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ORIGINAL

Decision 97-02-016 February 5, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the)
 Commission's Own Motion Into)
 Competition for Local Exchange)
 Service.)

R.95-04-043
 (Filed April 26, 1995)

Order Instituting Investigation)
 on the Commission's Own Motion)
 into Competition for Local Exchange)
 Service.)

I.95-04-044
 (Filed April 26, 1995)

O P I N I O NBackground

On December 4, 1996, the California Code Administrator (CCA) filed the 714 NPA Exhaust Relief Plan with the Commission. According to the CCA, the industry participants have reached unanimous agreement on a proposed geographic split of the 714 area code identified as "Alternative 5LJ."

The industry planning team reached an impasse, however, over the issue of whether introduction of the new area code could be advanced from April 1998 to October 1997. The industry agreed to present two relief schedules, one conforming to the notification requirements contained in the California Public Utilities (PU) Code and one introducing the new numbering plan area (NPA) in October 1997. The two schedules are as follows:

	Schedule Conforming to PU Code	Schedule Not Conforming to PU Code
Start of Permissive Dialing	4/18/98	10/18/97
Start of Mandatory Dialing	10/17/98	4/18/98
End of Mandatory Dialing ¹	1/16/99	7/18/98

¹ During the "mandatory dialing" period, callers receive a message directing them to dial the area code number before their call can be completed.

The national industry requests a 12-month advance notification of the introduction of a new area code. Even if the Commission had adopted the Public Utilities Code Non-Conforming Schedule by December 31, 1996, the national notification would be less than the recommended 12 months. Any delay in deciding which schedule to follow further jeopardizes the national industry members' ability to implement the new area code in their networks.

In order to move forward with final planning, the industry planning team requests a decision from the Commission as to the date on which the relief plan should be implemented. A temporary hold has been placed on the final planning process for the 714 NPA, pending a decision from the Commission. To move forward with the planning process, the industry requests an expedited Commission decision.

Position of Parties

Pacific

Pacific Bell (Pacific) supports beginning the permissive dialing period for the 714 Split Plan in April 1998. While recognizing that industry members need new NXX codes in the 714 NPA and other NPAs, Pacific strongly opposes the proposal to accelerate 714 NPA relief from April 1998 to October 1997.

Pacific states that the October date would violate PU Code § 7930(a) and (c). PU Code § 7930(a) requires a telephone corporation proposing a new area code to "[g]ive written notice of its intention to establish a new area code to all affected subscribers and the Public Utilities Commission at least 24 months prior to the time the corporation proposes to commence the use of the new area code." Similarly, PU Code § 7930(c) requires "written notice of the specific geographic area to be included in the new area code to all affected subscribers and the Public Utilities Commission at least 15 months prior to the time the corporation proposes to commence the use of the new area code. . ." (emphasis added). Pacific states that these requirements cannot be met for

the 714 NPA relief if it is implemented in October 1997. The first customer notices were sent out in December 1995, less than 24 months before October 1997. Even if the Commission had acted in November to mandate this accelerated relief, Pacific could not get customer notices out in its bills until January or February 1997, because of the planning and printing time that is needed. Pacific states that PU Code § 7930 was enacted because the Legislature was concerned that customers receive adequate notice of a change in their area code, so that they could participate in the planning process, could notify friends and relatives, could order new stationery, signs, brochures, and other advertising materials, and would not waste large sums in buying stationery and advertising materials containing their old area code. PBX owners, alarm companies, and ISDN customers must implement any change in area codes and, therefore, must receive adequate notice of the change. In short, if the Commission approves the implementation of relief beginning in October 1997, Pacific predicts many complaints from customers that they were not given adequate notice of the change.

Pacific further states that the October 1997 date would not give adequate notice to the industry. Section 4.7 of the Industry Carriers Compatibility Forum (ICCF) NPA Code Relief Planning Guidelines states: "When the final NPA Relief Plan has been determined, and at least 18 months prior to the NPA Relief date, the Relief Coordinator should formally notify NANPA (North American Numbering Plan Administration) of the pending NPA exhaust, request formal assignment of new NPA, and submit sufficient background information to justify the assignment of a code." If the final plan has not been determined prior to the 18-month requirement, Section 4.7 provides that "the Planner should forward whatever information is available at that time, together with a statement that the final relief method has not yet been determined."

Pacific states that it would not be able to meet this 18-month requirement. Section 3 of the ICCF Industry Notification of NPA Relief Activity Guidelines states: "A minimum of 12 months advance notice of an NPA split/overlay should be provided by the NPA Relief Coordinator." This section then details the specific information to be provided. It continues "In addition to any other public announcements, the North American Numbering Plan Administration (NANPA) will provide 12 months advance notice to the industry via a Bellcore Information Letter. In order to do so, they must receive the required information from the NPA Relief Coordinator at least one month before the 12 month notice is to be published." Again, implementing the split in October 1997, would not permit Pacific to meet this notice requirement. The ICCF Guidelines provide for these advance notices so that the industry members across the nation can implement the change within their switches and other systems, print directories with correct information, and make other appropriate plans. While these are nonbinding industry guidelines, they represent an industry consensus of desirable timeframes for notification, and Pacific believes they should not be ignored.

The other code relief planned for 1997 makes it inadvisable to add the 714 NPA split to the schedule according to Pacific. There are five permissive periods beginning in 1997 (310, 619, 818, 415, and 916) and two mandatory periods (310, 619), plus a boundary realignment for Dixon (assuming the Commission grants the Petition for Modification of Decision (D.) 96-08-042). Pacific does not believe it is feasible to add another major activity into this already challenging schedule.

GTEC

GTE California Incorporated (GTEC) opposes acceleration in the implementation date of the 714 NPA split. GTEC has three exchanges in the 714 area and the remaining ones are Pacific's. GTEC will not support an accelerated split date of October 1997

unless Pacific is able to implement it with assurance of network reliability. GTEC states it will not support jeopardizing the stability and reliability of the network for the sake of carriers' needs to have access to the network merely by having NXX codes available. GTEC contends there are many serious ramifications if a split is not handled carefully. Therefore, GTEC requests 714 be split in April of 1998, and not during 1997. Additionally, while GTEC believes it might may be able to split 714 in its network in October 1997, the strain on its resources will be harsh due to split activity for 619 in September and for 916 in November of the same year.

GTEC also agrees with Pacific that the proposed acceleration would violate the minimum notice requirements set forth in the statutes.

AT&T, CCTA, ICG and AirTouch

Position papers in support of accelerating the start date of the 714 NPA relief plan were filed by AT&T Communications (AT&T), California Cable Television Association (CCTA), and ICG Access Services (ICG) (jointly filed), and AirTouch Cellular (AirTouch).

AT&T states the CCA's historical trending approach to forecasting exhaustion is inadequate for California's present circumstances. Forecasted exhaustion dates are being maintained even when it is obvious that exhaustion will occur much sooner. Accordingly, AT&T proposes the exhaustion date for 714 should be advanced by six months, from 2nd Quarter 1998 to 4th Quarter 1997, with a corresponding advancement of all relief scheduling dates.

CCTA and ICG note that the 714 NPA is in a number-exhaustion crisis. As of November 11, 1996, the CCA declared a "freeze" on the distribution of NXX codes in that NPA because of the high likelihood of exhaustion. Consequently, a lottery will likely be instituted in order to strictly ration numbers in the 714 NPA. CCTA and ICG believe the solution is to accelerate the 714

NPA relief schedule, moving the beginning of permissive dialing from April, 1998 to October, 1997.

CCTA and ICG argue that the potential for problems stemming from an accelerated schedule must be weighed against the certainty that new entrants cannot begin to offer phone service if they do not have sufficient phone numbers. CCTA and ICG claim the only certain consequence of not accelerating 714 NPA relief would be to further entrench incumbents in a market that is arguably the planet's most valuable. In light of Congressional, FCC and CPUC procompetitive mandates, CCTA and ICG find that result is unacceptable. CCTA and ICG believe the benefits of accelerating 714 NPA relief outweigh any potential realization of local exchange carrier (LEC) fears of adverse consequences and accordingly support acceleration in the implementation of 714 NPA relief.

AirTouch argues that the entire telecommunications industry is being held hostage to Pacific's inability to handle more than six area code splits per year. As a result, the 714 relief plan was pushed off to April, 1998 -- which is past that area code's exhaustion date. AirTouch claims there is, however, an opening during which Pacific could handle one additional split during October 1997.

AirTouch does not believe that an acceleration in the permissive-dialing start date to October, 1997 would violate the 24 months' notice required by PU Code § 7930(a). AirTouch contends no new 24-month notice is required since accelerating the date would simply be part of implementing the plan announced in December, 1995. AirTouch argues that PU § 7930 applies only to a "telephone corporation" and does not limit the Commission's ability to fashion relief that is in the public interest. Rather, early implementation could be an "option available...to mitigate any disruption" to subscribers' service that Section 7930 requires be included.

Discussion

In D.96-12-086, we adopted a policy calling for the use of area code splits generally throughout California through the year 2000. Therefore, a geographic split is the only available option for the 714 NPA. Moreover, we concur with the consensus reached by industry participants and approve the Alternative 5LJ Plan for the 714 NPA split. The remaining dispute involves the implementation date for the split, and whether a six-month acceleration in the start date for permissive dialing is feasible.

There is no disagreement among parties that there will be NXX code shortages and the need for rationing if the start date for permissive dialing under the 714 NPA relief plan remains as scheduled beginning on April 18, 1998. Likewise, no party presented evidence to refute Pacific's and GTEC's claims regarding the potential service disruptions and negative consequences that would result from accelerating the start date by six months. The dispute among parties focuses instead on the relative weight which the Commission should give to the expected impacts. The LECs believe that the adverse effects on consumers from accelerating the permissive and mandatory dialing dates outweigh any negative consequences from NXX code shortages. The competitive local carriers (CLCs) and AirTouch, by contrast, believe that the adverse effects on the competitive marketplace resulting from denial of NXX codes in the 714 NPA justify an acceleration in the implementation date when weighed against the potential problems which acceleration would cause.

We conclude that whatever resolution we reach, there will be adverse impacts. Our goal, therefore, is to adopt an implementation schedule that will minimize the potential adverse impacts. We recently addressed a similar request for an acceleration of the schedule for implementing the 310 and the 619 NPA relief plans. In D.96-12-087, we concluded that based on a weighing of the countervailing impacts, it was not in the public

interest to accelerate those schedules for the 310 and 619 NPAs. In particular, we noted that because the scheduled date for the start of permissive dialing for the 310 and 619 NPAs had already been publicly noticed, it would be unduly disruptive to change the schedule after the fact. We also noted, however, that more aggressive implementation schedules for future relief plans may be possible. We have already taken action to schedule a workshop to address ways to overcome existing constraints in the LECs' Operational Support Systems (OSS) which limit the ability to schedule the start of permissive or mandatory dialing for more than one NPA within a single month. At the present time, however, this constraint remains. In the case of the 714 NPA, October 1997 is the only month where the OSS constraint would not be triggered.

We also addressed the question of accelerating the implementation of NPA relief for the 415 and 916 NPA relief plans in D.96-08-042. In that case, customers had not previously been notified regarding the schedule for NPA relief implementation. We concluded in D.96-08-042 that the schedule for notification requirements for new area codes set forth in PU Code §§ 7930 and 7931 applied to telephone corporations, but did not necessarily apply to schedules for implementing area code relief which the Commission itself may adopt. We stated, nonetheless, that our intent was to generally adopt NPA relief schedules which keep to the spirit of these notification requirements.

In D.96-08-042, we adopted an implementation schedule for the 415 NPA that allowed for a 12-month advance customer notification period. While we did not allow the full 15-month notification period called for in § 7930(c), we concluded that the 12-month schedule was sufficient to meet the spirit of § 7930(c). We also left open the possibility of further adjustments to the implementation schedule in the event premature exhaustion appeared to be imminent. So that subscribers were not surprised by a subsequent schedule acceleration, we directed that the customer

notification effort should indicate the possibility that the implementation schedule could change.

In the present instance, the proposed six-month acceleration of the 714 NPA relief schedule would make it impossible to meet the 15-month notification requirement of § 7930(c) and would permit an even shorter notification period than the 12 months we approved for the 415 NPA. The intent of the 15-month notice is to give customers adequate advance notice of the new area code so they have time to prepare for it. Even if notice to customers could be issued today, customers would have barely 8 months' advance notice of the new area code which would fall short of statutory requirements. Given the additional lead time required to prepare billing inserts and mail them to customers, there would be even less than 8 months' advance notice. While we have previously concluded that we are not technically bound by the 15-month notice requirement, we have expressed the intent to observe at least the spirit of the requirement. We conclude that a six-month acceleration in the permissive dialing period would produce such a drastic shortening of the notice period as to violate even the spirit of the 15-month advance notice period. The potential confusion and hardship on customers of such a shortened schedule would be extreme.

We also conclude that the potential for customer service disruptions would be significant due to an acceleration in the start date for permissive dialing to October 1997. We find that several of the same disruptions to customers which were noted as problems with an accelerated 310 and 619 NPA relief schedule would also be present with a 714 NPA relief acceleration. These impacts would adversely affect E911 service, call completions, billing, and repair service, etc. As noted by Pacific, the proposed acceleration would also preclude compliance with the ICCF industry notification guidelines calling for a minimum of 12 months' advance notice of an NPA split. The acceleration would not provide even

the minimum amount of time deemed sufficient by the ICCF to allow industry members across the nation to change their switches and other systems to accommodate the new NPA.

Proponents of an accelerated schedule have failed to offer any satisfactory solution as to how to deal with or mitigate these adverse effects of acceleration. Instead, they contend that the potential harm of NXX code shortages to the competitive market justify risking whatever adverse consumer impacts would result. On balance, we conclude that the negative effects resulting from insufficient implementation time for the 714 NPA relief plan are sufficient to justify keeping the scheduled start date for permissive dialing at April 1998.

We recognize that the relief schedule we are adopting will run the risk of exacerbating NXX code shortages and the need for lottery-based rationing within the 714 NPA. We remain concerned about the constraints on competition that result from a CLC's failure to obtain all NXX codes which are needed. We intend to continue to investigate ways to maximize the availability of NXX codes, particularly for new market entrants, to enhance code conservation and efficient utilization of codes, and to prioritize the availability of phone numbers. Once we have concluded the workshop regarding the OSS scheduling constraint, we are hopeful that solutions can be devised to enhance the flexibility to accelerate future NPA relief schedules. In the meantime, we remain constrained in the options for schedule adjustments available to us.

Findings of Fact

1. D.96-12-086 adopted a policy calling for the use of area code splits generally throughout California through the year 2000.
2. Industry participants reached a consensus to select the Alternative 5LJ geographic split option for the next 714 NPA relief plan.

3. Industry participants in the 714 NPA relief plan disagree over whether a six-month acceleration in the start date for permissive dialing is feasible.

4. There likely will be NXX code shortages and the need for rationing if the start date for permissive dialing under the 714 NPA relief plan remains as scheduled beginning on April 18, 1998.

5. No party presented evidence to refute Pacific's and GTEC's claims regarding the potential service disruptions and negative consequences that would result from accelerating the April 18, 1998, start date for permissive dialing by six months.

6. Pursuant to D.96-08-042, a workshop has been scheduled to address ways to overcome existing constraints in the LECs' Operational Support Systems (OSS) which limit the ability to schedule the start of permissive or mandatory dialing for more than one NPA within a single month.

7. In the case of the 714 NPA, October 1997 is the only month where the OSS constraint would not be triggered.

8. As stated in D.96-08-042, the schedule for notification requirements for new area codes set forth in PU Code §§ 7930 and 7931 applies to telephone corporations, but does not necessarily apply to schedules for implementing area code relief which the Commission, itself, adopts.

9. In D.96-08-042, the Commission stated its intent to generally adopt NPA relief schedules which keep to the spirit of the §§ 7930 and 7931 notification requirements.

10. While D.96-08-042 did not allow a full 15-month notification period for the 415 NPA relief plan as called for in § 7930(c), the Commission concluded that a 12-month schedule was sufficient to meet the spirit of § 7930(c).

11. The proposed six-month acceleration of the 714 NPA relief schedule would make it impossible to meet the 15-month notification requirement of § 7930(c) and would permit an even shorter notification period than the 12 months we approved for the 415 NPA.

12. The intent of the 15-month notice requirement in § 7930(c) is to give customers adequate advance notice of the new area code so they have time to prepare for it.

13. Given the lead time required to prepare billing inserts and mail them to customers, there would be less than nine months' advance notice, assuming a six-month acceleration in the 714 NPA permissive dialing period.

14. The potential for customer service disruptions would be significant due to an acceleration in the the start date for permissive dialing to October 1997, with adverse effects on E911 service, call completions, billing, and repair service, among other effects.

15. The proposed acceleration would not provide even the minimum 12 months deemed sufficient by the ICCF to allow industry members across the nation to change their switches and other systems to accommodate the new NPA.

Conclusions of Law

1. Alternate Plan 5LJ is reasonable and should be adopted for purposes of the 714 NPA relief plan.

2. A six-month acceleration in the permissive dialing period would produce such a drastic shortening of the notice period as to violate even the spirit of the 15-month advance notice period.

3. The relief schedule which does not incorporate a six-month acceleration for the 714 NPA relief plan will run the risk of exacerbating NXX code shortages and the need for lottery-based rationing within the 714 NPA.

4. The constraints on competition that result from a CLC's failure to obtain all NXX codes is a continuing concern which needs to be given significant weight in assessing potential accelerations in NPA relief schedules.

5. On balance, the negative effects on customers and the industry resulting from insufficient implementation time for the

714 NPA relief plan justify keeping the scheduled start date for permissive dialing during April 1998.

6. Continuing investigation is warranted regarding ways to maximize the availability of NXX codes, particularly for new market entrants, and to enhance code conservation and efficient utilization of codes.

O R D E R

IT IS ORDERED that:

1. Alternate Plan 5LJ is hereby approved and adopted for the 714 numbering plan area (NPA) relief plan implementation.

2. The following implementation schedule is adopted for the 714 NPA relief plan:

Start of Permissive Dialing: April 18, 1998

Start of Mandatory Dialing: October 17, 1998

End of Mandatory Dialing: January 16, 1999

This order is effective today.

Dated February 5, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners