

15. The Commission has focused on pooling efforts in the largest MSAs because those are the areas most likely to have competitive markets that would benefit from pooling. Conversely, the Commission has not required carriers to participate in pooling in less populous areas because the full benefits of pooling are less likely to be realized in areas without sufficient competition. Several commenters point out, however, that many nearby or adjoining areas within a CMSA have similar demographics to the original MSA and believe it appropriate to include CMSAs in the MSA list regardless of whether they would otherwise be included on the list of the 100 largest MSAs. The Commission finds insufficient evidence in the record to determine if these expanded areas have sufficient competition to justify extension of the MSA list, and therefore decline to determine which, if any, of these localities should be included on the MSA list. Rather, the Commission finds that the state commissions are better positioned to assess local conditions and determine whether to extend pooling to these areas. In making this determination, states should consider such factors as the number of competing service providers in the extended areas, whether the inclusion of such areas would further the Commission's competition and numbering resource optimization goals, population trends in the extended areas, and customer use patterns and volumes. Accordingly, the Commission delegates to state commissions the authority to determine whether to extend pooling to areas within CMSAs that otherwise would not be included on the list of the largest 100 MSAs. State commissions may not, however, require exempted carriers to participate in pooling in these extended areas.

16. *Untimely Petition for Reconsideration and Motions.* On May 6, 2002, AT&T filed a petition for reconsideration of the *Numbering Resource Optimization Third Order on Reconsideration*, requesting that the Commission reconsider its decision to permit incumbent LECs to recover the extraordinary costs of thousands-block number pooling through access charges. The Commission denies AT&T's petition as untimely filed. The Commission nevertheless briefly discusses the merits of AT&T's petition on its own motion. Because the Commission finds that no new issues have been raised that were not addressed in the *Numbering Resource Optimization Third Report and Order*, the Commission declines to reconsider

its prior findings regarding pooling cost recovery.

17. A petition for reconsideration in a rulemaking proceeding must be filed within 30 days after public notice of the Commission's action. The Commission's rules provide that public notice in a rulemaking proceeding occurs upon publication of the document, or a summary thereof, in the **Federal Register**. In the *Numbering Resource Optimization Third Report and Order*, the Commission established the appropriate cost recovery mechanism for thousands-block number pooling, and that issue was not reopened in the *Numbering Resource Optimization Third Order on Reconsideration*. The *Numbering Resource Optimization Third Report and Order* was published in the **Federal Register** on February 12, 2002, 67 FR 6431; and, therefore, petitions for reconsideration were due by March 14, 2002. As noted, AT&T did not file its petition until May 6, 2002. The Commission therefore finds that AT&T's petition for reconsideration was untimely filed, and dismisses it accordingly.

18. Acknowledging that its petition may be untimely, AT&T also argues that the effect of the *Numbering Resource Optimization Third Report and Order* was not readily apparent at the reconsideration deadline for that order and asks the Commission to reconsider its decision on its own motion. Notwithstanding its dismissal of AT&T's petition as untimely, the Commission briefly addresses the merits of AT&T's arguments and concludes that no change in pooling cost recovery should be made.

19. In the *Numbering Resource Optimization Third Report and Order*, the Commission determined that incumbent LECs subject to rate of return or price cap regulation may recover their extraordinary carrier-specific costs directly related to thousands-block number pooling implementation through existing cost recovery mechanisms. The Commission concluded that, because thousands-block number pooling had been mandated as a national numbering resource optimization strategy, permitting recovery of the extraordinary costs of number pooling in access charges is appropriate.

20. AT&T argues that carriers should bear their own carrier-specific pooling costs, and that allowing recovery of pooling costs through access charges inappropriately allows incumbent LECs to shift their costs to interexchange carriers (IXCs). In the *Numbering Resource Optimization Third Report and Order*, the Commission considered

this argument and found that numbering administration is inherently access-related, explaining that without numbers, the provision of which is a basic telephone network function, IXCs would be unable to route subscriber calls. Pooling is an enhancement of ordinary numbering administration, and access charges are the means by which access customers share in the costs of operating and maintaining the telephone network. Accordingly, the Commission concluded that it is appropriate for IXCs and other access customers to share in the costs of thousands-block number pooling. AT&T also argues that permitting incumbent LECs to recover pooling costs in access charges is an impermissible subsidy in violation of section 254(e) of the Act. In the *Numbering Resource Optimization Third Report and Order*, the Commission addressed this claim by finding that, because access charges are intended to recover a portion of telephone network costs, permitting recovery of the extraordinary costs of number pooling in access charges is neither an implicit or explicit subsidy.

21. AT&T further argues that this pooling cost recovery mechanism is not competitively neutral, in violation of section 251(e) of the Act. To the contrary, the Commission concluded in the *Numbering Resource Optimization Third Report and Order* that pooling, as a numbering resource optimization strategy, is a part of numbering administration, and that access charges are intended to recover a portion of telephone network costs, which include number administration costs. Thus, permitting recovery of the extraordinary costs of thousands-block number pooling through access charges is consistent with the statutory mandate of competitive neutrality. AT&T also suggests that the Commission's decision to permit thousands-block number pooling cost recovery through access charges is inconsistent with the *Numbering Resource Optimization First Report and Order* and with the Commission's decision not to allow recovery of LNP costs through access charges. The Commission finds that the decision to allow recovery of thousands-block number pooling costs through access charges is fully consistent with the Commission's decisions in prior orders. In the *Numbering Resource Optimization First Report and Order*, the Commission adopted the same competitively neutral cost recovery framework for thousands-block number pooling that it adopted for LNP, but it also found that the determination of the appropriate cost recovery mechanism