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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

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

Rulemaking 95-04-043
(Filed April 26, 1995)

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

Investigation 95-04-044
(Filed April 26, 1995)

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O P I N I O N

I. Introduction

By this decision, we formally approve the proposed overlay relief plan for the 310 Numbering Plan Area (NPA) based upon review of the alternatives as presented to the Commission by the California-Nevada Code Administrator (CNCA)¹ by transmittal letter dated February 18, 1998. The 310 NPA currently serves Local Access Transport Area (LATA) 730 located in Los Angeles County.

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.

We have formulated statewide policies regarding area code relief through a series of decisions since 1995. Area code relief plans have become increasingly controversial in recent years as the demand for numbering resources has risen dramatically due to new technological advances in telecommunications and to the advent of local competition. We acknowledged the need for a comprehensive statewide policy on area code relief in connection with the proposed 310 NPA relief plan filed in 1995. We considered at that time the adoption of an overlay for the 310 NPA as an alternative to the traditional use of geographic splits. In

¹ Although the relief plan was filed by Pacific Bell (Pacific) as code administrator, a new national code administrator, Lockheed-Martin, has recently been appointed and is in the transitional process of taking over the area code relief duties previously performed by Pacific on a regional basis, and by Bellcore on a national basis. While Pacific retains responsibility for ongoing NPA relief plans, including the 310 plan, Lockheed-Martin will assume responsibility for all future NPA relief plans.

D.95-08-052, we rejected the overlay option for the 310 NPA on the basis that among other things, it was not at that time a competitively neutral relief remedy. We left open the prospect of considering an overlay as an option in future NPA relief plans once the anticompetitive aspects of the overlay could be overcome. We further directed that the Local Competition Docket be used to develop a comprehensive statewide policy regarding NPA relief.

On August 2, 1996, we issued D.96-08-028, adopting certain initial measures as part of a statewide policy on area code relief. We concluded in D.96-08-028 that as a condition for consideration of the overlay as a relief option, the overlay must be competitively neutral. We also established two prerequisites at a minimum for competitive neutrality. These were: (1) mandatory 1+10-digit dialing for all calls within the service areas subject to the overlay;² and (2) the full implementation of permanent local number portability (LNP) within the service area subject to the overlay. We determined that a further record needed to be developed regarding the relative merits of overlays versus splits once anticompetitive impediments could be overcome.

On December 20, 1996, the Commission released D.96-12-086, further expanding on the policy regarding the use of overlays once the competitive impediments could be resolved. In D.96-12-086, we evaluated the relative merits of splits versus overlays in terms of how consumers would be impacted differently with an overlay versus a geographic split. In particular, we reviewed consumer surveys conducted by various parties concerning preferences for

² In D.96-12-086, we ruled not to adopt statewide mandatory 1+10-digit dialing concurrently with the first overlay. We concluded that the advantages of preserving seven-digit dialing, for as many customers and for as long as possible, outweigh any potential customer confusion resulting from instituting mandatory 1+10-digit dialing only in those regions subject to overlays.

overlays and geographic splits as a means of creating new area codes. In that decision, we concluded that, at least for the near term, customers were better served with the geographic split option. We directed that splits should continue to be used for relief plans which would take effect at least through the year 2000. However, particularly in light of the consumer preference survey which reflected a greater receptiveness among certain classes of customers to the overlay proposal in the 310 NPA compared to other NPAs, we left open the possibility of adopting an overlay for the next round of relief in the 310 NPA to take effect prior to 2000. Because consumer preference for an overlay in the survey was premised on the longevity of NPA relief, we ruled in D.96-12-086 that the overlay NPA should last at least three years longer than the comparable NPA lives under a split. In D.97-08-065, we modified D.96-12-086 to eliminate this requirement, and instead required that the overlay be evaluated in reference to the same criteria applicable to a geographic split.

In D.96-12-086, we further developed the necessary conditions which would have to be met in order to justify approval of an overlay. We required that a customer education program be instituted at least 12 months before an overlay would take effect explaining the new mandatory 1+10-digit dialing requirements and the overlay plan to the public. We also required that upon approval of any overlay, the code administrator and telecommunications industry members were to:

- a. Notify the nationwide industry, the national code administrator, and customers of the proposed dialing plan change.
- b. Educate customers, industry, and internal employees on the dialing plan change.
- c. Correct signage for dialing instructions on payphones and in directories.

- d. Perform switch translation work for implementing mandatory dialing (12 weeks prior to cutover).
- e. Simultaneously with the cutover, institute customer instructional announcement for misdialed seven-digit calls.

In addition to the requirements imposed by the Commission, the Federal Communications Commission (FCC) issued its own requirements in FCC Order 96-333 with respect to overlays. In particular, the FCC required that every carrier was to be assured of at least one NXX code in the existing area code during the 90-day period preceding the introduction of the overlay. Based upon these policies, we now consider the proposed options submitted by the CNCA for relief in the 310 NPA.

II. Industry Relief Planning Process

The 310 NPA was created in 1992 to relieve code exhaustion in the 213 NPA. The 562 NPA was subsequently split from the 310 NPA in January 1997. One or more new area codes are now needed again to relieve the impending exhaustion of NXX codes in the current 310 NPA. The CNCA projects exhaustion of NXX codes in the 310 NPA to occur during the fourth quarter of 1999. The demand for numbering resources in the 310 NPA is being stimulated by the introduction of competition in the local exchange market and accelerated demand for new services and rapid changes in technology.

On April 9, 1997, the CNCA declared a jeopardy situation in the 310 area code. On April 23, 1997, the industry agreed to invoke extraordinary, NPA-specific conservation procedures for the 310 area code, as identified in Section 8.5 of the Industry Numbering Committee (INC) 95-0407-008 "Central Office Code (NXX) Assignment Guidelines." The 310 NPA code applicants are participating in the California lottery for NXX resources and will continue in the lottery until April 2000 under the current proposal.

The planning process for NPA Relief is established in the industry-approved document INC 97-0404-016 "NPA Code Relief Planning and Notification Guidelines," to be used by NPA Relief Coordinators. The document lists the assumptions, constraints, and planning principles used in NPA Code relief planning efforts. It also lists the steps of the NPA Code relief planning process and describes the alternative methods of providing NPA Code relief and their characteristics. Industry meetings began in April 1997 to develop alternatives for exhaustion relief in the 310 NPA. On May 5, 1997, a revised set of criteria was adopted by the industry to compare the 619 NPA alternatives, intended to clarify criteria which had been used by the industry in previous relief plans.⁹ The revised criteria are:

1. Minimize end users' confusion.
2. Balance the cost of implementation for all affected parties.
3. Provide that customers who undergo number changes shall not be required to change again for a period of eight to ten years.
4. Not favor a particular interest group.
5. Cover a period of at least five years beyond the predicted date of exhaustion.
6. Provide that all of the codes in a given area shall exhaust about the same time in the case of splits. In practice, this may not be possible, but severe imbalances, for example, a difference in NPA lifetimes of more than 15 years, should be avoided.
7. Comply with state and federal statutes, rulings and orders.

⁹ The criteria are based on the INC 97-0404-016 "NPA Code Relief Planning and Notification Guidelines."

III. Public Notification Process

The industry began customer notification of the impending exhaustion of the 310 NPA in May 1997 in accordance with the 24-month customer notification required by Section 7930(a) of the California Public Utilities (PU) Code.

A local jurisdiction meeting for city and county government representatives was held on August 27, 1997, to provide these jurisdictions with a status on the 310 relief process and to gather additional information. A non-binding advisory vote was taken to determine what alternatives would be taken to the public. While all local jurisdictions were invited to the local jurisdiction meeting and all public meetings, many did not send a representative to indicate their preference for a relief alternative.

Public meetings were required to occur within six months of the May 1997 customer notification, i.e., by November of 1997. The industry team held four public meetings, one more than required (PU Code § 7930) due to the request of the Commission staff to insure adequate coverage of the geographic area served by the existing 310 NPA. The industry conducted one meeting per day from November 17-20, 1997. At these public meetings, different versions of a two-way geographic split (Alternative 1A/1B and Alternative 5A/5B), a three-way geographic split (Alternative 8) and an overlay relief plan (Alternative 4) were presented.

Attendees at the public and local jurisdictions completed "Show-of-Interest" forms indicating their preference for the various plans. The Show of Interest is not intended to reflect a statistically significant sample of public opinion. The Show of Interest does provide the industry with some indication of which alternative has the most support by area, and also provides the industry a method of gathering comments and issues from those in attendance.

Based on the Show-of-Interest forms, the CNCA reports that Alternative 4, the overlay, was the most popular alternative as a first and second choice with 30%. The strong support, however, reflected a preference for service-specific overlays, which are prohibited under FCC rules.⁴ Alternative 4 would be an all-services overlay. Alternatives 1 and 5, the two-way splits, each received votes of 26% and 27%, respectively and Alternative 8 received 17%. Alternative 8 is a three-way split. Alternative 1A (310 remains in the north) received votes of 10%, while 1B (310 remains in the south) received votes of 16% of the first and second choices on the Show of Interest forms.

The Area Code Relief Coordinator convened eight meetings with the telecommunications Industry Planning Team to discuss and develop relief alternatives for the 310 NPA. This team is composed of the Area Code Relief Coordinator, CNCA, California Public Utilities Commission (CPUC) and current code holders: local exchange carriers, interexchange carriers, wireless carriers and competitive local carriers (CLCs).

IV. Proposed Relief Plan Alternatives

The Industry Team eliminated alternative plans which they concluded failed to meet the designated criteria, but was unable to reach consensus on a *single* relief plan. Alternative 4 and Alternative 1A were approved by the Industry Team for forwarding to the Commission for resolution. Alternative 4 would implement an overlay. The new area code would be overlaid on top of the existing 310 area code. As the old area code runs out of telephone numbers, new

⁴ FCC (Declaratory Ruling and Order, FCC Docket 95-19, IAD File No. 94-102, adopted January 12, 1995) precludes area code plans that exclude a particular kind of telecommunications service from an area code or that segregate services and technologies into different area codes to protect new telecommunications services from discrimination or disadvantage.

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telephone numbers would be assigned from the new area code. Existing customers keep the 310 area code.

Alternative 1A would implement a two-way geographic split. With this alternative, the northern portion, including the majority of Inglewood, and all of Culver City, Marina Del Rey, Mar Vista, Santa Monica, Beverly Hills, West Los Angeles, Malibu and a small portion of the City of Hawthorne and Ventura County would retain the 310 area code. The southern portion of the 310 area code would be split off into a new area code.

The expected NPA lives under each of the alternatives is as follows:

Relief Alternative #4 Overlay

NPA life range *
(from 7/17/99)

New NPA: Overlay of existing 310 area

10-3/4-12-1/2 years

Relief Alternative #1A Two-way Split

NPA life range *
(from 7/17/99)

310 NPA:

8-1/4-9-1/2 years

Seven Rate Centers which include:
Santa Monica, West Los Angeles,
Beverly Hills, Mar Vista, Culver City,
Inglewood and Malibu which also
serves a small portion of Ventura
County

New NPA:

13-1/4-15-1/2 years

Nine Rate Centers which include:
Avalon, El Segundo, Hawthorne,
Redondo, Compton Compton,
Compton Gardena, Torrance,
Lomita and San Pedro

* The NPA life ranges reflect the application of a $\pm 10\%$ sensitivity factor to projected growth and the use of January 1, 1998 Local Exchange Routing Guide (LERG) and the 1997 Central Office Code Utilization Survey (COCUS) NXX assignment quantities.

V. Parties' Positions

A. Overview

During the December 10, 1997 industry meeting, the Industry Team agreed to forward Alternative 4, the overlay, and Alternative 1A, two-way geographic split, to the Commission. The Industry Team was unable to reach consensus on a *single* exhaustion relief plan. The Industry Team agreed to the following proposed implementation schedule:

	Implementation Schedule
Start of Permissive Dialing	July 17, 1999
Start of Mandatory Dialing	January 15, 2000
End of Mandatory Dialing	April 22, 2000

The proposed relief plan alternatives were submitted to the Commission by letter dated February 18, 1998. The CNCA also submitted three position papers, representing the divergent views of various industry participants. The sponsors of the position papers are as follows:

Position Paper No.	Sponsoring Parties
1	AT&T Communications of California and MCI Communications
2	California Cable Television Association (CCTA), ICG Telecom, Inc., Nextlink California LLC and Sprint Communications
3	AirTouch Cellular, Cook Telecom, GTB, MobileMedia/MobileComm, Pacific Bell, PageNet, PBMS, Preferred Networks, Inc., Southwest Paging, The Telephone Connection and WinStar Telecommunications, Inc.

In addition to the two alternatives forwarded for consideration by the Industry Team, the sponsors of the first position paper also supported Alternative 8, the three-way split, as a preferred relief option.

Under Alternative 8, the central area covering the Culver City, Mar Vista, Inglewood, El Segundo, and Hawthorne rate centers would retain the 310 NPA. Two new area codes would be created, one in the north and the other in the south region in sequential phases.

Parties were allowed to supplement their comments pursuant to an ALJ ruling dated March 6, 1998, soliciting further information on certain issues. In their filed comments in response to the ALJ ruling, parties sponsoring the first two position papers and Teleport Communications Group, Inc., Time Warner AxS of California L.P., and WorldCom Technologies, Inc. submitted joint comments as members of the California Telecommunications Coalition, (hereafter identified as the "CLC Coalition"). The parties sponsoring the third position paper and Bay Area Cellular Telephone Company submitted comments in response to the ALJ ruling as members of the "Overlay Coalition." In addition to the position papers filed by members of the Industry Planning Team, comments were also filed by the Office of Ratepayer Advocates (ORA) in response to the ALJ ruling soliciting further information. ORA is neutral regarding the proposed options, but raises certain concerns to be addressed. Also, certain local governmental entities potentially impacted by the proposed relief plans formally expressed opposition to the proposed geographic split submitted in the report of the CNCA. Petitions to intervene were filed by the City of Torrance on March 24, 1998, and by the "South Bay Cities Council of Governments" (Cities) on March 26, 1998. Both of these entities oppose the proposed plan to split the 310 NPA, creating a new NPA for the entire South Bay region. The Cities argue that this alternative plan would divide the South Bay

and create undue hardship. There is no opposition to the Petitions to Intervene, therefore, we shall grant them.

AT&T/MCI consider Alternative 1A, the two-way split, to be preferable to Alternative 4, the overlay, but consider the proposed phased three-way split (identified as Alternative 8) to be the best relief solution. Although the three-way split would be more initially disruptive than a two-way split, especially in the phased implementation which Pacific as a incumbent local exchange carrier (ILEC) requires, the disruption would pass in time and the relief period would last considerably longer than the two-way split. With timely implementation of number pooling, AT&T/MCI argue, a three-way split should end relief activity and code rationing for the 310 NPA for a generation and quite possibly more. Accordingly, AT&T/MCI urge the Commission *sua sponte* to consider and approve a three-way (Alternative 8) split. As a second choice, AT&T/MCI favor the two-way split in preference to the overlay.

The sponsors of the second position paper supported the two-way split, Alternative 1A, as their primary recommendation arguing that it minimizes telecommunication provider and customer impact. They argue that Alternative 1A offers a relatively uncontroversial boundary line. The plan also would meet projected exhaustion and notice requirements. (D.97-08-065, mimeo., at 12.) Moreover, these sponsors oppose Alternative 4, claiming it is anti-competitive due to uncertainties over LNP implementation. They also note that the attendees at the public meetings favored a service-specific overlay, rather than an all-services overlay, as reflected in Alternative 4.

Sponsors of the third position paper representing ILECs and wireless carriers, favor adoption of Alternative 4, an overlay. Sponsoring parties argue that the overlay is the least disruptive area code relief solution, since it preserves the existing telephone numbers of all current customers, and results in

minimal changes for business customers' advertising, stationery, business cards, software, billing programs, and changes to customer records or databases. Sponsors of the overlay note that customers in the 310 area have already endured two splits within the past five years, and argue that it is unfair and excessively burdensome to again ask them to undergo yet another area code change. An overlay would ensure that a business could always retain the same number.

Sponsors further claim that the overlay is the most forward-looking, long-term solution for relief in the 310 NPA since future demand can be met by overlaying additional area codes on top of the existing area code when and if needed. An overlay leaves the existing geographic area intact and avoids further shrinking of the area code. With an overlay, there is no further geographic splitting of cities, communities of interest, or legislative districts. Segments of the population will not be required to compete for retention of the area code. Thus, conflicts between communities over retaining the old area code are avoided.

B. Requirements of Public Utilities Code Section 7931 and Transitional Implementation Period

Parties are in disagreement over the applicability of Section 7931 to overlays and the resulting impacts on the implementation schedule for an overlay. Overlay proponents argue that an overlay could be implemented sooner than a split since it is not subject to Section 7931. Section 7931 calls for (1) a "permissive" dialing period during which a telephone number in the new area code can be reached by dialing either the old or the new area code; and (2) a "mandatory" dialing period during which a recorded announcement will inform the caller to dial the new area code when the old area code is dialed.

Under the implementation schedule for Alternative 1A, a total of nine additional months will be needed to provide for the permissive and

mandatory dialing periods. During this transitional period, numbers in the old area code cannot be assigned in the new area code.

If Section 7931 does not apply to an overlay, numbers could be assigned in the new area code beginning nine months earlier than under the schedule for a split since there would be no statutory permissive or mandatory dialing periods required. Thus, the overlay could relieve code exhaustion sooner. The resolution of this issue could impact how an overlay is evaluated in comparison to a geographic split.

On March 3, 1998, a "Petition for Clarification" was filed by Pacific requesting that the Commission clarify whether the requirements of Section 7931 apply in cases where an overlay is used to implement a new area code.⁵ The comments solicited in the Administrative Law Judge (ALJ) ruling dated March 3, 1998 addressed the issue raised in Pacific's "Petition for Clarification."

Pacific and the Overlay Coalition argue that the Legislature never intended that Section 7931 apply to overlays, but that at the time of Section 7931's enactment in 1990, the term, "new area code," was synonymous with "area code split." Even if this were not the case, Pacific claims, the Legislature could not have intended Section 7931 to apply to overlays, because Section 7931 would make no sense if it were. Section 7931(a) assumes that customers in the "new area code" have been required to change their numbers. This assumption is apparent from the requirement to "[p]rovide for a transitional period ... during which a telephone number in the new area code may be reached by dialing either

⁵ The California Legislature is considering a bill (Assembly Bill 2716) that would modify Section 7931. However, even if that bill ultimately it passed, it likely will not become effective until after the Commission acts on the 310 relief plan, so clarification of the existing Section 7931 requirements is necessary, even if the statute is subsequently amended.

the old area code or the new area code, if an area code is required." In an overlay, customers in the "old area code" *keep* their numbers. Only new numbers are assigned from the "new area code." From the first day of geographic split implementation, the same seven-digit numbers may exist in both the old and new area codes and be assigned to different customers. Conversely, in an overlay, customers will not dial numbers in the "new area code" to reach customers in the "old area code," as Section 7931(a) anticipates, because customers in the old area code would not change their numbers.

Pacific likewise argues that Section 7931(b) would make no sense either if it were applied to overlays. Section 7931(b) requires carriers to permit callers, without charge, to reach a recorded announcement when the old area code is dialed that will inform the caller that the old area code is no longer correct and provide the correct new area code. This provision tells carriers how to handle calls to a customer whose area code has changed. But in an overlay, customers do not have to change their area codes.

The CLC Coalition and ORA agree that Section 7931 is in need of clarification, but disagree with Pacific's view that the section is wholly inapplicable to area code overlays. The CLC Coalition and ORA acknowledge that the circumstances which give rise to a "permissive" and "mandatory" period do not pertain when area code relief is provided with an overlay. Still, an overlay imposes a different dialing pattern upon the public since seven-digit dialing will cease to exist and all calls must be dialed using 1+10 digits. Furthermore, the public will no longer be able to relate an "area code" to a unique geographic region, or to predict the correct area code based on the location called. Implementation of an overlay will require customer education concerning, among other things, the need to dial 1+10-digits on all calls. At the end of this education period mandatory 1+10-digit dialing will commence.

Therefore, the Coalition and ORA argue, Section 7931 still has applicability to overlays in its underlying intent to provide the public with an opportunity to transition from their current dialing pattern to a new dialing pattern prior to the implementation of the new area code.

The Coalition and ORA believe that the necessary transition period for an overlay would include a customer education program and customer instructional announcement for misdialed numbers. When someone dials only seven digits in an overlaid area, a recording would direct them to dial 1 + area code + seven-digit number.

D.96-08-028 and D.96-12-086 address requirements for proposing the overlay as a relief option, including mandatory 1+10-digit dialing and a customer instructional announcement and education program and describe necessary elements of this transitional period. The Commission has also ordered the customer education program to begin "no later than 12 months prior to the implementation date of the mandatory 1+10-digit dialing for the affected region." Parties argue that since this process has yet to begin, it is difficult to predict that an overlay can meet exhaustion and notice requirements. Parties argue that the Commission should not approve an overlay until these implementation issues are resolved. ORA believes the customer education program should include a period of time in which customers who continue to dial seven, instead of 10, digits would reach a recording informing them that they must dial 10 digits to complete the call. The period during which the recording would be in effect would be a "transitional dialing" period.

ORA recommends a transitional dialing period of three to six months *preceding the opening of a new NPA* via an overlay. This would add three to six months to the overlay implementation period, but it would be shorter than the one year transitional dialing period contemplated in Section 7931.

C. Assignment of NXX Codes to Satisfy FCC Requirements

If an overlay is approved, the FCC has required the code administrator to make "at least one [NXX] code" in the existing NPA available to existing telecommunications carriers in the existing NPA 90 days before the introduction of a new overlay area code.⁶ In D.96-12-086, the Commission concluded that this requirement did not mean that an additional NXX code must be assigned to telecommunications carriers who already had one or more NXX codes in the existing NPA. Rather, the CNCA would have to assure that sufficient codes were available to assign at least one code to each new entrant with no NXX codes in the existing NPA during the 90 days prior to the overlay implementation.

In response to the March 3, 1998 ALJ ruling, parties filed comments on what modifications in existing NXX code assignment rules or procedures would be necessary to ensure that the FCC requirement could be met to assign it at least one code in the old NPA to each carrier 90 days before the introduction of the new area code.

In preparing its forecast of the projected exhaustion date and administration of NXX codes, the CNCA would have to include a provision for at least one code assigned to new entrants during the 90-day period prior to the overlay NPA taking effect. The CLC Coalition claims the CNCA has no way to rationally predict how many new entrants will request codes for assignment in the 90 days prior to any July 1999 implementation date, as mandated by the FCC. Further, the CLC Coalition argues that overlay proponents have not met their

⁶ See FCC Second Report and Order dated August 8, 1996 (FCC 96-333).

burden of proof per D.96-12-086 that sufficient codes can be reserved to meet the 90-day requirement without triggering premature exhaustion.

The CLC Coalition claims the number of NXX codes rationed through the lottery each month does not account for accommodations required under the FCC order. The CLC Coalition proposes that, to satisfy the FCC requirement, apportionment of remaining codes should be reserved mainly to applicants with no or very few NXX codes in the existing 310 NPA. Such applicants who have some codes in the 310 NPA but that can demonstrate a legitimate need (e.g., to cover other rate areas in the NPA) should not be denied if codes are available.

The Overlay Coalition argues that sufficient NXX codes remain in the 310 NPA to satisfy the FCC requirement, with little impact on the current number of codes assigned in the lottery. According to the overlay Coalition, the most recent edition of the LERG reports that there are 47 carriers who currently have NXX codes in the 310 NPA. Of these, 14 are CLCs. According to the Commission's internet web site (as of February 5, 1998), there were 66 certificated facilities-based CLCs in the State. Based on these assumptions, it is theoretically possible that up to 52 CLCs could request an NXX code in the 310 area code under the FCC's requirement, assuming the number of facilities-based CLCs stays fixed.

The Overlay Coalition argues that 54 additional NXX codes would be available for assignment prior to July 1999 in the case of an overlay, assuming relief using an overlay could occur nine months earlier than with a split (i.e., nine months x six codes per month assigned by lottery = 54 codes). Since actual relief in the case of a split occurs only at the end of the mandatory dialing period, the 54 codes would have to be rationed through April 2000.

In order to make the codes "available" throughout the 90-day period before the new NPA takes effect, the Overlay Coalition proposes that the Commission establish a specific date for applications to be file for these reserved codes. Because it takes 66 days to complete the code-opening process, and the CNCA will require some time to review and verify the applications, the Overlay Coalition proposes that all applications for these codes be received by the CNCA no later than 180 days prior to the overlay relief date, with any remaining codes reserved for new entrants requesting a first code.

D. LNP Implementation Timing

The sponsors of both of the first two position papers oppose the Alternative 4 overlay option on the basis that it would be anticompetitive. Opponents of the overlay argue that permanent local number portability (LNP) is unlikely to be available in time to mitigate the overlay's anticompetitive harm. LNP allows customers to retain the same telephone number and area code should they wish to switch to a new carrier without any degradation of service. The Commission has stated that for an overlay to be approved, "there must be reasonable assurance that permanent LNP would be fully implemented before the overlay became operational," (D.96-08-028, Finding of Fact 44) and that "[w]here permanent LNP is not expected to become fully operational before the projected date for a proposed overlay to become activated, such an overlay would be anti-competitive and thus unacceptable." (*Id.*, at Conclusion of Law 16.)

The sponsors of the third position paper claim that an overlay will not be anticompetitive since permanent LNP will be in place before the overlay area code is opened.

Absent the availability of LNP, customers subject to an overlay might have to change their area code merely as a result of changing service

providers. The result would place CLCs at a competitive disadvantage. Customers should not be forced to change their area code merely in order to change local service providers. Therefore, in order to approve an overlay for the 310 NPA, permanent LNP must be in place by July 1999.

The implementation timing of permanent LNP was established in FCC Order 96-286 issued in Docket 95-116 on June 27, 1996. The FCC order established that all carriers, both incumbents and new entrants, must provide number portability in the 100 largest Metropolitan Statistical Areas (MSAs) to all requesting telecommunications carriers, including commercial mobile radio services (CMRS) providers. Phased permanent LNP was to begin in the 100 largest MSAs no later than October 1, 1997, with deployment complete in those MSAs by December 31, 1998.⁷ After December 31, 1998, each carrier was to make number portability available within six months after receiving a bona fide request by another telecommunications carrier in areas outside the 100 largest MSAs in which the requesting carrier is operating or plans to operate.

According to the schedule in FCC Order 96-286, implementation in the Los Angeles MSA (which includes the region served by the 310 area code) was to be given first priority, and completed by December 31, 1997. The FCC subsequently allowed for a waiver or stay of any of the scheduled dates for a period not to exceed nine months.

The implementation deadline within the Los Angeles MSA and the Phase I MSAs nationwide was subsequently extended to March 31, 1998 by the FCC. Later, LNP deployment in California and several other states was delayed

⁷ In FCC Order 97-74 adopted on March 6, 1997, the FCC revised the implementation schedule for certain phases of LNP deployment for the 100 largest MSAs. However, the December 31, 1998 end date remained unchanged.

by the failure of the database vendor, Perot Systems Corporation (Perot), to deliver the LNP Number Portability Administration Center/Service Management System (NPAC/SMS) database. Perot's breach of the deadlines in its vendor agreement was beyond the control of the LECs or the industry group working on LNP implementation (the California LNP Task Force, and the West Coast Portability Services, LLC). The LECs and the industry sought to minimize any delay caused by Perot's breach, terminating the contract with Perot and entering into a new contract with Lockheed Martin, the NPAC/SMS vendor in other regions of the U.S. Pacific, GTE California, Inc. (GTEC), and other carriers each filed requests with the FCC for a waiver of the March 31, 1998 FCC deadline due to the problem with Perot.

Pacific states that, under the implementation schedule in its latest waiver request to the FCC, porting of telephone numbers will now begin in its network in the Los Angeles MSA by June 18, 1998, and LNP will be fully operational in the 310 area by July 20, 1998. Similarly, GTE states that under the implementation schedule in its waiver requests to the FCC, LNP will be fully operational in the 310 area by August 13, 1998.¹ These schedules assume delivery of a certified NPAC on May 11, 1998. The Overlay Coalition argues, therefore, that LNP will be operational in the 310 NPA many months before the introduction of the overlay code.

AT&T/MCI argue that the current status of LNP implementation in California is murky at best, due to the failure of Perot Systems to achieve performance specifications and to indicate how and when it would remedy system and administrative shortcomings.

¹ On March 31, 1998, the FCC ordered that Pacific shall be granted an extension until July 19, 1998 to GTEC until July 31, 1998 to deploy LNP in the Los Angeles MSA.

The CLC Coalition claims that there are risk factors and uncertainties which could delay LNP implementation in the 310 NPA beyond July 1999. Final implementation of number portability cannot begin until (1) a certified NPAC is delivered and (2) the availability and implementation of local service management systems, at which time technology testing can begin. In addition, the CLC Coalition cite problems in LNP software development as adding to uncertainty about actual LNP deployment dates.

The CLC Coalition also expresses concern that the operations methodology and practice is far less developed than the platform for delivering LNP, yet both are necessary to port numbers. For example, no final version of the Local Service Request (LSR) forms necessary to port high volume customers has yet been completed. The CLC Coalition notes that the national level Operations and Billing Forum (OBF) will produce this and other needed forms and procedures but are in the early stages of formulation.

The CLC Coalition suggests that if the CPUC adopts an overlay for the 310 NPA that it be made conditional. Thus, if LNP is not fully deployed by December 31, 1998, 310 area code relief will be provided by a split methodology. The CLC Coalition recognizes, however, that such an approach would cause great public confusion because it would constitute a reversal of the substantial public education program regarding the overlay that would have been already conducted.

VI. Discussion

A. Will the Overlay Meet the Prerequisites for Competitive Neutrality?

Before we can approve an overlay option for the 310 NPA, we must determine that it will satisfy the requisite criteria for competitive neutrality which we have previously identified, as noted above. We conclude that the 310 NPA

will be able to meet each of the requisite criteria for competitive neutrality by July 17, 1999, the date by which the overlay would take effect. Therefore, these criteria do not bar approval of the proposed 310 NPA overlay. We shall separately discuss each of the criteria for competitive neutrality below.

1. LNP Implementation Timing

We recognize that because permanent LNP is not yet actually available within the 310 NPA today, some parties have questioned whether unforeseen events may cause delay in the various testing and related implementation activities leading up to the planned delivery date for LNP in the Los Angeles MSA. We conclude, however, that by any reasonable measure of the potential for delay, there is an ample cushion of time to allow for uncertainties in the details concerning implementation and still have LNP fully operational before July 1999, the scheduled date for the overlay.

The FCC issued its Order on March 31, 1998, granting the requests for waivers of the previously scheduled delivery dates for LNP implementation. In granting the extensions, however, the FCC set forth strict final LNP delivery deadlines which must be met even if intervening implementation details take longer than planned. One of the key elements in the LNP implementation schedule is the testing of systems which must precede full LNP operation. Once Lockheed Martin delivers the NPAC/SMS (scheduled for May 11, 1998), Pacific has scheduled 30 days for Industry Cooperative Testing. Thereafter, Pacific plans to begin accepting LNP porting orders in the Los Angeles MSA.

Furthermore, under the schedule adopted by the FCC, the Los Angeles MSA schedule is only the first of five scheduled phases of LNP implementation which will provide for full LNP in all of the 100 largest MSAs nationwide by December 31, 1998. Even the scheduled implementation for the

final, fifth phase is over six months before the 310 NPA overlay would take effect. The first phase, covering the Los Angeles MSA, is required by the FCC to be completed by July 31, 1998.

Although the CLC Coalition raises questions in their comments about how long testing of LNP systems may take, some of those same Coalition members have argued before the FCC that the time intervals estimated by carriers for LNP testing were, if anything, too lengthy or unnecessary. The FCC generally granted all carriers the full amount of additional time they had requested for preoperational LNP testing. The FCC stated: "We believe that the time requested by the carriers will allow for rigorous intra-company and inter-industry testing, which is needed to ensure efficient and problem-free implementation." (Order at 14.) Pacific has already installed software in 99% of the switches in the 310 NPA to support LNP. GTEC has installed the requisite LNP software in 100% of its switches in the 310 NPA. Therefore, every indication is that the allotted time for LNP testing of support systems is ample, and all planned implementation work is still on schedule.

Likewise, the March 31, 1998 FCC Order noted that Lockheed Martin was still on schedule to begin providing a NPAC/SMS on May 11, 1998 in the Western and West Coast Regions. Moreover, the FCC, in its order granting the waivers seeking extensions of time for LNP implementation testing, has required that even if Lockheed Martin were to be delayed and did not provide a "live" NPAC on May 11, 1998, the carriers must still implement permanent LNP in the Western and West Coast regions within 60 days after the NPAC is made available, *but in any event*, no later than July 31, 1998. This outside date for implementation is still a full year before the 310 NPA overlay would take effect. As an added precaution, however, we shall require Pacific and GTEC each to file a report with the Commission and served on the parties in this case on August 3,

1998 explaining whether permanent LNP is fully implemented and operational by July 31, 1998, within the 310 NPA served by either ILEC. In the instance that LNP is not yet fully operational, the report shall set forth a contingency plan to address the failure to meet the mandated LNP implementation deadline. In view of the measures taken to ensure timely completion of LNP implementation, we conclude that the proposed overlay for the 310 NPA satisfies the prerequisite that permanent LNP be available at the time the overlay will take effect.

2. Availability of NXX Codes to Meet FCC Requirement

In view of the contingency measures we adopt herein, we conclude that sufficient NXX codes will be available to permit the CNCA to assign at least one code in the 310 NPA to each certified carrier within the service area that does not presently have one, as required by the FCC. As of the date comments were filed, there were 151 codes available in the 310 NPA, with six codes assigned each month in the lottery. As discussed in the following section, we conclude that the overlay could free up an additional 54 NXX codes since it would not require the reservation of codes for the permissive and mandatory dialing periods under the split. The Overlay Coalition calculates that up to 52 CLCs could theoretically request a code in the 310 NPA.

In light of the fact that it takes 66 days for the CNCA to complete the code opening process, a schedule is needed for carriers to notify the CNCA of their code orders sufficiently in advance to allow the codes to be opened on a timely basis. We shall therefore direct that any presently certificated facilities-based CLC which has not previously been assigned a 310 NPA NXX code or any such carrier certificated on or before December 31, 1998, shall file a "Statement of Intent" with the CNCA if it seeks to be assigned such a code. These statements shall be filed by February 1, 1999. Likewise, any new facilities-based CLCs becoming certificated between January 1, 1999, and the activation of

the overlay NPA in July 1999 shall be required to notify the CNCA within 30 days of certification if they intend to request a 310 NPA NXX code prior to July 1999. We shall direct the CNCA to reserve a minimum of 54 codes to satisfy the FCC code assignment requirement as of the effective date of this order. To the extent additional codes are needed beyond the 54 codes to meet the FCC requirement, we shall direct that additional codes reserved for the lottery be made available to new entrants without any codes in the 310 NPA that request such codes. Any CLC that is awarded a code in the 310 NPA through the lottery shall be removed from the list of carriers eligible for a 310 NXX code assignment under the FCC requirement. We shall also direct the CNCA to impose a freeze on lottery code assignments during the 90 days preceding the overlay opening. The Commission on its own motion or at the request of the CNCA may reevaluate this freeze as the implementation date of the overlay approaches and the availability of NXX codes thus becomes more predictable. The remaining assigned codes shall be reserved during the final 90 days for assignment to new entrants in the 310 NPA region which have not previously received an NXX code in the 310 NPA. Therefore, with these measures in place, we conclude that there will be sufficient codes to permit each carrier to receive at least one code in the 310 NPA during the 90 days prior to the overlay taking effect.

3. Requirements of Section 7931 and Transitional Implementation Period

We conclude that the Section 7931 requirement for a permissive and mandatory dialing period was only intended to apply in the event that existing area codes are changed as part of a relief plan under the terms of Section 7931. The purpose of permissive and mandatory dialing periods is to provide an opportunity for customers to become accustomed to the change in dialing requirements as a result of an area code change. Since existing numbers

do not change in an overlay, the requirement for permissive and mandatory dialing in the context of an area code change for existing numbers, as would be the case in a split, does not apply. There is therefore no need to delay assignment of telephone numbers in the new NPA while waiting for such periods to transpire.

Customers would still need a transitional adjustment period to become acquainted with mandatory 1+10-digit dialing and the notion of two area codes within a single geographic area. This transitional period, however, can begin immediately. The Commission has required that a 12-month period be scheduled preceding the date on which the overlay NPA would take effect to conduct a public education and awareness program about the new dialing patterns for an overlay. This program can be started immediately upon approval of an overlay and could be concluded by the time the overlay would take effect in July 1999.

New telephone numbers in the overlay NPA would be available for assignment beginning in July 1999. By contrast, the permissive dialing period for a geographic split would not begin until July 1999 when switch conversions to recognize the new area code have been completed. Telephone numbers for the new area code would have to be reserved to accommodate permissive and mandatory dialing until April 2000. This delay would exacerbate the code shortage problem for a longer period. Therefore, we conclude that an overlay would solve the code exhaust problem nine months earlier than would a geographic split.

Although the overlay does not involve a "permissive" dialing period as narrowly defined in Section 7931 (i.e., where the caller can reach the same party by dialing either the old or new area code), a "permissive" dialing period is still relevant to the overlay in a broader sense. We shall use the term

"permissive" dialing period in connection with an overlay to refer to the period during which customers can reach the same party by dialing either seven digits or 1+10-digits. Customers are permitted, but not required, to use 1+10-digit dialing during this period. The Overlay Coalition claims that such a "permissive" dialing capability already exists within the 310 NPA whereby customers can dial either the seven-digit number or 1+10-digits to reach parties located within the same area code.

As part of the customer education program for the 310 NPA overlay as discussed below, we shall require that a formal "permissive" dialing period be instituted beginning no later than July 17, 1998, concurrently with the deadline for the customer protection program to begin. To the extent that any carriers providing local service within the 310 NPA do not presently offer their customers the capability to dial 1+10-digits within the same NPA, we shall require them to make permissive 1+10-digit dialing available to their customers by July 17, 1998. The permissive dialing period shall continue for nine months, until April 17, 1999. During the permissive 1+10-digit dialing period, customers should be encouraged to voluntarily dial 1+10-digits for calls within their NPA as part of the education program for the overlay.

In D.96-12-086, we directed that, upon activation of mandatory 1+10-digit dialing, customers who attempt to dial seven digits will hear an instructional recording informing them of the 1+10-digit dialing requirement. In D.96-12-86, we contemplated that mandatory 1+10-digit dialing would be instituted at the same time that the overlay took effect. In the interests of minimizing customer confusion, however, we believe that mandatory 1+10-digit dialing should take effect three months prior to initiation of the new overlay area code. In this way, customers will already have become somewhat accustomed to dialing 1+10-digits before they have to make the further adjustment of

distinguishing between two different area codes within the same geographic calling area. We shall therefore require that mandatory 1+10-digit dialing take effect in the 310 NPA on April 17, 1999. We shall require that all telecommunications carriers institute an instructional announcement directing callers to dial 1+10-digits effective beginning April 17, 1999, to be continued indefinitely after the date overlay is implemented in the 310 NPA. With this measure in place, customer confusion should be minimized, even for visitors from other areas that are subject to different dialing patterns. With repeated usage over time, public familiarity and acceptance of 1+10-digit dialing should increase.

4. Customer Education Program Regarding Mandatory 1+10-Digit Dialing and the Overlay

In D.96-12-086, we recognized that the introduction of an overlay together with mandatory 1+10-digit dialing will be a novel innovation and requires a transitional period of time for customers to become accustomed to the change. Customers within the boundaries of the overlay will have to adjust to dialing 1+10-digits when calling numbers within their own NPA.

Particularly because the 1+10-digit dialing requirement will only apply in the region subject to the overlay, customers will need to be informed that the revised rules will not apply outside of the geographic boundaries of the 310 NPA. In order to address the need for customer familiarity with the new dialing pattern for the overlay NPA, we ruled in D.96-12-086 that a customer education program begin no later than 12 months prior to the implementation date for the overlay.

We identified in D.96-12-086 certain minimum elements that should be included in such a customer education plan. For example, the plan must explain why mandatory 1+10-digit dialing is a necessary feature of an

overlay relief plan. Customers must be informed that the change in their dialing patterns resulting from an overlay will not affect the distinction between local and toll calls, nor the rates charged for the different types of calls. In their comments in response to the ALJ ruling, the CLC Coalition also proposes that the education plan should focus particular attention on the education of children as well as to the elderly and disabled, in addition to the many ethnic groups in the current 310 NPA. We agree. The public information program should incorporate appropriate measures to communicate the change to each of these groups.

The public education program should also give priority to notifying those entities which will need to reprogram equipment as a result of the change to mandatory 1+10-digit dialing. For example, electronic security alarm companies and those with PBXs need to be contacted as soon as possible to allow them maximum lead time to reprogram their customers' equipment to accommodate mandatory 1+10-digit dialing.

The education program must also provide for callers to easily locate the correct area code for a given number and to know that the 1+ the area code must be dialed preceding any number within the region subject to the overlay. Under the current dialing plan, customers dial 411 for directory assistance to locate numbers within the same NPA, and 555-1212 preceded by the area code, if the number is within a different NPA. Provision must be made as part of the education program to inform customers how to dial directory assistance to locate numbers applicable to different area codes within the same overlay region. In addition to billing inserts and public service announcements, changes will also be necessary in published telephone directories covering the 310 NPA overlay region to identify the area code in addition to the seven-digit number for each directory listing.

The education program must be conducted not merely within the service territory covered by the 310 NPA, but must also focus on customers in adjacent NPAs within the Los Angeles basin which have frequent interaction with customers in the 310 NPA. Although customers outside of the 310 NPA will not be required to dial 1+10-digits for calls within their own NPAs, they will still be impacted by the 310 NPA overlay dialing requirements to the extent they temporarily visit the 310 NPA region and make calls within that region. To a lesser extent, some level of public education regarding the overlay needs to be conducted on a statewide basis, recognizing that California is a highly mobile state, and residents from northern California may have occasion to travel into the 310 NPA calling area. Likewise, a statewide public education program will help facilitate public acceptance of any future overlays which may be approved for other NPAs within California.

We shall direct the CNCA to convene an industry meeting within 30 days following the effective date of this decision for the purpose of addressing the implementation details of the public education program for the overlay to include, at a minimum, the elements discussed above. The program should give first priority to the 310 NPA and surrounding areas, and should provide for a combination of press releases, television and radio announcements, and billing inserts discussing the effects of the overlay. The CNCA shall submit a draft of the proposed public education program to the Commission's Consumer Services and Telecommunications Divisions and Public Advisor's Office for Commission review and approval, to be scheduled by ALJ ruling. The Public Advisor will work in cooperation with the Consumer Services and Telecommunications Divisions, the assigned ALJ, the Coordinating Commissioner for telecommunications and the Assigned Commissioner in reviewing the proposed plan.

B. Impacts on Customers of Splits Versus Overlay

We conclude that, in addition to satisfying the criteria for competitive neutrality, the overlay would also best satisfy the remaining criteria for evaluation of relief plans as identified by the Industry Team. These criteria focus on minimizing the adverse impacts on customers. For the reasons discussed below, we conclude that the overlay would, in fact, provide the best overall remedy for 310 NPA relief when compared against either the two-way or three-way geographic splits offered as alternatives.

Of all of the NPAs within California, we singled out the 310 NPA for consideration of an overlay earlier than any other NPA in D.96-12-086. We recognized that the 310 NPA is one of best candidates for the first overlay because of its demographic characteristics as a geographically small, but densely populated region, surrounded by a large number adjacent NPAs.

The potential merits of an overlay was reflected in the results of the consumer surveys reviewed in D.96-12-086 in which respondents expressed preferences for splits or overlays. Although respondents in the survey expressed a greater preference for splits compared with overlays, the extent of support for an overlay was greater in the 310 NPA than for any other NPA. Moreover, at the time the survey was taken, the 310 NPA had not yet entered into the current phase of code exhaustion, for which yet another round of NPA relief is required. The results of the previous consumer-preference poll must be evaluated in light of the increasing hardship of cumulative changes in area code, and the difficulty in fairly devising successive splits of the same NPA over time.

As the geographic area covered by the 310 NPA faces the prospect of even further shrinkage in the current proposal before us, it becomes increasingly difficult to draw boundaries that minimize splitting local communities, consistent with PU Code Sec. 2887(a). The drawing of boundaries becomes ever more

contentious with each subsequent split. While the Industry Team developed a plan to assign the new area code in the South, the South Bay Cities Council of Governments and City of Torrence have expressed strong opposition to being assigned a new area code, as proposed under the Alternative 1A two-way split.

The continual splitting of the 310 NPA also makes it increasingly difficult to balance the projected lives of the old and new NPAs. Even the CLC Coalition, which opposes the overlay, concedes that the durability of relief may be inadequate under the proposed two-way split. The shorter the NPA life resulting from a geographic split, the more frequently customers must be subjected to the disruptions and hardships that come with changing area codes yet again. The relative consumer support for a split in comparison to an overlay can only be expected to decrease as the cumulative burdens of shrinking NPAs continue.

In recognizing the limited duration of relief under the two-way split, the CLC Coalition argues that the preferable alternative is to adopt a three-way split. While the three-way split would provide longer lasting relief than would a two-way split, it would do so only by creating significantly more disruptive splitting of communities and more forced number changes than would a two-way split. The three-way split would require number changes for about two-thirds of customers, and would sever twice as many communities as would a two-way split. For example, the communities of Inglewood and Hawthorne, which have been already split between two different area codes would be further split into three different area codes. At the public meetings, the three-way split was selected as the least favorite alternative among the four that were presented to the public. Even the proponents of the three-way split acknowledge its problems in splitting local communities of interest, noting that the wire and rate

center boundaries used to determine NPA boundaries have only incidental relation to the dozens of municipalities within the 310 NPA.

The overlay avoids the problems involved with the continual geographic splitting of local communities, by leaving existing boundaries intact. The overlay also avoids the need for existing customers to change their area code. At the public meetings for the 310 NPA, there was considerable opposition expressed, particularly by business customers about the economic hardships resulting from having to notify customers of area code changes, and to change business cards, letterheads, etc. If a geographic split were approved, it would be the second time within the 1990s that these customers must change their area code.

While the overlay avoids these problems, the overlay is not without its own issues. For example, while the NPA boundary would not change, the defining feature of the boundaries would itself, change. In other words, the geographic boundaries would no longer define a single NPA, but two (or more) NPAs. Thus, one of the advantages of having geographically-defined NPA boundaries (i.e, as a means of common identification) will over time become less meaningful as multiple NPAs within a single geographic region proliferate. The area code in an overlay signifies *when* the customer was assigned the number rather than *where* geographically, the number is located. Thus, for example, a business may consider an assignment of the overlay NPA less desirable than the original NPA which is assigned to a neighboring business, particularly when the NPA is first introduced. Customers may perceive the business with the new NPA to be newer or less established than the neighboring business that retains the more recognized original NPA. Therefore, the advantage of the overlay in avoiding new geographic splits must be weighed against the drawback that it

also tends to obscure the traditional use of NPAs as a common geographic bond of local communities of interest.

Another drawback of an overlay which customers will experience is the loss of seven-digit dialing for calls within the same NPA. In the consumer preference surveys reviewed in D.96-12-086, customers generally placed significant value on the ability to dial only seven digits for calls within the NPA. Yet, we must weigh the value of seven-digit dialing against the other problems involved in yet another split of the 310 NPA. Because of the small geographic size of the 310 NPA, a significant number of customers calls originated within the 310 NPA terminate outside of the 310 NPA boundaries. Therefore, customers in the 310 NPA are already accustomed to dialing 1+10 digits for a significant portion of their calls. Based on a one-day sampling, Pacific measured 51% of calls originated within the 310 NPA involved 1-10-digit dialing. While the one-day sample is not necessarily as representative of dialing patterns as would a sample covering a longer period, there is no particular reason to believe that the one-day sample was an anomaly.

Even though customers are accustomed to dialing 1+10-digits for a significant amount of existing calls, the overlay will still require customers to learn a new dialing procedure in which calls within the same NPA require 1+10-digit dialing. Customers will lose the ability to uniquely identify a given geographic region by a single area code. We recognize that customers will need a transition period to acclimate themselves to the changes resulting from an overlay. We believe, however, that this new procedure can be learned and become accepted over time. The acceptance process will be easier in the 310 NPA than it would in other NPAs where a much smaller percentage of existing calls involve 1+10-digit dialing. The learning process can be facilitated through the customer education as previously authorized in D.96-12-086.

Another potential problem with the overlay is that customers who seek to add additional lines at the same location after the overlay takes effect may only be able obtain the additional lines under the new area code and thus be left with two area codes for multiple lines the same location. The only alternative, if they wish for all their lines to be in one NPA, would be to change the original numbers' area code, thereby losing one of the presumed advantages of the overlay. If the customer's local service provider has a remaining inventory of NXX codes within the 310 NPA, the provider presumably could offer the customer an additional line within the same NPA. We are concerned, however, with the potential for certain carriers, particularly the ILECs, to gain a competitive advantage by being able to assign new numbers using the 310 NPA while new entrants with limited NXX codes in the 310 NPA may have to rely on the new NPA for making number assignments. We shall not resolve this issue in this decision, but will solicit further comments concerning what measures may be appropriate with respect to the assignment of numbers from NXX codes in the 310 NPA after the overlay NPA is initiated in order to promote competitive neutrality among carriers.

In the interim, however, we recognize that immediate measures need to be initiated to address the potential competitive advantage of the ILECs in having a warehouse of numbers in the 310 NPA which will be more desirable than numbers in the new overlay NPA. We place a high priority on promoting the development of measures to ensure the efficient utilization of NXX codes so that CLCs are not competitively disadvantaged by limited access to numbering resources. As noted in the Position Paper of AT&T/MCI in opposition to the 310 NPA overlay, number pooling is one essential tool to address the alleged problem of ILEC warehousing of NXX codes in the 310 NPA. Independently of the warehousing issue, parties previously addressed the prospects for

developing number pooling, as well as other code conservation measures, in comments filed in this docket on February 25, with replies on March 13, 1998, in response to an ALJ ruling dated January 13, 1998.

Number pooling can promote more competitively neutral access to numbering resources for all participating carriers by enabling multiple carriers to share a single NXX code through the technology associated with permanent LNP. As noted in the February 25, 1998 comments filed by the Coalition, the INC is scheduled to conclude its guidelines on NXX block pooling by July 1998, and move on to line-level pooling thereafter. The Coalition acknowledges, however, that there are numerous and substantial technical, administrative, and cost issues related to number pooling that must be addressed. In particular, the Coalition notes that more intensive tracking of number allocation will be required as compared with the current process. An audit of code utilization within the industry will be required to determine the maximum number of NXXs or blocks of 1,000 numbers that can be recovered from pooling participants for sharing. Some degree of NXX code utilization does not automatically disqualify an NXX from being shared. The INC has recommended that the degree of "contamination" (i.e., prior usage) that should be allowed for a block of 1,000 numbers to be considered for the pool is 0% to 10%. Yet, some providers have urged a much higher level of contamination be allowed in order to achieve a greater degree of number efficiency.

As a first step toward the establishment of number pooling, we shall direct Pacific and GTEC to identify the percentage utilization for all blocks of 1,000 numbers within the NXX codes assigned to them in the 310 NPA, and to report this information to the Director of the Commission's Telecommunications Division within 30 days of the issuance of this order. This initial reporting will be limited to the ILECs since they possess the vast majority of NXX codes in the 310

NPA. Further, as an interim measure until further procedures have been developed in California for 1000-block pooling, we shall require that number assignments made by the ILECs to their customers in the 310 NPA shall be made first from NXXs that have more than 25% utilization. The ILECs may assign numbers from NXXs with less than 25% utilization only to the extent necessary where numbers from NXXs with more than 25% utilization are not otherwise available. This measure will preserve 1000-number blocks with 25% utilization or less for number pooling once it is implemented. We consider the 25% utilization as a precautionary safeguard on an interim basis to protect existing 1000-number blocks from undue "contamination" pending the implementation of number pooling. We may further revise the utilization criterion at a future date. We shall place a high priority on the expedited implementation of number pooling in the 310 NPA.

On balance, we conclude that, while both the overlay and geographic split will have certain adverse impacts to the extent they disrupt the status quo, the overlay will have less overall adverse impacts than either of the geographic split alternatives proposed for the 310 NPA. The adoption of the overlay will also address the concerns raised by the South Bay Cities. We believe the majority of the problems with an overlay relate to its novelty and the need for a transition period for customers to grow accustomed to the change in dialing procedures. Taking a longer term perspective, however, these problems should be temporary and adequately resolved through customer education and the practical experience of making calls within regions subject to NPA overlays. Over the longer term, the advantages of the overlay will continue to grow in relation to the alternative of geographic splits, particularly in small densely populated NPAs such as the 310 NPA where further splits become increasingly impractical. Accordingly, we approve the overlay option for the 310 NPA, and

direct the CNCA, in cooperation with the Industry Team, move expeditiously to implement an overlay to relieve exhaustion of the 310 NPA.

Findings of Fact

1. Area code relief is needed due to the impending exhaustion of NXX codes in the 310 NPA projected to occur during the fourth quarter of 1999.

2. The Area Code Relief Coordinator convened eight meetings with the telecommunications Industry Planning Team to discuss and develop relief alternatives for the 310 NPA.

3. The Industry Team eliminated alternative plans which failed to meet the designated criteria, but was unable to reach consensus on a *single* relief plan.

4. The Industry Team narrowed the alternatives to three options: (1) an overlay; (2) a two-way split; and (3) a three-way split.

5. The Commission has stated in D.96-08-028 that "before an overlay could be approved, there must be reasonable assurance that permanent LNP would be fully implemented before the overlay became operational."

6. Without permanent LNP, an overlay in the 310 NPA would not be competitively neutral.

7. In order to approve an overlay for the 310 NPA, permanent LNP must be in place by the date the overlay would take effect, scheduled for July 1999.

8. Absent the availability of LNP, customers subject to an overlay might have to change area code merely as a result of changing service providers, placing CLCs at a competitive disadvantage.

9. FCC Order 96-286 established that all carriers, both incumbents and new entrants, must provide LNP in the 100 largest MSAs to all requesting telecommunications carriers, by December 31, 1998.

10. Under the current FCC-approved implementation schedule, porting of telephone numbers will begin in Pacific's network in the Los Angeles MSA by

June 18, 1998, and LNP will be fully operational in Pacific's 310 service area by July 19, 1998; likewise LNP is scheduled to be fully operational in GTEC's 310 area by July 31, 1998.

11. Pacific has installed software in 99% of the switches in the 310 NPA to support LNP, while GTEC has installed LNP software in 100% of its switches in the 310 NPA.

12. Under the schedule adopted by the FCC LNP deployment in the Los Angeles MSA is required to be completed by July 31, 1998.

13. In granting LNP extensions to carriers, the FCC set strict final LNP delivery deadlines which must be met even if intervening implementation details were to take longer than planned.

14. The FCC generally granted all carriers the full time they had requested for LNP testing in Phase I, covering the Los Angeles MSA, to ensure efficient and problem-free implementation.

15. The FCC, in granting extensions for Phase I LNP implementation, required that the carriers must implement LNP within 60 days after the NPAC database is made available, *but in any event*, no later than July 31, 1998.

16. By any reasonable measure of potential delay, there is an ample cushion of time to allow for any uncertainties in the LNP implementation and still have LNP fully operational within the 310 NPA before the opening of the overlay.

17. FCC Order 96-333 required that every carrier was to be assured of at least one NXX code in the existing area code during the 90-day period preceding the introduction of any overlay which may be approved.

18. In view of the contingency measures adopted in this decision, sufficient NXX codes will be available to permit the CNCA to assign at least one code in the 310 NPA to each certified carrier within the service area who does not presently

have one during the last 90 days preceding the opening of the overlay, as required by the FCC.

19. The overlay will likely free up an additional 54 NXX codes since it does not require the reservation of codes during the nine-month permissive and mandatory dialing periods required under the split.

20. Since it takes 66 days for the CNCA to complete the code opening process, a schedule is needed for carriers to notify the CNCA of their code orders sufficiently in advance to allow the codes to be opened on a timely basis.

21. PU Code Section 7931 requirement for a permissive and mandatory dialing period only applies where existing area codes are changed as part of a relief plan to acquaint customers with the area code change.

22. Since existing telephone numbers do not change in an overlay, and no permissive or mandatory dialing as required in PU Code Section 7931 applies, there is no need to delay assignment of telephone numbers in the new NPA while waiting for such periods to transpire.

23. The intent of PU Code Section 7931 to provide a transitional period for customers before a new area code is established still applies to overlays.

24. D.96-12-086 required mandatory 1+10-digit dialing within the region subject to an overlay to prevent an anticompetitive dialing disparity between customers of competing carriers who lacked equivalent access to NXX codes in the old NPA.

25. Although there is no area code change for existing numbers with an overlay, customers still need a transitional period to become familiar with mandatory 1+10-digit dialing and the notion of two area codes within a single geographic area.

26. The transitional period for acquainting customers with 1+10-digit dialing can begin upon approval of an overlay and be concluded by the time the overlay would take effect.

27. D.96-12-086 required that a customer education program be instituted at least 12 months before an overlay would take effect explaining the new mandatory 1+10-digit dialing requirements and the overlay plan to the public.

28. D.96-12-086 directed that, upon activation of the overlay area code, customers who dial seven digits will hear an instructional recording informing them of the 1+10-digit dialing requirement.

29. D.96-12-086 identified certain minimum elements to be included in the customer education plan, including an explanation why mandatory 1+10-digit dialing is necessary, and assurance that the change in their dialing patterns will not affect the rates charged for calls.

30. The results of the consumer preference poll reviewed in D.96-12-086 must be evaluated in light of the increasing hardship of cumulative changes in area code, and the difficulty in fairly devising successive splits of the same NPA over time.

31. As the 310 NPA faces further shrinkage in the current proposal for code relief, the drawing of boundaries that minimize the splitting of local communities becomes increasingly difficult.

32. The South Bay Cities Council of Governments and City of Torrance filed petitions to intervene, opposing the proposal to assign a new area code to the South.

33. The shorter the NPA life, the more frequently customers must be subjected to the disruptions and hardships that come with changing area codes yet again.

34. While the three-way split would provide longer lasting relief than would a two-way split, it would require number changes for about two-thirds of customers, and would sever twice as many communities as would a two-way split.

35. The overlay avoids the contentiousness of drawing new NPA boundaries by leaving existing boundaries intact, and avoids the need for existing customers to change their existing telephone number area code.

36. Over the long-term, overlays tend to divide communities inasmuch as communities will not be identifiable by a single area code. Over the long term, this effect may be more pronounced than the community rifts that are introduced by area code splits.

37. A geographic split creates economic hardships particularly on affected businesses which must notify customers of area code changes, and change business cards, letterheads, advertisements, etc.

38. With an overlay, geographic boundaries no longer define a single NPA, thereby eliminating the advantage of having geographically-defined NPA boundaries as a means of identifying and unifying communities of interest.

39. A business may consider an assignment of the overlay NPA less desirable than the original NPA, since customers may perceive the business with the new NPA to be newer or less established than the neighboring business that retains the more recognized original NPA.

40. The ILECs possess the majority of NXX codes in the 310 NPA, and may seek to offer numbers to customers from NXX codes in the 310 NPA after the overlay as a marketing tool.

41. The ILECs advantage in possessing the majority of NXX codes in the 310 NPA may be effectively addressed by the implementation of number pooling.

42. Number pooling can promote more competitively neutral access to numbering resources for all participating carriers by enabling multiple carriers to share a single NXX code through the technology associated with permanent LNP.

43. An audit of code utilization within the industry will be required to determine the maximum number of NXXs or blocks of 1,000 numbers that can be recovered from pooling participants for sharing.

44. With an overlay, customers will experience the loss of seven-digit dialing for calls within the same NPA.

45. In the consumer preference surveys reviewed in D.96-12-086, customers placed significant value on the ability to dial only seven digits for calls within the NPA.

46. Although customers in the 310 NPA are already accustomed to dialing 1+10 digits for a significant portion of their calls, the overlay will still require them to learn that calls within the same area code also require 1+10-digit dialing.

47. With the overlay, customers with multiple lines at the same location seeking to add additional lines may only be able obtain the additional lines under the new area code, resulting in two area codes at the same location.

48. While both the overlay and geographic split have certain adverse impacts, the overlay will have less overall adverse impacts than either of the geographic split alternatives proposed for the 310 NPA.

Conclusions of Law

1. The adopted relief plan should be the alternative which best satisfies the criteria applied by the Industry Team in their selection of relief alternatives, namely:

- a. Minimize end users' confusion.
- b. Balance the cost of implementation for all affected parties.

- c. Provide that customers who undergo number changes shall not be required to change again for a period of eight to 10 years.
- d. Not favor a particular interest group.
- e. Cover a period of at least five years beyond the predicted date of exhaustion.
- f. Provide that all of the codes in a given area shall exhaust about the same time in the case of splits. In practice, this may not be possible, but severe imbalances, for example, a difference in NPA lifetimes of more than 15 years, should be avoided.
- g. Comply with state and federal statutes, rulings and orders.

2. In order to qualify for approval, the overlay plan must meet the minimum criteria established by this Commission and by the FCC for competitive neutrality at the date by which the overlay would take effect.

3. The adoption of the proposed overlay for the 310 NPA satisfies the prescribed criteria for competitive neutrality, and provides the best overall solution based upon the relief planning criteria applied by the Industry Team.

4. The proposed overlay plan should be approved in accordance with the terms and conditions adopted in the order below.

5. The customer education program to acquaint customers with mandatory 1+10-digit dialing and the overlay, as ordered in D.96-12-086, should incorporate the features set forth below.

6. Since permissive 1+10-digit dialing already is in place for some telecommunications carriers, customers should be encouraged to voluntarily dial 1+10-digits for calls, where permissive 1+10-dialing is available within their NPA as part of the education program during the year leading up to the overlay. Customers shall be directed to contact their telecommunications carrier in whether permissive 1+10 is available in their area.

7. The recorded instructional announcement alerting customers who dial seven digits to dial 1+10-digits should be continued indefinitely by all telecommunications carriers following the date of the 310 NPA overlay area code is opened.

8. The public education plan should focus attention on the education of all classes of customers including children, to the elderly, the disabled, as well as to the many ethnic groups in the current 310 NPA.

9. The education program should cover customers in adjacent NPAs within the Los Angeles basin, since they will still be impacted by the 310 NPA dialing requirements to the extent they temporarily visit and make calls within the 310 NPA region.

10. To a lesser extent, some public education regarding this overlay plan needs to be conducted on a statewide basis, recognizing that California is a highly mobile state, and residents from northern California may have occasion to travel into the 310 NPA calling area.

11. The industry should give priority to notifying security alarm companies, customers with PBXs, and other entities which will need to reprogram equipment as a result of the change to mandatory 1+10-digit dialing.

12. The Commission should place a high priority on promoting the development of measures to promote the efficient utilization of NXX codes so that CLCs are not competitively disadvantaged by limited access to numbering resources after the overlay is established.

13. As an interim measure, given their existing pool of numbers in the 310 NPA, Pacific and GTC should be ordered to identify the percentage utilization for all blocks of 1,000 numbers within the NXX codes assigned to them in the 310 NPA, and to report this information to the Director of the Commission's Telecommunications Division within 30 days of the issuance of this order.

14. As an interim measure until further procedures have been developed in California for 1000-block pooling, number assignments made by the ILECs to their customers in the 310 NPA should be made first from NXXs that have more than 25% utilization. This measure will preserve NXX codes with 25% utilization or less for number pooling solutions once those solutions are implemented.

15. As there is no opposition to the Petitions to Intervene of the City of Torrance on March 24, 1998, and by the "South Bay Cities Council of Governments, the petitions should be granted.

O R D E R

IT IS ORDERED that:

1. The proposed overlay plan for the 310 Numbering Plan Area (NPA) as presented by the California-Nevada Code Administrator (CNCA) is hereby approved.

2. All telephone corporations shall implement mandatory 1+10-digit dialing on April 17, 1999 in the 310 NPA.

3. The CNCA is hereby ordered to proceed with all due diligence to expeditiously implement the approved 310 NPA overlay relief plan, to take effect on July 17, 1999.

4. No later than July 1998, the CNCA shall notify the general public regarding the new area code to be assigned as an overlay covering the same geographic area as the existing 310 area code. The notice shall set forth the schedule mandatory 1+10-digit dialing effective April 17, 1999 and for the new area code to be activated effective July 17, 1999.

5. Each telephone corporation, including paging companies and resellers, serving the geographic area covered by the existing 310 NPA shall give written notice to its affected customers of the adopted 310 NPA overlay relief plan

without delay and no later than July 1998. The notice shall advise customers that as to whether that telephone corporation offers permissive 1+10-digit dialing to reach numbers within their own area code in preparation for the pending overlay, and that 1+10-digit dialing will become mandatory within the boundaries of the 310 area code once as a result of the new overlay area code and that such dialing will be effective on April 17, 1999.

6. The CNCA shall provide nationwide notification of the adopted 310 NPA relief plan by no later than July 1998.

7. Pacific Bell and GTE California, Inc. shall each be required to file a report explaining whether permanent LNP is fully implemented within the 310 NPA region served by each incumbent local exchange carrier by July 31, 1998. The report shall be filed with the Commission and served on each party to this proceeding on August 3, 1998. In the event that permanent LNP is not yet fully operational, the report shall set forth a contingency plan to address the failure to meet the Federal Communications Commission (FCC) deadline.

8. The CNCA shall convene an industry meeting within 30 days following the effective date of this decision for the purpose of developing consensus on the implementation of the public education program for the overlay to include, at a minimum, the elements discussed in Decision 96-12-086, and in the conclusions of law above, and the schedule for mandatory 1+10 digit dialing.

9. The public education program shall give first priority to focusing on the 310 NPA and surrounding areas, and provide for a combination of press releases, television and radio announcements, and billing inserts explaining the effects of the overlay.

10. The CNCA shall submit a draft proposal of the public education program to the Commission's Consumer Services and Telecommunications Divisions and Public Advisor's Office for review and approval as scheduled by the assigned

Administrative Law Judge (ALJ). The review and approval shall be coordinated among the Public Advisor, the Consumer Services and Telecommunications Divisions, the assigned ALJ, the Coordinating Commissioner for telecommunications, and the Assigned Commissioner.

11. Any existing certificated facilities-based competitive local carrier (CLC) which has not previously been assigned a 310 NPA NXX code, or any such carrier certificated on or before December 31, 1998, shall file a "Statement of Intent" with the CNCA if it seeks to be assigned such a code in the 90 days prior to the implementation of the overlay, to be filed by February 1, 1999.

12. Any new facilities-based CLCs becoming certificated or intending to become certified between January 1, 1999, and the activation of the overlay NPA in July 1999 shall be required to notify the CNCA within 30 days of certification if they intend to request a 310 NPA NXX code prior to July 1999.

13. The CNCA shall reserve a minimum of 54 NXX codes to satisfy the FCC code assignment requirement within the 310 NPA. Should CLC "Statements of Intent" pursuant to Ordering Paragraph (OP) 11 above total more than the minimum reserve of 54 NXX codes, the CNCA shall reserve more than the minimum, accounting of the total number of "Statements of Intent" plus additional NXX codes for new CLCs described in OP 12 above.

14. To the extent additional NXX codes are needed to meet the FCC requirement, additional codes shall be reserved by the CNCA from the lottery to be made available to new entrants without any codes in the 310 NPA who require one.

15. Within the final 90 days preceding the opening of the overlay NPA, the CNCA shall declare a freeze on further assignments of 310 NPA codes, with the exception of new entrants who require one code to satisfy FCC requirements. The Commission, on its own motion or at the request of the CNCA, reserves the

option to reevaluate this freeze as the availability of NXX codes through July 1999 becomes more predictable.

16. The assigned ALJ is directed to take further comments on appropriate measures regarding the assignment of telephone numbers from NXX codes in the 310 NPA after the overlay NPA is activated in order to promote competitive neutrality.

17. As an interim measure until further procedures have been developed in California for 1000-block pooling, number assignments made by the ILECs to their customers in the 310 NPA shall be made first from NXXs that have more than 25% utilization. The ILECs may assign numbers from NXXs with less than 25% utilization only to the extent necessary where numbers from NXXs with more than 25% utilization are not otherwise available.

18. Pacific and GTEC shall identify the percentage utilization for all blocks of 1,000 numbers within the NXX codes assigned to them in the 310 NPA, and to report this information to the Director of the Commission's Telecommunications Division within 30 days of the issuance of this order.

19. The Petitions to Intervene filed by the City of Torrance and by the "South Bay Cities Council of Governments" are granted.

This order is effective today.

Dated May 7, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
HENRY M. DUQUE
JOSIAH L. NEPPER
Commissioners

Commissioner Jessie J. Knight, Jr.,
being necessarily absent, did not
participate.