer service prior to allowing them direct access to numbers” and provide states with contact information and a description of services they intend to provide in order to allow the states directly to monitor number utilization and optimization measures.⁸

NASUCA also adopted resolutions to preserve numbering resources to avoid the exhaustion of the North American Numbering Plan (NANP)⁹ and to expand number conservation measures to VoIP providers with direct access to numbers.¹⁰ In Resolution 1999-05, NASUCA found that the “efficient allocation and utilization of [numbering resources] is necessary to promote social and economic welfare” and concluded that “all numbering conservation measures would be of little value if carriers or customers were able to warehouse, or reserve, telephone numbers which is possible if there are no effective controls on the process by which telephone numbers can be reserved.” NASUCA therefore urged the FCC to adopt measures that would mandate for the economical and efficient use of telephone numbers.

In Resolution 2013-06, NASUCA cited its prior resolutions that related to number conservation, noted that “VoIP providers’ use of numbers increases the risk of area code exhaust, and advances the ultimate exhaust of the NANP,” and authorized its Telecommunications and Executive Committees to advocate in support of number conservation measures to be imposed on VoIP providers with direct access to numbers as “an appropriate regulatory oversight, consistent with associated public interest obligations and traditional consumer protections.”

NASUCA has also independently filed and joined with other consumer groups to file comments condemning robocalling and other telemarketing abuses. Robocalling and telemarketing abuses increase when VoIP users incorrectly assign numbers because of the corresponding rise in bad actors who can utilize multiple phone numbers. For example recently, in 2023, NASUCA joined with the National Consumer Law Center (NCLC) and other consumer advocate groups to urge the Commission to confirm that its rules requiring prior express consent to telemarket to consumers allows the consent to apply only to the one seller to which the consumer directly provided consent (one-consent to one-seller rule).¹¹ The sharing of telemarketing consents,

⁶ Reply Comments of the New Jersey Division of Rate Counsel and the National Association of State Utility Consumer Advocates, *In re* Numbering Policies for Modern Communications, Petition of Vonage Holdings Corp. for Limited Waiver of Section 52.15(g)(2)(i) of the Commission’s Rules Regarding Access to Numbering Resources, WC Dkt. Nos. 13-97, 04-36, 07-243, 95-116, 01-92, 10-90 and CC Dkt. No. 99-200 (dated Aug. 19, 2013) at 12.

⁷*Id.* at 13.

⁸ *Id.* at 7-9.

⁹ NASUCA Resolution 1999-05 “Supporting the Reformation of the current Telecommunications Numbering System in Order to Avoid the Exhaust of the North American Numbering Plan” (Resolution 1999-05).

¹⁰ NASUCA Resolution 2013-06 “Supporting the Extension of Numbering Conservation Measures to VoIP Providers that have Direct Access to Numbers” (Resolution 2013-06).

¹¹ Comments of National Consumer Law Center, Electronic Privacy Information Center, Appleseed Foundation, Consumer Action, Consumer Federation of America, National Association of Consumer Advocates, National

in violation of Commission rules, is a primary cause of the explosion of illegal robocalls in recent years. Ultimately, the Commission agreed with the comments of parties that advocated to confirm the one-consent to one-seller rule,¹² which NASUCA believes will significantly reduce the number of unwanted telemarketing calls to consumers.

NASUCA also adopted Resolution 2011-07 Opposing the Use of Telephone Numbers for Unsolicited Contact Without Affirmative, Prior Consent. In this Resolution, NASUCA noted its recognition that consumers should not be subjected to unwanted telemarketing calls, including robocalls and resolved to protect consumers against the use of customer telephone numbers without affirmative prior consent for unsolicited contact, including telemarketing or information calls.

All of these comments and resolutions confirm NASUCA's ongoing commitment to preserve our valuable numbering resources and protect consumers against unwanted telemarketing calls and scams enabled by our voice system. They also support the recommendations made by consumer advocates and others in this proceeding that the Commission issue an order prohibiting practices that abuse our number resources and allow bad actors to circumvent protections in place to combat illegal robocalling, such as short-term number rental and number rotation for outbound calling.

NASUCA supports those commenters who urge the Commission to prohibit number rotation and the temporary rental of outward dialing telephone numbers and state that service providers that provide the service are violating existing regulations designed to combat illegal robocalls.

NASUCA reviewed the Joint Consumer Advocate Reply Comments in this docket¹³ as well as those of other entities that described the abuse of our numbering resources by VoIP providers that sell massive amounts of telephone numbers on a short-term rental basis and allow their customers to engage in “number rotation” for outbound calling.¹⁴ The Joint Consumer Advocate Reply Comments describe the practices and motivation behind the practices as follows:

Association of State Utility Consumer Advocates, National Consumers League, Public Citizen, Public Knowledge, U.S. PIRG, (Joint Consumer Commenters), *Targeting and Eliminating Unlawful Text Messages, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Dkt. Nos. 21-402, 02-278 (dated May 8, 2023) (Joint Consumer Initial Comments) (“*Targeting and Eliminating Unlawful Text Messages Proceeding*”); Joint Consumer Commenter Reply Comments, *Targeting and Eliminating Unlawful Text Messages Proceeding* (dated June 6, 2023).

¹² Second Report and Order, Second Further Notice of Proposed Rulemaking in CG Docket Nos. 02-278 and 21-402 and Waiver Order in CG Docket No. 17-59, *Targeting and Eliminating Unlawful Text Messages Proceeding* (rel. Dec. 18, 2023) at ¶¶30-53.

¹³ Reply Comments of National Consumer Law Center, Consumer Action, Consumer Federation of America, Electronic Privacy Information Center, National Association of Consumer Advocates, National Consumers League and U.S. PIRG, WC Dkt. Nos. 13-97, 07-243, 20-67 (Joint Consumer Advocate Reply Comments) (dated Dec. 22, 2023)

¹⁴ See Comments of ZipDX LLC (dated Nov. 24, 2023) (ZipDX Comments), Comments of Electronic Privacy Information Center and Consumer Action (dated Nov. 29, 2023) (EPIC CA Comments); Maine Public Utilities Commission Reply Comments on Further Notice of Proposed Rulemaking (dated Dec. 28, 2023) (Maine PUC Reply Comments).

Telephone service providers that rent outward dialing telephone numbers appear to do so specifically for the purpose of allowing callers to choose how their caller ID will appear to called parties. The industry sometimes refers to this practice as “dynamic caller ID.” (It is sometimes referred to as “Direct Inward Dialing numbers (DIDs)” even though it relates almost exclusively to the rental of *outward* dialing numbers.)

Rented numbers are made available to callers just for the purpose of facilitating the deliberate evasion of the FCC’s requirements for callers to identify themselves properly. Callers use bulk rented numbers for the primary purpose of deceiving the called party into believing the caller is local, and the secondary purpose of masking the caller’s actual identity. They also use these rented numbers to avoid the “scam likely” analytics of terminating providers.¹⁵

Apparently, no legitimate needs exist for the temporary rental of outward dialing numbers and none of the other comments in this docket offer any justification for continuing to allow this practice.¹⁶ In fact, commenters that chose to address the short-term rental of telephone numbers and number rotation practices demonstrate that these practices violate several laws and unanimously asked the Commission to order those voice providers that engage in these practices to discontinue this abuse.

The Joint Consumer Advocate Reply Comments state that a “fraudulent or scam caller that rents telephone numbers on a temporary basis for the purpose of displaying a deceptive caller ID would seem to violate 47 U.S.C. §227(e)(1)’s prohibition against using a misleading caller ID.”¹⁷ For telemarketing calls, “the use of rented numbers of dynamic caller ID also conflicts with 47 C.F.R. §64.1601(e), which requires telemarketers to transmit specific caller identification information regarding the seller or the telemarketer.”¹⁸ These Comments also point out that these practices undermine “the STIR/SHAKEN caller ID authentication framework, which protects consumers from illegally spoofed robocalls by verifying that the caller ID information transmitted with a particular call matches the caller’s telephone number.”¹⁹ As quoted above, the Joint Consumer Advocate Reply Comments demonstrate that allowing the temporary rental of outbound caller IDs circumvents this protection by enabling the calling party to deceive the called party into believing the caller is local, masking the caller’s actual identity, and enables the caller to avoid the “scam likely” analytics of terminating providers.²⁰

ZipDX likewise discusses how “rotating DIDs” violates federal law and circumvents the effectiveness of blocking tools and STIR/SHAKEN.²¹ To remedy these issues, ZipDX recommends that the Commission clearly articulate the following

¹⁵ Joint Consumer Advocate Reply Comments at 3.

¹⁶ *Id.* (citing Zip DX Comments at 3-5).

¹⁷ *Id.* at 4.

¹⁸ *Id.*

¹⁹ *Id.* at 6.

²⁰ *Id.* at 3.

²¹ ZipDX Comments at 3-5.

expectations: (1) end users must not initiate calls from multiple caller IDs except to distinguish between individuals, departments or functions and repeat calls to the same party must carry the same caller ID; (2) when telephone numbers are used for the primary purpose of outbound calling, the supplier must limit the quantity of numbers allocated to the number of distinct calling purposes identified by the customer and use their own customer practices and on-going monitoring and auditing to proactively enforce the number limitations; and (3) originating service providers must ensure their networks are not used for illegal robocalling and adhere to caller ID laws.²²

The EPIC AC Comments similarly explain that number rotation and the temporary rental of telephone numbers undermines STIR/SHAKEN: “when ‘dynamic caller ID’ or ‘rotating ANI’ methods are used – whereby a caller cycles through multiple numbers to prevent the called party from identifying them and to circumvent downstream provider analytics that block or label problematic numbers – validity of number use is largely irrelevant to identifying the calling source and whether the caller will likely harm the called party. This problem is amplified when coupled with the caller’s short-term use of those numbers.”²³

EPIC AC also point out that these practices lead to the premature exhaustion of area codes by creating an “artificial scarcity in the number pool.”²⁴ They liken the temporary use and rotation of telephone numbers to a child drinking a sip of water from one cup and using separate additional cups for each additional sip. This would make it seem like the household needs more cups than it actually does. Using telephone numbers on a temporary and rotating basis similarly unnecessarily increases the need for additional telephone numbers and area codes. In concluding, EPIC AC ask the Commission to remedy the lack of trust in the American phone system by “curtail[ing] the role played by disposable use of numbering resources, by utilizing its audit program, and by holding providers with direct access to numbers accountable for downstream misuse of those numbers that they assign.”²⁵

The Maine PUC Reply Comments also highlight how number rotation and temporary telephone number rental practices waste valuable numbering resources. The Maine PUC describes its observations of the “dark side” of how companies take advantage of consumers and abuse numbering resources to the “detriment of Maine’s people.”²⁶ The Maine PUC also expresses frustration with its current inability to oversee VoIP direct access authorization holders receiving Maine’s numbering resources. VoIP providers refuse to comply with state law requiring them to register with the Commission and contribute to its universal service and school and library funds stating that they have no businesses or customers in Maine, which begs the question as to why they need thousands of telephone numbers in Maine.²⁷ The Comments describe one conversation with a voice

²² *Id.* at 5-6.

²³ EPIC AC Comments at 2.

²⁴ *Id.* at 6.

²⁵ *Id.* at 7.

²⁶ Maine PUC Reply Comments at 5.

²⁷ *Id.* at 1-2 and note 5.

provider that stated that it had assigned 50,000 Maine numbers to one customer, but the customer only used 100 numbers at a time.²⁸

The Maine PUC also complains that VoIP providers often improperly complete NRUF²⁹ forms and some do not file them at all. The Maine PUC has observed VoIP providers and competitive local exchange carriers (CLECs) with “staggering high volumes of numbers in the aging category of their NRUF.” It opines that “numbers cycling through aging are typically associated with customer disconnects, but a high volume of numbers in aging may also suggest that some providers are renting or rotating numbers to bad actors.”³⁰ The Maine PUC describes a “loss in the chain of custody of these telephone number resources as the IVoIP or CLEC initially authorized to receive them now has no idea of the type of activity in which their wholesale customer is engaged.”³¹ The Maine PUC observes that “[c]ompanies wholesaling these numbers not only waste limited numbering resources, but they also take these same numbering resources away from legitimate providers who are in need of numbering resources.”³² In conclusion, the Maine PUC recommends that the Commission adopt its proposed rules and apply them to all carriers “to strengthen accountability to prevent bad actors from accessing numbering resources.”³³

Conclusion

The Joint Consumer Advocate Reply Comments, the ZipDX Comments, the EPIC AC Comments and the Maine PUC Comments demonstrate serious abuses of our numbering resources and the need for additional oversight of the processes and procedures involved in the use of our nation’s telephone numbers. Voice service providers that access telephone numbers directly and those that access telephone numbers indirectly must all be held accountable for any abuse of our finite numbering resources that harm consumers by increasing unauthorized robocalling and straining finite resources.

The Maine PUC’s comments are especially illuminating about the lack of respect some VoIP providers have expressed for state commission oversight of numbering resources and the disregard some VoIP providers have for the value of numbering resources.

Service providers’ and their customers’ use of the short-term rental of massive amounts of telephone numbers and number rotation to circumvent existing law and STIR/SHAKEN authentication tools is also detrimental to federal and state agencies and law enforcement efforts to curb the harm to consumers resulting from illegal and harassing robocalls.

²⁸ *Id.* at 2.

²⁹ NRUF is the acronym for Number Resource Utilization Forecast.

³⁰ Maine PUC Reply Comments at 3.

³¹ *Id.*

³² *Id.* at 4.

³³ *Id.* at 5.

Therefore, NASUCA joins in recommendations to require applicants for direct access to telephone numbers to list the states in which they intend to initially request telephone numbers and to require all voice service providers with access to numbering resources, both directly and indirectly, to be subject to the new Commission rules requiring certifications, acknowledgments, proofs and declarations under penalty of perjury. All providers with access to numbering resources should also maintain the accuracy of their lists of contacts, ownership and affiliation as required by Commission rules.³⁴

With regard to the specific issue raised in the above comments regarding the practices of number rotation and the short-term rental of numbers, NASUCA joins in the recommendation of the Joint Consumer Advocate Reply Comments to:

1. Explicitly prohibit the temporary rental of outward dialing telephone numbers, and as suggested by EPIC and Consumer Action, “hold the direct access authorized VoIP providers liable for downstream misuse of their numbering resources, and revoke authorization where appropriate,” and/or
2. State unequivocally that service providers that engage in the practice of renting outward dialing telephone numbers on a temporary basis are violating existing regulations designed to combat illegal robocalls.³⁵

Respectfully submitted,

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³⁴ 47 C.F.R. §§52.15(g)(3).

³⁵ Joint Consumer Advocate Reply Comments at 2-3.