

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<i>In the Matter of</i>	)	
	)	
NumberBarn, LLC	)	WC Docket No. 19-99
	)	
Application For Authorization to Obtain	)	
Numbering Resources Pursuant to	)	
Section 52.15(g) of the Commission's Rules	)	

**REPLY COMMENTS OF NUMBERBARN, LLC**

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## SUMMARY

The PUC Entities' Comments opposing NumberBarn's Application for access to direct Numbering Resources are based on speculation, misunderstandings of and prejudice against NumberBarn's business, misinterpretations of the application requirements for IVoIP providers, and/or issues of general applicability to Numbering Resources which must be addressed, if at all, in a rulemaking proceeding under the APA or through Congressional action.

NumberBarn is not "hoarding" or "warehousing" numbers; it provides a search engine for numbers available from wholesale carriers. These numbers are unassigned numbers made available by carriers to their thousands of wholesale customers (of which NumberBarn is one), on a first come, first served basis, and NumberBarn does not have exclusive access to these numbers. Approximately 94% of the numbers searchable on NumberBarn's website are from thousands-blocks that have been allocated to carriers by NANPA, but whose numbers have not been fully assigned, or are SPARE numbers available to any active RespOrg.

The PUC Entities' argument that a grant of NumberBarn's Application "could" or "might" cause or exacerbate number exhaust is speculative and unsupported by any factual data. NumberBarn is far from the only entity with this business model. Carriers obtain numbers in thousands-blocks, and entities such as NumberBarn merely provide a platform to make the unused numbers of such carriers available to end users. Similarly, assigning groups of numbers and vanity numbers is lawful; such practices are long-standing, widespread, and of great value to certain customers, such as businesses and governmental entities. NumberBarn agrees that number exhaust is a serious issue, but an issue with industry-wide policy implications should be addressed by the rulemaking process. And, contrary to the PUC Entities' claims, NumberBarn's search engine may

potentially improve the efficient use of numbers, especially numbers that would otherwise remain unassigned.

NumberBarn further disputes the PUC Entities' claims that it has failed to register, obtain authority, or contribute to universal service in jurisdictions where it is, in fact, required to do so. NumberBarn inadvertently failed to complete a required registration in Michigan, which it remedied promptly upon the MI PSC raising the matter in its Comments. Similarly, the PUC Entities' allegations regarding the filing of NRUF reports are misplaced. The FCC's rules and VoIP numbering orders require such filings of an IVoIP provider that has been granted direct number access – which NumberBarn does not yet have.

The PUC Entities' claims of robocall violations are likewise baseless. NumberBarn complies with STIR/SHAKEN, and implements strict policies, including in its Terms of Service, to prevent fraud, robocalling, and similarly inappropriate uses of its services. To the extent that the PUC Entities have noted promotional “scams” at certain numbers, NumberBarn has no control over how third-party carriers utilize numbers in their inventory. Concerns in the Comments that NumberBarn is somehow enabling spammers or robocallers are likewise speculative and specious.

Finally, there is nothing untoward regarding NumberBarn's offer to provide copies of its FCC Forms 477 and 499 upon FCC request. Those filings contain sensitive financial and commercial information and are available to the FCC. Likewise, NumberBarn's current services do not require interconnection agreements with carriers. NumberBarn has provided IVoIP services for a decade and has been connecting calls to the public switched network via agreements with carriers who have interconnection agreements. That said, as part of its Application, NumberBarn provided the FCC a copy of an interconnection agreement it entered into in anticipation of its Application being granted.

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**REPLY COMMENTS OF NUMBERBARN, LLC**

NumberBarn, LLC (“NumberBarn” or “the Company”) respectfully submits these Reply Comments in response to the Public Notices released by the Federal Communications Commission (“FCC” or “the Commission”) on September 24, 2024, October 4, 2024, and November 19, 2024, and the comments submitted by the California Public Utilities Commission (“CPUC”), Maine Public Utilities Commission, New Hampshire Department of Energy, Washington Utilities and Transportation Commission, Public Service Commission of West Virginia, Public Service Commission of the District of Columbia,<sup>1</sup> the Michigan Public Service Commission (“MI PSC”), and the Arizona Corporation Commission (“ACC”) with respect to the Application for Authorization to Obtain Numbering Resources (“Application”) filed by the Company.

As set forth in NumberBarn’s Request for Extension, the PUC Entities’ opposition to NumberBarn’s Application rests primarily on (1) unsubstantiated allegations that reflect a fundamental misunderstanding of, or prejudice against, NumberBarn and its business model and

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<sup>1</sup> The California Public Utilities Commission, Maine Public Utilities Commission, New Hampshire Department of Energy, Washington Utilities and Transportation Commission, Public Service Commission of West Virginia, and the Public Service Commission of the District of Columbia filed joint comments and are referred to herein as the “State Commissions.” References to all of the entities filing comments in this proceeding are designated as “the PUC Entities.”

(2) broad policy concerns that impact the entire communications industry and go well beyond the scope of the instant Application. Accordingly, the PUC Entities failed to articulate any good cause as to why NumberBarn's Application should be denied or treated any differently than those of other similarly situated providers whose applications have been granted.<sup>2</sup>

**I. The PUC Entities Have a Fundamental Misunderstanding of NumberBarn's Business and Operations**

As an initial matter, it is difficult to believe that the pervasive misunderstanding of NumberBarn's operations on the part of the PUC Entities is not, to some degree, willful. NumberBarn first addressed a number of these apparent misunderstandings regarding the function and use of the search tool on its website in its Opposition to the National Association of Regulatory Commissioners' ("NARUC") request for an Extension<sup>3</sup>. NumberBarn made clear that the vast majority of the numbers found through its search tool are not held by NumberBarn or its customers and are unassigned numbers that are being made available by carriers to their wholesale customers (of which NumberBarn is one) on a first come, first served basis. In addition, NumberBarn has sent written correspondence to the NARUC executive committee inviting it to engage in an open dialogue whereby the Company could provide NARUC and its members information about its business model and operations.<sup>4</sup>

A NumberBarn representative also attended the recent NARUC annual meeting and even volunteered to participate in a panel discussion as part of its outreach efforts. At the meeting,

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<sup>2</sup> Given that the PUC Entities' comments included all manner of perceived failings and misdeeds on the part of NumberBarn regardless of how specious or unrelated those are to the Company's instant Application, it is worth noting that both the Arizona ACC and Michigan PSC failed to serve notice of their comments on NumberBarn.

<sup>3</sup> See <https://www.fcc.gov/ecfs/document/100170639531/1> ("Opposition").

<sup>4</sup> See November 7, 2024 Letter from NumberBarn outside counsel to NARUC President, Julie Fedorchak attached as Exhibit A to NumberBarn's Motion for Extension of Time.

NumberBarn also met with staff from various PUCs. Tellingly, staff from the CPUC flatly refused to meet with NumberBarn personnel and instead elected to file comments with the other State Commissions that were rife with baseless and damaging allegations against the Company. Nevertheless, NumberBarn held an open demonstration for NARUC members on November 25, 2024, where it walked them through the Company’s platform, business model, and explanation of its use of available numbers. It does not appear that representatives from the California, Maine, New Hampshire, or West Virginia PUCs attended the demonstration on the 25<sup>th</sup>.

In contrast to NumberBarn’s outreach efforts, none of the PUC Entities appear to have read or considered the Company’s Opposition in preparing their comments. Further, despite claiming to have conducted thorough “investigations” into NumberBarn’s operations, neither NARUC nor any one of its members engaged in *any* prior outreach to learn more about NumberBarn’s services despite the lengthy extension granted by the FCC in which to file comments in this proceeding. Thus, in these Reply Comments, NumberBarn will again attempt to educate NARUC and the PUC Entities as to the nature of its services and the functionality of the search tool found on its website in order to rebut and dispel each of the PUC Entities’ unsubstantiated allegations and far-fetched hypotheticals.

## **II. The Issue of Number Exhaustion Implicates Industry-Wide Policy Concerns Well Beyond the Scope of the Application**

The PUC Entities each argue throughout their comments that granting NumberBarn’s Application “could” or “might” exacerbate the issue of number exhaustion. While number resource depletion is a serious issue, it is one that impacts the industry as a whole and goes well beyond the scope of the instant Application. Solutions need to be industry-wide, not application-specific, if the FCC and the PUC Entities are serious about addressing this issue. Thus, NumberBarn maintains that such broad policy concerns should not factor into the FCC’s consideration of



NumberBarn's Application, especially when the concerns raised in the context of NumberBarn's Application are purely speculative and based on a misunderstanding of the Company's services.

It would violate fundamental notions of due process and the dictates of the Administrative Procedure Act for the FCC to make sweeping policy changes and pronouncements in this matter, as doing so would unjustly prejudice a single provider. There is little question, especially in light of recent precedent, that the courts would look unfavorably on any attempts by the FCC to usher in broad policy changes through a one-off application process.<sup>5</sup> Further, given the imminent change in FCC leadership, the FCC should promptly act on this Application and abstain from addressing broad, partisan, or controversial policy matters during this transition period, as requested by Congressional leaders.<sup>6</sup> This further supports granting NumberBarn's Application and allowing the new administration to address concerns of number depletion and numbers as property through the rulemaking process or Congressional action.

That being said, in support of their arguments that NumberBarn's business practices were contributing to the problem of number exhaustion, the PUC Entities made a number of incorrect, misleading, and unsubstantiated claims that NumberBarn is compelled to address herein.

### **III. The PUC Entities Do Not Understand NumberBarn's Search Engine Tool or Its Functionality**

In discussing NumberBarn's operations and practices and leveling accusations of number stockpiling against NumberBarn, the PUC Entities apparently failed to recognize that the search tool on NumberBarn's website is just that - a search engine of available numbers. Contrary to the misunderstanding held by the PUC Entities, NumberBarn itself does not hold, warehouse, or own

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<sup>5</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024); *In re MCP No. 425*, 2024 WL 3517673 (6<sup>th</sup> Cir. 2024).

<sup>6</sup> See <https://www.cnet.com/home/internet/gop-cruz-tell-fcc-pencils-down-after-trump-election-win/>.

the over 70,000,000 phone numbers that are searchable using its website tool. Rather, with limited exception, these numbers are unassigned numbers made available by carriers to their thousands of wholesale customers (of which NumberBarn is one), on a first come first served basis, and NumberBarn does not have exclusive access to these numbers. Thus, the PUC Entities' allegations of stockpiling or warehousing numbers are without merit and based on a fundamental misunderstanding of the purpose and functionality of the search tool on NumberBarn's website.

Next, the State Commissions seemingly contradict themselves by questioning whether NumberBarn has the authority to "list" numbers on its website (*i.e.*, searchable through its website tool), if the Company does not have exclusive access to the numbers.<sup>7</sup> Putting aside the issue of whether a company needs authorization to list unassigned numbers, this question also illustrates a misunderstanding on the part of the State Commissions as to the reason there exists large swaths of unassigned numbers.

In order to "enter" a rate center, a carrier must obtain a block of 1000 numbers (the minimum allocation size) from the North American Numbering Plan Administrator ("NANPA"), even if it just wanted a single number, *e.g.* for an LRN, or even for a single subscriber. This leaves potentially 999 unassigned numbers that were "necessarily" allocated to the carrier by NANPA. It can sometimes take months to obtain and activate a block, so carriers need to forecast and request well ahead of actual need. While there is an economic disincentive for them to over-forecast, the carriers obviously want to err on the side of too many rather than not enough.

Adding to this issue is the fact that carriers are not always able to "return" allocations back to NANPA, even when they want to do so; as there are strict rules on returning blocks,<sup>8</sup> and some

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<sup>7</sup> See Comments of State Commissions at 3-4.

<sup>8</sup> See, *e.g.*, Section 11.1.1 of the Thousands-Block (NPA-NXX-X) & Central Office Code (NPA-NXX) Administration Guidelines (TBCOCAG) ATIS-0300119.

“contaminated” blocks are unable to be returned. And, because NANPA is fragmented into over 20,000 rate centers, carriers desiring a nationwide footprint need to obtain thousands-blocks in thousands of rate centers, potentially tying up millions of phone numbers.

All of these factors above contribute to the current situation where some wholesale carriers have millions of unassigned numbers, even when acting responsibly with regard to numbering efficiency. NumberBarn aggregates availability information from many carriers about these unassigned numbers (that is, numbers that have been allocated to the carriers by NANPA but do not yet have an active subscriber). This is the data which becomes the basis of the Company’s search engine. While these unassigned numbers are in a status that could be reported by carriers in their Number Resource Utilization Forecast (“NRUF”) submissions as unassigned, NumberBarn does not have visibility into other carriers’ NRUF policies and procedures.

Approximately 94% of the numbers searchable on NumberBarn’s website are from thousands-blocks that have been allocated to carriers by NANPA, but whose numbers have not been fully assigned, or are SPARE numbers available to any active RespOrg.<sup>9</sup> The Company relies on upstream carriers to provide availability information via API, and NumberBarn caches this information periodically. When a NumberBarn customer adds a number to their basket, the Company re-confirms the availability of that number and then, in most cases, “reserves” that number for a brief period while the Company completes the order. As noted in NumberBarn’s Opposition, it is common industry practice for carriers, including VoIP providers who have already been granted access to Numbering Resources, to allow their customers to select numbers from a “pool” of unused or available numbers. None of the PUC Entities have articulated a single reason

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<sup>9</sup> To clarify, NumberBarn and upstream carriers use the term “pooled” or “spare” as synonymous with “unassigned”. This is a wholly different concept than the NANPA concept of number pooling.

why NumberBarn's Application should be treated any differently from other similarly situated applicants.<sup>10</sup>

The suggestion that NumberBarn is listing or selling numbers unbeknownst to the end users is defamatory and suggests that NumberBarn is somehow stealing numbers from unwitting end users – something it does not, would not, and cannot do. That would be an impractical and unsustainable business model. Moreover, NumberBarn does not have numbering authorization, so it cannot take or steal numbers, and it would not do so if granted authorization. At the time of order fulfillment, the Company requests that the relevant carrier assign the number to the Company and then relies on that carrier to fulfill the order. As set forth in more detail below, in a small portion of cases, a NumberBarn customer will elect to list and sell its number on NumberBarn's website. In that case, when NumberBarn receives an order for that number, the Company reviews it, and transfers the number to the buyer at the time that it charges the buyer and pays the seller.

Contrary to the PUC Entities' claims, NumberBarn's search engine may potentially improve the efficient use of numbers, especially numbers that would otherwise remain unassigned. Every number an end user identifies and requests through the search engine is one less unassigned number depleting existing Numbering Resources. NumberBarn's search engine facilitates better, more efficient utilization of the 70,000,000 currently unassigned numbers, reducing the need for end users and carriers to request additional thousands-blocks for a single number.

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<sup>10</sup> See, e.g., a sampling of other entities offering the "sale" of virtual numbers to VoIP customers and/or allowing customers to select numbers: [www.zoom.com/en/products/voip-phone/features/virtual-phone-number/](http://www.zoom.com/en/products/voip-phone/features/virtual-phone-number/); <https://www.phone.com/virtual-phone-number/>; <https://www.ooma.com/phone-numbers/>; <https://voipstudio.com/voip-numbers/>; <https://www.telinta.com/solutions/business/virtual-numbers/>. VoIPReview.org has published a list of "The 9 Best Virtual Phone Number Providers of 2024," which includes such entities as Google Voice and RingCentral. See, <https://www.voipreview.org/virtual-phone-number-providers>.

The PUC Entities likewise suggest that NumberBarn is selling large groups of consecutive numbers and that this practice is contributing to number exhaustion. Again, these concerns are unsupported and unfounded. Further, the assertion by the ACC and the State Commissions that NumberBarn may, at some point in the future, violate sequential numbering rules<sup>11</sup> is purely speculative and cannot serve as a good faith basis on which to deny the Company's Application.

NumberBarn offers "consecutive" search functionality to allow customers to find groups of consecutive numbers. NumberBarn does not and has not requested any thousands-blocks or CO codes from NANPA or its carriers. Indeed, NumberBarn does not have the authority to request assignment of blocks from NANPA, as it does not currently have numbering authorization. It is striking that the PUC Entities are accusing the Company of abusing access it does not even have.

Similarly, NumberBarn has never requested access to entire blocks of numbers from its suppliers. NumberBarn's search engine aggregates knowledge of unassigned numbers from multiple sources and makes those numbers searchable on its website. To the extent that an entire block of numbers is found using the search tool on NumberBarn's site, those are coming from other sources – either wholesale carriers or a combination of wholesale carriers and end users listing their numbers. Again, most of the numbers identified through the search tool are currently unassigned numbers. Where a customer is able to identify a group of numbers through the tool and then obtain those numbers, NumberBarn's search tool actually facilitates efficient use of Numbering Resources by enabling activation of unassigned numbers where a requirement for consecutive numbers might otherwise lead to a carrier requesting an additional thousands-block.

Moreover, there are common, industry accepted reasons for end users to request groups of consecutive numbers. One common scenario is for a business that is assigning phone numbers to

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<sup>11</sup> See Comments of ACC at 3 and Comments of State Commissions at 7.

their employees, to prefer a consistent NPA-NXX for all employees, and/or for the least significant digits of the assigned phone numbers to “line up” with their internal extension numbers. In fact, the MI PSC’s own employee directory suggests that they engage in this practice with regard to consecutive numbers within the 517-284-XXXX block.<sup>12</sup> It is also interesting to note that Somos, which is authorized by the FCC to operate the registry of toll-free numbers, offers a “consecutive” number search tool to all Responsible Organizations (“Resp Orgs”) and has done so since the advent of toll-free numbers.

#### **IV. The Provision of Vanity Numbers Is Not Unique to NumberBarn**

The ACC and State Commissions both allege that NumberBarn’s provisioning of vanity and “valuable” numbers will contribute to number exhaustion.<sup>13</sup> As set forth above, while the general issue of number exhaustion is a serious issue, it is a broad policy issue that impacts the entire industry and goes beyond the parameters of the instant Application. The causes of any potential number exhaustion likewise cannot be tied to NumberBarn or to vanity numbers. That said, the inaccurate and unsupported factual allegations made by the ACC and State Commissions must be addressed.

First, as of the date of this filing, NumberBarn’s searches indicate that there are just over 250,000 Arizona numbers across five area codes that are searchable on NumberBarn’s website – this is substantially less than the number set forth in the ACC’s comments. Of those numbers, approximately 92% are available through upstream carriers that make their numbers available to multiple wholesale customers on a first come, first served basis. The remaining 8% come from other sources, including 3% that account for NumberBarn subscribers who have opted to list their

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<sup>12</sup> See [www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/about/MPSC\\_Phone\\_List-Internet.pdf](http://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/about/MPSC_Phone_List-Internet.pdf)

<sup>13</sup> See Comments of ACC at 2-3 and Comments of State Commissions at 2-3.

numbers for sale, something that NumberBarn permits its customers to do, but does not require. Further, NumberBarn's customers are free to list their numbers elsewhere, and NumberBarn does not require that any sales be done exclusively through its website. Thus, contrary to the ACC's accusations, NumberBarn is not hoarding or otherwise stockpiling "valuable" numbers, as most of the Arizona numbers searchable on NumberBarn's website are held by other carriers and are available to all of those carriers' customers on a first come, first served basis.

NumberBarn does not dispute that a small portion of number patterns are considered valuable by end users who may wish to sell them, however (1) the reasonableness of this practice is a matter for public policy debate and should be addressed through a rulemaking or Congressional action rather than as part of the consideration of this Application and (2) the total quantity of these numbers (*i.e.*, the "size" of the vanity number market in aggregate) is limited in comparison to the number of assigned numbers. Indeed, of the numbers searchable on NumberBarn's website, less than 5% are so called "valuable" numbers.

With respect to the concern of NumberBarn's provision of vanity numbers, many providers, including those who have already been granted access to Numbering Resources allow customers to "choose your number,"<sup>14</sup> which is the very essence of a vanity number. Contrary to the assertions of the State Commissions, NumberBarn does not and has not auctioned numbers, other than the auction of the 833 area code as permitted by the FCC.<sup>15</sup> NumberBarn has never stockpiled, requested, or targeted blocks with vanity numbers, and assertions that it might do so in the future are pure speculation.

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<sup>14</sup> See *infra* ftnt. 9.

<sup>15</sup> See <https://auction.somos.com/>

## **V. NumberBarn Is Not Stockpiling or Warehousing Toll-Free Numbers**

Both the State Commissions and the MI PSC raised concerns that NumberBarn *might be* warehousing or hoarding toll-free numbers.<sup>16</sup> In addition to the fact this claim is pure speculation, the suggestion that NumberBarn is somehow stockpiling these numbers represents yet another blatant and intentional failure to understand NumberBarn's business and erroneously presumes that NumberBarn has exclusive access to all of the toll-free numbers found through the search tool on its website, when in reality these numbers (with limited exceptions) are unassigned and available to any RespOrg wishing to assign them to their customers.

As a RespOrg, NumberBarn has direct access and visibility into all telephone numbers within the active toll-free area codes (800, 888, 877, 866, 855, 844, and 833) that are classified by Somos as SPARE, that is, numbers that are available for search and reservation by any RespOrg on a first come, first served basis. To be clear, NumberBarn currently has approximately 64,000 toll-free numbers that are assigned to bona fide subscribers (end users); these numbers are classified by Somos in WORKING status. In addition, NumberBarn currently has 225 toll-free numbers that are in RESERVED status, which is well below the Reservation Limits prescribed by Somos.<sup>17</sup>

## **VI. There Are Legitimate Cases for the Use and Purchase of Numbers by Out of State End Users**

In its comments, the ACC states that NumberBarn and its upstream vendors are acting in concert to deplete Arizona Numbering Resources by offering numbers to mostly out of state

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<sup>16</sup> See Comments of MI PSC at 4 and Comments of State Commissions at 6.

<sup>17</sup> See <https://www.somos.com/tariff> Section 2. 2.3.1.(A).(4) (4). The designation as RESERVED indicates a temporary hold initiated by NumberBarn in the context of a pending activation of service for a bona fide NumberBarn subscriber.



entities for the purposes of making spam calls to Arizona residents.<sup>18</sup> The ACC claims that NumberBarn’s vendors have received more than 4.5 million numbers in Arizona and speculates that NumberBarn “through partnership” with these carriers is facilitating the availability of Arizona numbers to out of state entities for the purposes of spam calls.<sup>19</sup>

As stated above, concerns regarding the scarcity and/or depletion of Numbering Resources are policy issues that are outside the scope of the instant Application, impact the broader industry as a whole, and are properly addressed through the FCC’s rulemaking process or Congressional action. That said, in addition to raising broad policy issues in the context of a single Application, the ACC’s allegations are unproven, speculative, and damaging to the Company. The ACC’s arguments require multiple cognitive leaps and are unsupported by any evidentiary offerings. First, the ACC states, without any evidence, that most of the Arizona numbers obtained by upstream carriers are being used by companies seeking to appear as if they are located in Arizona. In fact, the ACC has no knowledge of or insight into whether the end users of these numbers are located in Arizona.<sup>20</sup> The ACC then speculates that the only reason that non-Arizona based end users would want an Arizona number is to place spam calls.<sup>21</sup> There are a number of legitimate reasons why companies not headquartered in Arizona or end users not located in Arizona could seek Arizona numbers, especially in the current environment where remote work is the norm, not the exception to the rule.

The argument that NumberBarn “may” be selling numbers to end users to facilitate spam calls, illegal robocalling, and similar conduct, is not only speculative, it also makes no economic

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<sup>18</sup> See Comments of ACC at 6-7.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 7.

<sup>21</sup> *Id.*

sense. NumberBarn serves a primarily retail market and prices its services accordingly. Any wholesale customer that intended to buy in bulk (whether that be for legitimate or illegitimate purposes) would likely contract directly with any number of wholesale platforms that offer numbers in bulk for pennies per month. Fear and conjecture cannot be the basis on which to deny NumberBarn access to Numbering Resources when other similarly situated providers have been granted such access and have not been subjected to defamatory and speculation-driven malignment by the PUC Entities.

## **VII. NumberBarn's Practices Are Consistent with Numbering Guidelines**

As with the PUC Entities' other allegations, their assertions that NumberBarn's practices violate numbering guidelines are without merit and based on a false narrative of the Company's operations. Specifically, as set forth above, NumberBarn has never auctioned numbers, other than as permitted by the FCC, and is not in violation of sequential numbering rules; nor is it brokering, warehousing, or hoarding numbers. Assertions that the Company "might" do so in the future are nothing more than worst-case speculation grounded in fear rather than fact. It would be a gross overreach of the Commission's authority to deny NumberBarn's Application based on the unsubstantiated fears, beliefs, and feelings of the PUC Entities.

For example, in its comments, the MI PSC lamented NumberBarn's "business practices in handling telephone Numbering Resources."<sup>22</sup> In reality, the MI PSC had no actual knowledge of NumberBarn's practices and based its concerns on a misreading or misunderstanding of NumberBarn's operations. The MI PSC mistakenly assumed that NumberBarn acquires large quantities of both geographic and toll-free numbers based on a statement on the Company's website that it has over 70 million numbers available for assignment. As set forth in NumberBarn's

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<sup>22</sup> See Comments of MI PSC at 2.

Opposition and above, the vast majority of the numbers that can be found through the search tool on NumberBarn's website not held by NumberBarn are unassigned and can likewise be found on other wholesale provider platforms. Simply put, there is no evidence that NumberBarn has, does, or will hoard numbers, as most of the numbers found through NumberBarn's search tool are unassigned and remain available to thousands of wholesale customers of their respective carriers.

The PUC Entities also cite the Alliance for Telecommunications Industry Solutions ("ATIS") guidelines and allege, again without evidence, that NumberBarn "is circumventing, or allowing other providers to circumvent, telecommunications industry best practices."<sup>23</sup> Notably, the PUC Entities base their allegations on "investigations" they conducted on NumberBarn. As set forth herein, NumberBarn was never contacted by the PUC Entities, alerted to the investigations, or asked to provide information related to the same.

As an initial matter, ATIS's guidelines are just that – guidelines. The FCC has "full jurisdiction over the telephone numbering system in the United States."<sup>24</sup> The FCC's jurisdiction notwithstanding, NumberBarn disputes the MI PSC's characterization and maintains that its practices are consistent with industry standards and the practices of other VoIP providers that have already been granted access to Numbering Resources. Likewise, the insinuation that NumberBarn somehow controls the practices of its competitors or upstream providers is ludicrous and is based on pure supposition and a fundamental misunderstanding of NumberBarn's business and the industry. Lastly, as with concerns regarding number exhaustion, discussions as to whether numbers are properly considered to be property or a public resource is a question of policy that is

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<sup>23</sup> See Comments of MI PSC at 3. See also, Comments of ACC at 7-8 and Comments of State Commissions at 3.

<sup>24</sup> See <https://www.fcc.gov/general/numbering-issues#:~:text=The%20FCC%20has%20full%20jurisdiction,the%20efficient%20use%20of%20n umbers.>

properly considered in the context of a broader rulemaking or Congressional proceeding, not in the Application of a single provider.

### **VIII. NumberBarn's Call Parking Services Are a Legitimate Service and Similar to Services Offered by Other Providers with Direct Access to Numbering Resources**

The State Commissions claim, without providing a single citation, that NumberBarn's call parking services may violate FCC regulations and/or industry guidelines because parked numbers may also be offered for sale on NumberBarn's site.<sup>25</sup> However, the practice of number parking is commonplace in the industry and does not, in and of itself, violate federal law. To the extent that the FCC wishes to examine whether regulatory oversight over parking services is necessary or within its jurisdiction, such issues must be addressed through a rulemaking, and are not properly considered in the context of an application of a single provider.

With respect to NumberBarn's parking services, the Company provides certain enhanced services that do not enable two-way communication. NumberBarn allows customers on parked plans to play a custom or default greeting, receive call notifications, and, in some cases, to receive inbound SMS. Countless companies that have been granted numbering authorization offer enhanced one-way services that include auto-attendant, voicemail, IVR, menu, pre-recorded message playback, and inbound SMS messaging. The PUC Entities have failed to articulate any reason why NumberBarn's parking services should be treated any differently than similar services offered by other providers.

A common use case for NumberBarn's parking service is when a wireless customer plans to travel for a long period and wants to retain their phone number with a minimal feature set during

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<sup>25</sup> See Comments of State Commissions at 5. As set forth herein, NumberBarn does allow its bona fide subscribers to list their telephone numbers for sale, and those customers may be subscribers to the Company's parking services.

that time. They will port their number to NumberBarn and then port it back to their wireless provider when they return and are ready to resume their service. It is unreasonable for the State Commissions to suggest that all assigned telephone numbers must offer two-way communication.<sup>26</sup> It is also unreasonable for the State Commissions to suggest that this activity violates Commission's rules. In fact, many wireless companies offer a "suspend your line" or "seasonal suspend" feature that allows the subscriber to maintain ownership of their phone number without service for a reduced fee.<sup>27</sup>

#### **IX. NumberBarn's Compliance with State and Federal Registration, Reporting and Certification Requirements**

In their comments, each of the PUC Entities alleges that NumberBarn's Application should be denied because the Company has failed to comply with certain state and federal registration, reporting, and/or certification requirements. These allegations are largely without merit and are based on the PUC Entities' misunderstanding or misapplication of applicable legal requirements. NumberBarn takes its regulatory obligations seriously, as evidenced by the fact that it has never been the subject of any public investigation,<sup>28</sup> enforcement action, or other adverse action on the

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<sup>26</sup> Such a suggestion is also factually and legally incorrect – one-way paging is among the oldest of wireless telecommunications services and provides neither voice communications nor two-way transmission; yet one-way paging carriers may obtain direct access to Numbering Resources. *See e.g.*, [https://www.nanpa.com/sites/default/files/2024-06/NewSPChecklist\\_COCode%26amp%3BThousands-Block.pdf](https://www.nanpa.com/sites/default/files/2024-06/NewSPChecklist_COCode%26amp%3BThousands-Block.pdf) (listing the types of entities that may obtain direct number access) and <https://www.neca.org/business-solutions/company-codes/company-code-request-instructions> (including "paging, beeper" in the company code for wireless carriers entitled to direct number access).

<sup>27</sup> *See* <https://www.att.com/support/article/wireless/KM1046747/>; <https://www.att.com/support/article/my-account/KM1009512/>; <https://www.verizon.com/support/suspend-service-faqs/>.

<sup>28</sup> While the PUC Entities' claim to have conducted investigations into NumberBarn's practices, the Company was never notified of such investigations until receipt of the comments in this proceeding. Indeed, none of the PUC Entities bothered to contact NumberBarn during the course of these "investigations" to request information about the Company or its services. NumberBarn

part of the FCC or any state utility commission. These arguments are simply another example of the PUC Entities tilting at windmills in their attempt to encourage the FCC to deny the Application, further underscoring the fact that none of the PUC Entities have any good faith or factual basis on which to oppose the Application.

**A. NumberBarn Makes Every Effort to Comply with Applicable State Registration and Reporting Requirements**

The ACC, the Public Service Commission of the District of Columbia, the MI PSC, and the Maine Public Utilities Commission each maintain that NumberBarn failed to register or seek Certificates of Public Convenience and Necessity (“CPCNs”) from appropriate state authorities.<sup>29</sup> The PUC Entities base their allegations on a review of NumberBarn’s listing in the Form 499 Filer database. The information in the database is based on filers’ Form 499 registrations. Notably, while the database provides a list of “jurisdictions in which the filing entity provides telecommunications services,” Line 227 of the Form 499-A requires providers to indicate jurisdictions in which they provide services, *including jurisdictions where providers are likely to provide services in the next twelve months*.

While NumberBarn does have a handful of customers in Maine, it is not providing regulated services to those customers and therefore does not currently have any regulatory fee remittance obligations in the state and is not required to register with the third-party fee administrator. When and if it does provide regulated services to Maine customers, NumberBarn will comply with all obligations associated with those services. With regard to the District of

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has not been provided with the results of these “investigations” or been provided the opportunity to provide any input into the same. Yet, the PUC Entities have cited to these secret investigations to malign NumberBarn and its customers. It is difficult to imagine a better example of gross abuse of governmental authority.

<sup>29</sup> See Comments of ACC at 5-6; Comments of State Commissions at 7-8; and Comments of the MI PSC at 4-5.

Columbia, in 2024 YTD, provision of regulated services has resulted in under \$2.00 in D.C. USF contribution obligations, which would result in no contribution obligation if/when reported. NumberBarn conducts quarterly reviews of the tax and fee data from its tax engine software to determine where it needs to begin initiating state and regulatory fee reporting. Based on the comments in this proceeding, NumberBarn can report the approximately \$1.74 in USF obligations to District of Columbia Universal Service Trust Fund to assuage any concerns the State Commissions have.

Next, the ACC alleges that NumberBarn has failed to comply with state regulatory obligations in Arizona because it has not requested or obtained a CPCN from the ACC. As the ACC is aware, as a provider of nomadic IVoIP services, NumberBarn has no obligation to obtain a CPCN in Arizona. Indeed, the ACC has specifically declined to exercise regulatory authority over nomadic IVoIP service providers,<sup>30</sup> which is probably the reason that the ACC failed to cite a single regulatory provision in support of its claim that NumberBarn and other nomadic IVoIP providers are required to obtain CPCNs in Arizona.

In addition, the ACC also attempts to claim that NumberBarn's eCorp system registration is somehow misleading because it lists itself as a phone number management company. The instructions to the registration form direct filers to "[b]riefly describe the purpose of the foreign LLC or the general character of business it proposes to transact in Arizona." In its submission, NumberBarn identified the general character of the business it transacts and the Company's general purpose. Simply put, there was and is no misrepresentation.

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<sup>30</sup> *In The Matter of The Application of Skype Communications Us Corporation to Provide Notice of the Launch of Interconnected Voice Over Internet Protocol (VoIP) Service in the State of Arizona Under the Skype for Business Brand to Business Customers.* (ACC Docket No. T-20950A-16-0039; June 21, 2016). *See also* A.R.S § 40-212(A).

Lastly, the MI PSC maintains that NumberBarn failed to register with the state's Intrastate Telecommunications Service Provider database or the Michigan Department of Licensing and Regulatory Affairs. NumberBarn appreciates the MI PSC bringing this to its attention. The Company took immediate corrective action. It has submitted registration to the Michigan Department of Licensing and Regulatory Affairs and, once approved, will complete its registration with the state's Intrastate Telecommunications Service Provider database. Given the patch-work quilt of state utility commission regulation over VoIP services and the continuing evolution of the same, it can be a challenge for VoIP carriers to monitor and adhere to requirements that vary between each of the fifty states. Indeed, NumberBarn is curious whether the MI PSC likewise reviewed the 499 database entries for each of the other VoIP providers who have already been granted access to Numbering Resources and confirmed the registration status of those carriers. If so, NumberBarn is confident that it is not alone in this regard.

**B. NumberBarn Does Not Have NRUF Reporting and Forecasting Obligations and Cannot Control the Practices of Upstream Carriers**

The ACC and State Commissions assert that NumberBarn and its carrier partners<sup>31</sup> have failed to file accurate NRUF reports with NANPA and cite this alleged failure as grounds on which to deny the Application.<sup>32</sup> As an initial matter, contrary to the ACC's and State Commissions' assertion, NumberBarn currently has no legal obligation or duty to file NRUF reports because it

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<sup>31</sup> The use of the phrase "carrier partners" in NumberBarn's Application refers to upstream carriers from which NumberBarn does or will obtain services. This should be immediately obvious to anyone reviewing the Application. However, the PUC Entities appear to have seized on this phrase to suggest that the Company and its upstream carriers are in league to commit any number of potential bad acts and/or that NumberBarn has some degree of control over the operations, compliance decisions, and business strategies of these carriers. Just to state the obvious - it does not.

<sup>32</sup> See Comments of ACC at 4-5 and Comments of State Commissions at 5-6.



does not have direct access to Numbering Resources and is an IVoIP provider, not a telecommunications carrier.

In adopting the present regime for direct numbering access by IVoIP providers, the Commission contemplated that such providers would be subject to, *inter alia*, the requirement to file NRUF reports only after an authorization was granted. The Notice of Proposed Rulemaking in that proceeding noted that, in the waivers that preceded the Commission’s proposal to allow direct numbering access by IVoIP generally, compliance with NRUF filings and other regulatory requirements were made “a condition of its authorization[.]”<sup>33</sup> The Commission proposed that its IVoIP numbering rules “impose these same requirements — the number utilization and optimization requirements and industry guidelines and practices that apply to carriers—on interconnected VoIP providers *that obtain direct access to numbers*.”<sup>34</sup> In adopting final rules, the Commission stressed that “VoIP providers that obtain a Commission authorization to enable direct access to Numbering Resources *will be* subject to the Commission’s numbering rules and industry guidelines and practices for numbering applicable to telecommunications carriers ... [which] include, *inter alia*, filing NRUF Reports[.]”<sup>35</sup> NumberBarn has not yet “obtain[ed] direct access to [N]umbering [R]esources.” Thus, NumberBarn is not obligated to file NRUF reports unless and until it receives authorization to obtain Numbering Resources directly; until then, its acknowledgment that it will be subject to the Commission’s numbering rules, including NRUF report filing, is all that the rules require.

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<sup>33</sup> See *In the Matter of Numbering Policies for Modern Communications*, Notice of Proposed Rulemaking, Order and Notice of Inquiry, FCC 13-51, ¶ 22 (rel. Apr. 18, 2013) (“*VoIP Numbering NPRM*”).

<sup>34</sup> *Id.* (emphasis added).

<sup>35</sup> See *In the Matter of Numbering Policies for Modern Communications*, Report and Order, FCC 15-70, ¶ 27 (rel. June 22, 2015) (“*VoIP Numbering Order*”) (emphasis added).

Without any proof whatsoever, the ACC expresses “concern” NumberBarn will fail to adhere to reporting and forecasting requirements if its Application were to be granted. Neither the ACC nor the State Commissions provide any factual support for their “concerns” and instead offer the alleged *potential* non-compliance of unrelated third parties as “proof” that NumberBarn will, in the future, violate obligations it currently does not have. Specifically, the ACC posits that NumberBarn *may* have more than one upstream carrier, and if so, those additional carriers *may not* be complying with their own reporting requirements. Even if proven, NumberBarn does not and cannot control the compliance practices of its upstream vendors.

The Commission was well aware, when allowing IVoIP providers to obtain direct access to numbers, that wholesale carriers often did not properly report the numbers such carriers made available to IVoIP providers.<sup>36</sup> Rather than treating carrier violations as a reason to deny Numbering Resources to IVoIP providers, the Commission has noted that direct access to Numbering Resources, and direct reporting requirements for VoIP providers allows for greater accuracy in number utilization reporting.<sup>37</sup> It would be a flagrant violation of the Commission’s rules and NumberBarn’s due process rights for the FCC to deny the Application based on alleged (and unproven) non-compliance of unrelated third parties.

**C. NumberBarn’s Robocall Mitigation Certifications Are Accurate and Valid**

The PUC Entities also note that, in some cases, calls to random numbers found through use of the search tool on the Company’s website resulted in commercial offerings. The ACC suggests that because numbers found using the search tool on NumberBarn’s website can be used in possible

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<sup>36</sup> See *VoIP Numbering NPRM*, *supra*, at ¶ 22; *VoIP Numbering Order*, *supra*, at ¶ 31.

<sup>37</sup> See *VoIP Numbering NPRM* at ¶ 22; *VoIP Numbering Order* at ¶ 7.

scams, NumberBarn’s certification that it is not facilitating illegal robocalling is *ipso facto* false or inaccurate.<sup>38</sup>

These concerns are based on a fundamental and pervasive misunderstanding of the purpose of the number search tool on NumberBarn’s website. The MI PSC refers to these numbers as “NumberBarn’s inventory.” This is not accurate. As explained herein and in its filings in this proceeding, the vast majority of the numbers found through the search tool on NumberBarn’s website are unassigned numbers, not held by NumberBarn, and available to any wholesale customer of their respective carriers. During the course of their “investigations,” the PUC Entities apparently failed to determine whether any of the numbers connecting to promotional “scams” were held by NumberBarn or other carriers. Thus, the concern raised by the PUC Entities are properly directed to the upstream providers, that ironically already have direct access to Numbering Resources, not NumberBarn. NumberBarn has no control over how or if those carriers elect to monetize the numbers they hold.

NumberBarn offers enhanced and voice communication services to bona fide subscribers on approximately 1.2 million telephone numbers. The PUC Entities’ suggestion that NumberBarn is not compliant with its STIR/SHAKEN obligations as related to inbound calling towards NumberBarn subscribers, represents the general misunderstanding of STIR/SHAKEN on the part of the states. NumberBarn is compliant with STIR/SHAKEN, and implements strict policies to prevent fraud, robocalling, and similarly inappropriate uses of its services. The Company’s Terms of Service strictly forbid illegal activity.<sup>39</sup> To the extent that a NumberBarn subscriber uses outbound calling features and services, NumberBarn appropriately signs those outbound calls

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<sup>38</sup> See Comments of ACC at 4. See also Comments of State Commissions at 4 and Comments of the MI PSC at 3.

<sup>39</sup> <https://www.numberbarn.com/terms>

consistent with FCC requirements, and NumberBarn promptly investigates and responds to all fraud reports.

Therefore, NumberBarn's STIR/SHAKEN certifications are accurate, and the PUC Entities' suggestion to the contrary is unsupported by evidence and is without merit. Similarly, the notion that NumberBarn has any obligation to monitor the numbers held by unrelated carriers to ensure whether those carriers are attempting to monetize their numbers in unlawful or unscrupulous ways is as impractical as it is baseless.

**X. The PUC Entities' Concerns Regarding NumberBarn's Application and Calls for Audits or Investigations of the Company Are Unfounded**

The State Commissions also complain that NumberBarn's Application is incomplete because the Company did not include its Form 499 or Form 477 filings,<sup>40</sup> and the PUC Entities suggest that the FCC should investigate or audit the Company's practices. As with the PUC Entities' citation to other imagined violations on the part of NumberBarn, this too is grasping at straws.

The Company's Forms 477 and 499 contain highly confidential and sensitive information. And, at the time it submitted its original Application in 2019, provision of these forms was not required. However, in the five years that NumberBarn's Application has been pending, the FCC amended the application requirements for VoIP providers seeking access to Numbering Resources.<sup>41</sup> During its continued outreach efforts with the FCC to obtain some idea of when the Application would be placed on public notice, FCC staff requested that the Company update its

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<sup>40</sup> See Comments of State Commissions at 3 and 9; Comments of MI PSC at 5; and Comments of ACC at 7-9.

<sup>41</sup> Federal Communications Commission, Second Report and Order and Second Further Notice of Proposed Rulemaking, FCC 23-75, WC Docket Nos. 13-97, 07-243, 20-67, IB Docket No. 16-155 (Sept. 21, 2023).

Application in light of recent updates to application requirements. NumberBarn agreed to the Commission's request, but because of the highly confidential nature of the Company's Form 477 and 499 filings, and because provision of these documents was not required at the time its Application was originally filed, the Company put FCC staff on notice that it would provide these materials upon request rather than include them in its supplemental filing. FCC staff could have easily requested that the Company provide these materials through a supplemental filing if the Commission disagreed with NumberBarn's approach, as evidenced by the fact that FCC staff did request NumberBarn to update the declaration provided in its supplemental filing.<sup>42</sup> It did not.

The ACC also asserts that the Company has provided contradictory statements as to when it plans to begin providing services. This is based on a highly suspicious misreading of NumberBarn's Application and supplements thereto. In accordance with the requirements of 47 C.F.R. § 52.15(g), NumberBarn advised the Commission that it has in place an agreement with carriers that have interconnection agreements with local exchange carriers and provided an interconnection agreement it had entered into directly with an incumbent provider. NumberBarn also noted that it had been providing IVoIP services since 2014 – something for which interconnection agreements are not required. This is wholly consistent with statements made in subsequent filings. Further, because NumberBarn has not yet been granted access to Numbering Resources, it has not taken service pursuant to the interconnection agreement it has in place. Rather than taking this simple and obvious fact into account, the ACC states, without any proof, that NumberBarn likely failed to enter into an interconnection agreement in the State of Arizona. In the

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<sup>42</sup> See NumberBarn's Third Supplement to its Application, <https://www.fcc.gov/ecfs/document/10814956029230/1>.

alternative, the ACC apparently asks the FCC to hold NumberBarn accountable if its upstream carriers failed to comply with obligations to file interconnection agreements.

Unsupported and illogical allegations cannot and should not serve as the basis upon which to deny NumberBarn's Application or initiate audits or investigations of the Company's practices. Moreover, as stated herein, NumberBarn cannot and does not control where or how its upstream carriers file their interconnection agreements. Any lapse in this regard, if one even exists, would rest with those carriers, not NumberBarn.

It is important to remember that the Company's Application has been pending for *five years* – a period disproportionately longer than other similarly situated applicants have faced. During this period, the FCC has had ample opportunity to request additional information from the Company to address questions or concerns it had. Indeed, the Company has remained in consistent contact with the FCC during the past five years, has fully cooperated with Commission staff, and has promptly responded to all requests for additional information from the Commission, as reflected in the multiple supplements it has made to its Application. It is difficult to fathom what imagined transgression that the PUC Entities believe could be uncovered that the FCC somehow failed to discover in the five years the Application has been pending.

## **CONCLUSION**

NumberBarn appreciates the opportunity to file Reply Comments in this proceeding in order to correct the record and address the numerous unsupported and speculative allegations made by the PUC Entities. It would be a gross overreach to single out NumberBarn's Application and treat the Company differently than similarly situated providers who have been granted the very access NumberBarn is seeking, especially when doing so would rest solely on speculation and the unpublished results of secretive and incomplete "investigations" on the part of the PUC Entities.

While the PUC Entities do raise some broad policy concerns, these are concerns that fall outside the scope of the instant Application and must be addressed on an industry-wide basis. If its Application is granted, NumberBarn is committed to complying with all state and federal requirements and being a responsible steward of the Numbering Resources to which it will have access.

Respectfully submitted,



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