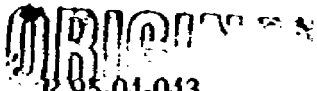


Decision 97-09-051 September 3, 1997

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.95-01-043
(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)

OPINION

By this decision, we formally approve the relief plan for a geographic split of the 209 Numbering Plan Area (NPA) as presented to the Commission and previously agreed to among industry planning participants. The 209 NPA presently includes all of Amador, Calaveras and Mariposa counties; the vast majority of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare and Tuolumne counties; part of Alpine, El Dorado and Sacramento counties; a small portion of Kern County; very small portions of Alameda, Contra Costa, Inyo, Mono, Monterey, San Benito and Santa Clara counties.

The process for implementing new area codes in California is covered both by state statute, applicable Commission decisions, and industry guidelines. California state statute prescribes requirements for customer notification, establishment of new NPA boundaries and transitional dialing periods. "Affected subscribers" must have written notice at least 24 months prior to the introduction of a new area code.

In Decision (D.) 96-12-086, we recognized the dramatic growth occurring in the demand for telephone numbers within California and the need for a Commission policy governing statewide NPA relief planning. In D.96-10-067, we affirmed that Pacific Bell (Pacific) shall continue to serve as the California Code Administrator (CCA) and shall be responsible for initiating and coordinating industry planning of NPA relief during the interim period until a national code administrator is established.

In D.96-12-086, we adopted a policy calling for the use of geographic splits for all NPA relief plans in California through the year 2000 with the possible exception of the 310 NPA. Therefore, previous industry disputes regarding possible use of an overlay in the NPAs up for relief have been resolved by D.96-12-086, and the only matter remaining for Commission action regarding the 209 NPA is the formal approval of a specific geographic split plan.

Proposed Relief Plan

The relief planning process began in February 1996 to relieve the impending exhaustion of NXX codes for the 209 NPA, currently projected to occur during the fourth quarter of 1999. At that time, the Area Code Relief Coordinator formed an industry team to consider relief options.¹ The team met in May 1996, and again in November 1996 after three initial public meetings and an initial local jurisdiction meeting. Several industry meetings and conference calls have been held during 1997 concurrently as well as after the second set of public and local jurisdiction meetings.

Six initial alternatives were discussed by the industry team: five splits and an overlay. Four of the proposed split alternatives and the overlay alternative considered by the industry team were eliminated by the team during the planning process. The industry went forward to the public with the remaining split alternative, described below, and used the overlay alternative as an educational tool regarding future relief methods.

¹ This team is comprised of the NPA Code Relief Coordinator, California Code Administration staff, California Public Utilities Commission (CPUC) representatives from the Telecommunications Division (TD) and the Office of Ratepayer Advocates (ORA), and current and future code holders: local exchange carriers, interexchange carriers, wireless carriers and competitive local carriers.

The industry ultimately settled on the relief plan identified as Alternative #10A-LJ. This relief alternative retains the 209 area code in the northern portion of the current NPA covering primarily the counties of Amador, Calaveras, Merced, Mariposa, San Joaquin, Stanislaus, and Tuolumne. Small portions of Alameda, Alpine, Contra Costa, El Dorado, Sacramento and Santa Clara Counties are also in the northern area. A new area code would be assigned in the southern portion, covering primarily Fresno, Kings, Madera, Tulare and King Counties. Small portions of Kern, Inyo, Monterey and San Benito Counties are also in the southern area. The specific boundaries of the split are set forth on the map in Appendix A.

Alternative #10A-LJ was ultimately approved by industry consensus on a vote of 19 in favor and 0 not in favor with two abstaining. (The two abstentions desired that the Commission make the decision as to which side should keep the 209 area code.) On April 21, 1997, the industry team directed the CCA to forward Alternative #10A-LJ to the Commission for its approval. On June 4, 1997, the CCA submitted the plan to implement a new NPA to the Commission which is the subject of this order.

The industry proposes the following relief schedule for the 209 NPA split:

	<u>Implementation Date</u>
Start of Permissive Dialing	11/14/98
Start of Mandatory Dialing	5/15/99
End of Mandatory Dialing	8/21/99

The criteria by which the industry group compared the exhaustion relief alternatives have been used in several prior NPA relief decisions. We have generally adopted those relief plans that:

1. Minimize impact to existing customers in the exhausting NPA
2. Balance impact to the telecommunications industry
3. Have an equitable impact on all existing and potential code holders
4. Optimize life of old and new NPAs
5. Meet projected exhaustion date and notification requirements

The industry concluded that assigning the 209 area code to either the northern or southern section results in comparable impacts with regard to Criteria 2 through 5. The

industry noted that the population size and the NXX code usage is similar in both the north and south. If the 209 area code were assigned to the southern portion, then the 1.28 million residents in the northern area along with the three million MedicAlert® customers who depend on a 209 number would be impacted. If the 209 were assigned to the northern portion, then the 1.34 million residents in the southern portion would be impacted.

The industry group concluded that, with regard to Criterion 1, customer impacts, the population in the northern portion of the 209 NPA would experience a greater impact if their area code were to change than if the southern portion were to change its area code. This greater impact is due to the high degree of interactivity with the surrounding area codes.

However, the industry identified the adverse effects on users of MedicAlert® as the most significant reason for retaining the 209 area code in the northern portion after the NPA split. MedicAlert® manufactures and maintains a system for over 3.8 million Americans who wear Med-Alert bracelets or neck medallions. These Med-Alert tags are used by diabetics, people with a variety of allergic reactions to drugs like penicillin and other antibiotics, and persons with many other major health risks to alert health care professionals to their medical challenges. Each of these 3.8 million Med-Alert tags carry the 209 area code. MedicAlert® is based in Turlock which is in the northern portion of the 209 NPA. While it is technically possible to assign the 209 code to the southern portion and still keep the MedicAlert® number working with a 209 NPA, the industry believes that it is not possible to guarantee that all telecommunications companies nationwide would complete the necessary work in a timely and proper manner to ensure that 100% of the calls to the MedicAlert® number would be processed without

failure.² Any call to MedicAlert® not properly completed could place someone's life in jeopardy.

The proposed plan (Alternative #10A-LJ) has the support of northern counties retaining the 209 area code. The southern counties, Fresno, Kings, Madera and Tulare, oppose the plan and believe the southern area should retain the existing 209 area code. Several local government officials representing the southern counties (most notably the City of Fresno) appeared at the 209 NPA public meetings and expressed support for retaining the 209 area code in the southern region. Among the reasons cited for keeping the 209 area code in the south is the fact that the City of Fresno is the largest single metropolitan area within the 209 NPA, and therefore, the economic hardships of a forced change in area code would be most pronounced there. Proponents of a southern 209 NPA also point to the strong national and international identity of Fresno's 209 area code. For example, Fresno is used as a principal center for booking reservations from all over the world for Yosemite National Park.

The CCA, on behalf of the Industry Planning Team, forwarded the proposed relief plan to the Commission seeking approval by July 1, 1997, to enable the industry to begin customer notification in August 1997 in order to meet the 15-month customer notification required in Public Utilities (PU) Code § 7930(c). The industry team further requested that the Commission decision specifically refer to the August 1997 notification and the fact that industry notification nationwide is needed by November 1997, under INC guidelines. The industry suggests that the Commission provide a deadline for filing Petitions for Modification, and direct that the Petitions will be handled on an expedited basis.

² Use of an 800 number for MedicAlert® is not feasible since the number would not function outside of the United States. Further, this would not solve the problem of the current tags having the 209 area code.

Subsequent to the filing of the CCA's proposal for approval of Alternative #10A-LJ, a formal complaint was filed by the County of Fresno (C.97-07-020), contesting the CCA's proposal. We discuss the significance of the complaint below.

Discussion

The proposed geographic split plan has been developed based on the collective efforts of industry participants, in conformance with applicable state statutes and industry planning guidelines, and after taking public input from the affected communities. While the proposed split will disadvantage those who must change their area codes, we conclude that the proposed plan results in the least overall disruption to the public as a whole and promotes the best balance of any alternative considered. Recognizing that the industry planning group has reached consensus on the appropriate geographic split for the 209 NPA after carefully balancing the opposing interests, we conclude that the proposed geographic split is reasonable and hereby approve it. Given the need for timely NPA relief to prevent code exhaustion, we direct the CCA to proceed with all due diligence to expeditiously implement the approved 209 NPA relief plan according to the schedule adopted in the order below.

The CCA had requested approval of the proposed relief plan by July 1, 1997, to enable the industry to begin customer notification in August 1997, in conformance with the 15-month customer notice prescribed under PU Code § 7930(c). Since we are approving the proposed plan somewhat later than requested, we shall direct that customer notification of the adopted relief plan shall begin by October 1997. As we noted in D.95-08-052, the 15-month notification requirement applies to telephone corporations, but does not strictly apply to the Commission's own action. Nonetheless, we conclude that the adopted schedule should provide for a reasonably sufficient advance notice to customers of the area code change, although it is somewhat later than proposed, and adheres to the spirit of the 15-month notification requirement. Nationwide industry notification shall occur by November 1997.

The record underlying our adoption of the 209 area code relief plan #10A-LJ is contained in the June 4, 1997 report filed by the CCA. We take official notice of the

subsequent complaint filed by the County of Fresno (Case (C.) 97-07-020 versus Pacific in which Fresno contests the proposed 209 NPA relief plan and seeks a revision in the plan permitting the area south of the Mariposa/Madera County line to retain the existing 209 area code. An answer to the complaint was filed by Pacific on July 18, 1997. Petitions to intervene in the complaint case have been filed by various parties.

The Commission is currently in the process of reviewing the pleadings in the complaint case to determine the appropriate disposition. We intend to fully consider the merits of any relevant factual issues raised in the complaint case. Depending on the ultimate Commission disposition of the complaint case, the final features of the 209 NPA relief plan as adopted in the instant decision may be modified. Nonetheless, we believe that in light of the need of expedited implementation of a relief plan for the 209 NPA to mitigate code shortages and to provide adequate time for advance notice of the relief plan to the public and to the industry, we should move forward with adoption of the proposed relief plan presented by the CCA. The industry is directed to proceed with notification to customers of the fact that the 209 NPA will be subject to a geographic split under the schedule adopted in this order. The notice should indicate that the Commission has take action to approve the CCA's proposed plan, but that the plan has been challenged by the County of Fresno in a separate complaint, and that the final form of the plan may be modified depending on the outcome of the complaint. Once the Fresno complaint is resolved, we shall direct the industry to notify their customers concerning any changes in the plan which is finally approved. We intend to resolve the Fresno complaint in an expeditious manner in light of the need for timely implementation of a relief plan for the 209 NPA.

We cannot shorten the statutory time for the filing of petitions for modification or applications for rehearing of this order, as requested by the CCA. To grant such a request would exceed our statutory authority. In view of the time-sensitive nature of the NPA relief plan implementation and the risks of NXX code exhaust, however, we will carefully weigh the potential adverse consequences of code relief delay in disposing of any legal challenges to the adopted plan which may be filed subsequently.

Timely implementation is critical in light of the impending exhaustion of NXX codes within the 209 NPA.

Findings of Fact

1. The CCA has presented the assigned Administrative Law Judge with a status report as to the projected code exhaustion of, and a proposed plan (Alternative #10A-LJ) to develop relief planning measures which have been undertaken for, the 209 NPA.

2. In D.96-12-086, we adopted a policy calling for the use of geographic splits for all NPA relief plans in California through the year 2000, with the possible exception of the relief plan for the 310 NPA.

3. The proposed plan would split the 209 NPA, with the southern portion taking a new area code. Alternative #10A-LJ is supported by all industry planning participants, but is opposed by the southern counties who would lose the 209 area code.

4. The proposed split plan preserves the 209 area code for MedicAlert® and thus avoids the risk of improperly completed phone calls to MedicAlert® which could result in life-threatening consequences.

5. The proposed split plan balances the impact on the telecommunications industry, has an equitable impact on all existing and potential NXX code holders, and optimizes the life of the old and new area codes.

6. The County of Fresno has filed a complaint (C.97-07-020) against the CCA, asserting that the proposed 209 area should remain in the southern portion of the 209 NPA region.

Conclusions of Law

1. It is concluded that the proposed geographic split for the 209 NPA as agreed to among industry planning groups is reasonable, complies with applicable industry guidelines, provides the least overall adverse impacts on the public as a whole, and should be approved.

2. The merits of any relevant factual issues raised by the Fresno complaint case (C.97-07-020) should be resolved expeditiously in light of the need for timely area code relief.

O R D E R

IT IS ORDERED that:

1. The proposed geographic split plan (Alternative #10A-LJ) for the 209 Numbering Plan Area (NPA) which has been presented to the Commission by the California Code Administrator (CCA) is hereby approved.

2. Given the need for timely NPA relief to prevent code exhaustion, the CCA is hereby ordered to proceed with all due diligence to expeditiously implement the approved 209 NPA relief plan.

3. The following schedule for 209 NPA relief implementation is adopted:

	<u>Implementation Date</u>
Start of Permissive Dialing	11/14/98
Start of Mandatory Dialing	5/15/99
End of Mandatory Dialing	8/21/99

4. The industry participants shall provide customer notification of the adopted 209 NPA relief plan by October 1997, and nationwide notification by November 1997. The notifications shall disclose the pending complaint case (C.97-07-020) filed by the County of Fresno and shall indicate that the approved relief plan may ultimately be modified pending the disposition of C.97-07-020.

This order is effective today.

Dated September 3, 1997, at San Francisco, California.

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