

Decision _____

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.

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

Order Instituting Rulemaking on the
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Investigation 95-04-044
(Filed April 26, 1995)

O P I N I O N**I. Introduction**

By this decision, we formally approve the proposed geographic split relief plan for the 818 Numbering Plan Area (NPA) based upon review of the alternatives as presented to the Commission by the North American Numbering Plan Administrator (NANPA) by transmittal letter dated February 12, 1999. We shall defer adopting an implementation date for the 818 NPA relief plan at this time, however, as explained below. We shall consider the necessary timing for implementing 818 NPA relief following further development of the record, specifically with respect to actual rates of NXX code utilization. Given the alarming proliferation of new area codes throughout California, we believe that a more complete showing concerning NXX code utilization is needed before scheduling yet another new area code opening. The 818 NPA currently serves a portion of Local Access and Transport Area (LATA) 730 located in the greater San Fernando Valley area of southern California.

The 818 area code was implemented in 1984 when it was geographically split from the 213 NPA, one of the three original area codes assigned to California in 1947 when the North American Numbering Plan was implemented. In June of 1997, the 818 area code was geographically split with the implementation of the 626 NPA. The 818 area code now requires further relief to meet the telecommunications industry's projected exhaust date of the first quarter 2001. The demand for numbering resources in the 818 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.

The process for implementing new area codes in California is covered both by state statute, applicable Commission decisions, requirements of the Federal Communications Commission (FCC), and industry guidelines. California state statutes prescribe requirements for customer notification, establishment of new NPA boundaries and transitional dialing periods.

Relevant Public Utility code sections addressing area code relief were impacted by legislation enacted during the 1997-98 legislative session (AB 2716, Ch. 534, Stats. 1998). Section 2887 was repealed; Section 7930 was repealed and added, and Sections 7931 and 7932 were amended and renumbered. However, the area code relief planning cycle for this particular area code is governed by the referenced statutes as they existed prior to enactment of Ch. 534. “Affected subscribers” must have written notice at least 24 months prior to the introduction of a new area code in the 818 NPA.

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 Decision (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;¹ 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 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

¹ 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.

to be used for relief plans which would take effect at least through the end of 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.

In the case of the proposed 818 NPA relief plan now before us, the industry proposed implementation date for the overlay portion of that plan would occur after the end of the year 2000.² To this extent, the previous policy limiting relief options to geographic splits would not preclude our adoption of the overlay option. The Commission has opened R.98-12-014 to develop a NPA relief planning policy on a prospective basis. For purposes of the present 818 NPA proposal, we shall evaluate it based on its own merits. In D.97-08-065, we required that an 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:

² The industry also proposes an accelerated implementation date for the overlay, which the CPUC declines to adopt here.

- 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. The FCC also, in a separate order, prohibited overlays from being applied only to specific telecommunications services such as cellular, but required that overlays must apply to all services. (Declaratory Ruling and Order, FCC Docket 95-19, IAD File No. 94-102, adopted January 12, 1995.) Based upon these policies, we now consider the proposed options submitted by the NANPA for relief in the 818 NPA.

II. Industry Relief Planning Process

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 were conducted to develop alternatives for exhaustion relief in the 818 NPA, based on criteria adopted by the industry for previous relief plans.³ The 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.

The NANPA convened a series of meetings attended by members of the telecommunications Industry Planning Team to discuss and develop relief alternatives for the 818 NPA. This team is composed of the NANPA, California Public Utilities Commission (CPUC) Staff,^{*} and current and prospective code holders: local exchange carriers, interexchange carriers, wireless carriers and competitive local carriers.

³ The criteria are based on the INC 97-0404-016 "NPA Code Relief Planning and Notification Guidelines."

^{*} CPUC Staff do not vote on NPA relief plans.

These NPA relief alternatives were developed by representatives of the California telecommunications industry in meetings facilitated by NANPA using a consensus decision-making process* and following industry approved NPA relief planning guidelines. Important input to the relief plans was provided at public meetings required by Public Utilities (Pub. Util.) Code Section 7931(e)(2), which were conducted on November 4 and 5, 1998, and at a local jurisdiction meeting, which was held with city and county government representatives on October 1, 1998.

III. Public Notification and Meetings

Public meetings to present various relief alternatives under consideration were required to occur within six months of the June 1998 customer notification, i.e., by December 1998. The industry team held four public meetings in Burbank, San Fernando, Northridge, and Calabasas (one more than required by the Public Utilities Code) to ensure adequate coverage of the area served by the 818 NPA. The industry conducted two meetings on November 4, 1998 and two meetings on November 5, 1998.

The industry, NANPA and the CPUC jointly conducted a meeting with local jurisdictions on October 1, 1998. This kind of meeting assists in the relief planning process by obtaining another layer of public input to help the industry

* The “*NPA Code Relief Planning and Notifications Guidelines*” (INC 97-0404-016) defines the term “consensus” as used in the area code relief planning process, as follows:

“Consensus is established when substantial agreement has been reached among interest groups participating in the consideration of the subject at hand. Interest groups are those materially affected by the outcome or result. Substantial agreement means more than a simple majority, but not necessarily unanimity.”

in either reducing the number of alternatives or identifying the best plan to present to the general public.

The industry presented a total of eight (8) relief alternatives at each of these meetings: Alternatives 2A, and B (two-way geographic splits); Alternative 4 (an overlay); Alternatives 5A, B, and C (three-way geographic splits); Alternatives 10 and 11 (each, a geographic split with subsequent overlay). Representatives were asked to express their support for the alternatives presented by filing out a “Show-of-Interest” form. A total of 35 Show of Interest forms were received. Of these:

0	Favored Alternative 2A
2	Favored Alternatives 2B
3	Favored Alternatives 2B or 5B
14	Favored Alternatives 4
4	Favored Alternatives 5A
3	Favored Alternatives 5B
2	Favored Alternatives 5C
2	Favored Alternatives 10
0	Favored Alternatives 11
5	Other/None of the Above/ No Option

Thus, based upon the “Show-of-Interest” forms, there was a dominant interest in Alternative 4 (the overlay) and a secondary interest in Alternative 5A (a 3-way split). More people favored splits than the overlay. In any event, few people were participating at these forums, and drawing a conclusion about popular sentiment for alternative relief options from such a small number of participants is inappropriate.

The public also provided input by letter. Copies of all public received were included as an attachment to the relief plan proposal submitted by the industry.

IV. Proposed Alternative

The industry could not reach consensus on one plan, but was able to reach consensus on forwarding two exhaust relief alternatives to the Commission. On December 9, 1998, the industry directed the NANPA to forward Alternatives 2B-A (a two-way geographic split) and 4 (an overlay) to the Commission for a final decision. The industry rejected Alternative 5A, the 3-way split, because of the resulting disparity in projected NPA lives, exceeding 15 years. By letter to the assigned Administrative Law Judge dated February 12, 1999, Lockheed Martin IMS, in its role as the NANPA, presented these two alternative NPA relief plans for the 818 area code. NANPA requests, on behalf of the industry, for the Commission to approve one of these plans.

A. Alternative 2B-A - Two Way Geographic Split

The proposed split is a modification of the original Alternative 2B (referred to as Alternative 2B-A). During the 818 NPA planning effort, cities and communities asked for a modification to the Industry recommended Alternative 2B split line to keep perceived communities of interest whole. In response to this request, the original 2B proposal was modified by the Industry to include an additional rate center identified as "North Hollywood." Alternative 2B-A thereby permits the entertainment industry in and around the Burbank media district to remain whole and retain the 818 NPA. Alternative 2B-A splits the existing 818 area into a northeast area and a southwest area. The customers in the northeast area would retain the 818 NPA, with a projected life of 6 to 7 years. The customers in the southwest area would

receive a new area code, with a projected life of 15 to 18 years. Under this alternative, the 818 NPA will serve 12 rate areas and the new NPA will serve 4 rate areas. All customers would retain 7-digit dialing within their respective area codes.

Specifically, in Alternative 2B-A, the split line runs east and west, between the Northridge, Sepulveda and Burbank/Sun Valley rate areas on the north and the Canoga Park, Reseda and Van Nuys rate areas on the south, and continues southward between the North Hollywood rate area on the east and the Van Nuys rate area on the west.

It is expected the 818 NPA will remain in an extraordinary conservation state until the relief plan is implemented. Therefore, in order to provide code relief sooner, the industry recommends a mandatory dialing period of three months if a geographic split is approved. The industry recommends the following relief implementation dates for the Alternative #2B-A split plan:

Proposed Schedule for Alternative 2B-A

Event	Proposed Relief Date:
Start of Permissive Dialing	8/19/2000
Start of Mandatory Dialing and Recorded Announcement	2/17/2001
End of Mandatory Dialing and Recorded Announcement	5/19/2001

B. Alternative 4 – Overlay

Alternative 4, an all-services overlay, would create a new overlay area code to serve the same geographic area and the same 16 rate areas now served by the 818 area code. This single-phase plan would permit existing businesses, service organizations and residents in the area to retain the 818 area code, for existing numbers and not further divide the cities and communities served by the 818 area code into two area codes. The 818 NPA NXXs at the

tandem are expected to remain in the 818 NPA. Introduction of the new overlay area code would require that all customers in the 818 area code and the new overlay area code dial 1 + 10 digits for all calls.

The industry proposes activation of the overlay on March 19, 2001, but requests guidance from the Commission regarding the permissive and mandatory dialing dates applicable to the overlay plan, in the event this is the relief method ordered by the Commission. The permissive and mandatory dialing dates may vary, based in part on the public education program period which will be required. The industry respectfully requests that each of these dates be scheduled for a Saturday, when such transitions are normally done, to avoid the adverse impacts to the business community of instituting a new dialing pattern in the middle of the normal work week.

One “ position paper” was jointly sponsored by Pacific Bell (Pacific), and GTE California Incorporated (GTEC) in support of Alternative 4 (the overlay). Pacific and GTEC believe the overlay will resolve the critical NXX code shortage problem in the 818 NPA more effectively than will the split and minimize future disruption to 818 NPA customers since no one will have to change their telephone number with future overlays.

GTEC and Pacific ask the Commission for an accelerated implementation date for the overlay plan for the 818 NPA of August 19, 2000, which could replace the start of permissive date for the alternative split proposal as based on the Industry’s implementation schedule. This date would allow time for a permissive dialing period of nine months and a mandatory dialing period of 3 months prior to the implementation of an overlay. It would also provide relief for all carriers nine months sooner than the suggested split plan.

According to Pacific and GTEC, this accelerated implementation for an overlay, would provide carriers with earlier access to 792 NXX codes ready

for assignment within the overlay. In addition, this acceleration would help preserve a greater number of NXX codes in the 818 area code. Carriers would have the choice of requesting either NXX codes in the available overlay or continue to submit requests for NXX codes in the 818 area code, that would remain in lottery per Industry agreement.

Separate comments were jointly filed on March 9, 1999, by the California Small Business Association (CSBA) and the California Small Business Roundtable (CSBR) in support of the proposed overlay. CSBA/CSBR point to the cost and disruptive impact that area code splits have on small businesses, noting that the telephone number is a critical part of small businesses' identity, customers rely on the numbers to reach a small business to make inquiries, place orders and obtain customer service. CSBA/CSBR argue that, for small business owners, having to change telephone numbers because of an area code split is not just an inconvenience, but means potentially losing old and new customers. No "position paper" was filed in support of the geographic split.

A formal protest objecting to the proposed overlay plan was filed by the Cities of Burbank and Glendale (the Cities), however, on April 13, 1999. The Cities argue that sufficient justification has not been offered in the present case that would tip the balance in favor of adopting an overlay for the 818 NPA. Accordingly, the Cities urge the Commission to adopt the proposed two-way geographic split and to reject an overlay.

The Cities argue that public sentiment should be considered in deciding whether to adopt an overlay rather than a more conventional geographic split. The Cities state that the public responses received by the NANPA were evenly divided on the issue of which approach is appropriate, with overlay and geographic splits receiving the same number of preferences (fourteen). The Cities believe that geographic splits should be the preferred

approach, unless the involved local communities express a contrary preference, and that in this instance, no clear preference to the contrary has been expressed.

The Cities argue that geographically-based area code is particularly appropriate for the Burbank/Glendale/North Hollywood area encompassed by Alternative 2B-A. The Burbank/Glendale/North Hollywood area contains the media corridor that is a primary driving force for the resurgent economy of the Greater Los Angeles metropolitan area. The Cities as well as the region have a unique interest in preserving the geographic identity of the media corridor.

The Cities further argue that the geographic split presented as Alternative 2B-A is consistent with the criterion that customers should not be required to undergo number changes for 8 to 10 years. The projected life for the new NPA in the western portion of the San Fernando Valley would be 15 to 18 years, compared to a projected life of 10 to 13 years for the overlay alternative. The 818 NPA encompassing Burbank, Glendale, and North Hollywood may reach exhaustion in 6 to 7 years. The Cities argue this is reasonably close to the target duration of 8 to 10 years.

V. Discussion

A. Impacts on Customers of Splits Versus Overlay

As we have noted in previous decisions, neither an overlay nor a geographic split is free of problems, and no plan can avoid disruptions to customers. On balance, however, we conclude that Alternative 2B-A would provide less overall disruption to customers in this instance. The split permits existing customers in the area to continue to use 7 digit dialing. In addition, only four of the 16 San Fernando Valley rate centers would receive a new area code, thereby reducing the number of customers required to make an area code change. Finally, the residents of the 818 affected by this split have not had a

change in their area code since 1984, when the 818 area code was established.

In addition to satisfying the criteria for competitive neutrality, Alternative 2B-A, the split would also best satisfy the remaining criteria for evaluation of relief plans, and provide the best overall remedy for 818 NPA relief when compared against this particular overlay.

As stated previously, we shall defer adopting an implementation schedule for the 818 NPA relief plan at this time. We have grown acutely concerned about the proliferation of NPA relief plan filings with the Commission in recent years. While we have continued to act on these proposed plans expeditiously in the interests of promoting the availability of numbering resources to carriers and their customers, the result has been a mushrooming explosion of new area codes with accompanying disruption to customers. As recently as June 1997, the industry opened a new area code (626) to relieve NXX code exhaust in the 818 NPA. Now, just two years later, we are again considering the need for yet another new area code to relieve 818 NPA exhaust. Irrespective of the particular form of relief adopted (e.g. geographic split or overlay), customers still experience disruption as a result of the continuing addition of new NPAs, as repeatedly expressed in public meetings and in letters submitted to the Commission from citizens and local jurisdictions in affected NPA relief areas.

We continue to remain cognizant of the need to assure timely availability of scarce numbering resources, and to implement NPA relief as necessary to promote this goal. Nonetheless, we believe the time has come to take a more critical look concerning industry claims of NXX code exhaust before authorizing a schedule to open yet another new area code. We are particularly concerned about the inefficiencies inherent in existing federal rules requiring assigning minimum blocks of 10,000 numbers per rate center irrespective of the

actual utilization within the 10,000-number block.

We have already taken various actions to stem the growth in new area codes, including seeking additional discretionary authority from the FCC for NPA. We believe one of the outstanding questions relating to the industry's claims of impending NXX code exhaust is whether the code exhaust forecasts accurately incorporate efficient code utilization among carriers. We shall therefore require a further showing from code holders concerning actual NXX code utilization rates for rate centers within the 818 NPA before we adopt a schedule for yet another new area code in the region.

A prerequisite for implementing more efficient utilization of unused or underutilized NXX codes and blocks of 1,000 numbers within the 818 NPA is to determine the utilization of NXX codes which have already been assigned within the 818 NPA. We have already initiated this process in prior NPA relief decisions, which required carriers to report the percentage utilization rate for all blocks of 1,000 numbers within the NXX codes assigned to them.⁴ We will extend this reporting requirement to apply to all carriers holding NXX codes in the 818 NPA. Moreover, we believe that more detailed reporting than was previously ordered is necessary to get a true picture of number utilization in the 818 NPA.

Based on the results of the utilization studies, we will order carriers to return codes that are not activated to the NANPA. TD should immediately initiate the process to design and conduct a study of NXX code utilization in

⁴ We note that the information we required in those orders was just a preliminary view of their code utilization. A more detailed and updated showing from these carriers is still required. The Commission has solicited comments on what, if any, measures we should impose in all area code relief plans pertaining to efficient management of numbers within NXX codes.

increments of 1,000-number blocks for each NXX code assigned within the 310 NPA. TD may procure consulting services to implement the study, or portions of it. TD shall provide a status report on the NXX code utilization study for the 818 NPA no later than February 29, 2000.

While we are in the process of collecting code utilization data, and identifying unused and underutilized NXX codes and 1,000 number blocks which can subsequently be reallocated to other carriers, we shall also initiate steps to determine the framework and process for number pooling to be implemented. The assigned ALJ has issued a ruling, dated April 1, 1999, soliciting comments concerning what sorts of NXX code reporting requirements or other measures may be appropriate to protect existing 1,000-number blocks from undue contamination pending the implementation of number pooling.

The ALJ assigned will also issue any other necessary rulings delineating the process as to how each code holder within the 818 NPA shall provide necessary information concerning NXX code utilization rates. The returned information shall be treated confidentially and kept under seal for a period of two years. It is therefore not necessary for parties to file motions for confidential treatment of the provided information.

Following receipt and review of this information, we shall issue a subsequent order addressing the prospects for extending life of the 818 NPA, and assessing the need to set the schedule for implementing the 818 NPA code relief plan.

The potential merits of split were reflected in the results of the consumer surveys reviewed in D.96-12-086 in which respondents expressed preferences for splits or overlays. Respondents in the survey expressed a greater preference for splits compared with overlays at the time the survey was taken. Although in the case of the 818 NPA, this would be the second split within only

four years, the people affected by this split are those who were left unaffected by the previous split and have had this area code since 1984. (The 626 NPA was split from the 818 NPA as recently as August 1998.) Since this split occurred so long ago, we can expect the residents of the 818 to maintain their preferences for a split.

As the geographic area covered by the 818 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. The drawing of boundaries becomes ever more contentious with each subsequent split. The continual splitting of the 818 NPA also makes it increasingly difficult to balance the projected lives of the old and new NPAs. Nevertheless, it is possible at this time to draw a reasonable boundary that respects communities of interest, as does Alternative 2B-A.

Based on recent experience with geographic two-way splits, the projected NPA lives resulting from geographic splits have proven to be overly optimistic. The industry projected life for the 818 NPA after the Alternative 2B-A split is 6-7 years. Pacific and GTEC argue that number demand, however, could reduce the life to less than even 3.5 years. However, as Cities point out, this prediction of a rapid exhaustion of the area code depends on a scenario of business as usual – the continued allocation of numbers in blocks of 10,000. This is unlikely to occur. Moreover, with the implementation of either voluntary or mandatory number conservation measures, such as pooling, the life of the new area code could prove quite long. Cities conclude, quite credibly, that no further splits will prove necessary in this area for many years to come.

We agree with the Cities that the proposed geographic split offers certain advantages compared with an overlay. The proposed 2B-A geographic split option offers the Cities the ability both to retain their existing area code as a

unique geographic identification and to retain seven-digit dialing for calls within the 818 NPA. As one would expect, the Cities fail to highlight the disruption of a geographic split to customers in the southwestern region of the present 818 NPA which would be forced to change their phone numbers and which would have to dial 1 + 10 digits to call a party in the remaining 818 NPA. The negative impacts of such forced number changes, particularly on small businesses, have been highlighted as noted above in the comments of CSBA/CSBR. Although the overlay would not require any business in the 818 NPA to change its existing phone number, including the media corridor within the Burbank/Glendale/North Hollywood area, the intense public dislike of 11 digit dialing in Southern California makes the successful implementation of such an overlay uncertain. Thus, a traditional split, which is practical in this situation, offers a sure method for providing number relief to this area.

In making a decision, it is important to remember that 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 is customers' 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, because of the shrinking of the 818 NPA, an increasing number of customers' calls originate within the 818 NPA terminate outside of the 818 NPA boundaries. Nevertheless, even though 818 NPA customers are already becoming more accustomed to dialing 1+10 digits for at least some portion of their calls, the overlay will still require customers to learn a new 1+10-digit dialing procedure for all calls, including those within the same NPA. Customers will also lose the ability to uniquely identify a given geographic region by a single area code. Moreover, as we have found in the implementation of 11-digit dialing, devices such security alarm systems will need to be reprogrammed and some require replacement. A split avoids these costs.

Pacific and GTEC have proposed that an acceleration to August 19, 2000 of number relief. While we appreciate that such an accelerated opening of the area code could relieve code shortages in the 818 NPA sooner, it is critical to remember the disruption that all number relief imposes on the public. It is important that the public be given an adequate amount of time to prepare for the implementation of the relief plan in order to minimize any disruptive effects which might otherwise occur. Pub. Util. Code § 7930 requires that the general public be given at least 15 months advance notice regarding the geographic area included in both the old and the new area code, together with the schedule for any transitional dialing periods. The acceleration of the opening

of the new area code to August 19, 2000 might not provide sufficient lead time to accommodate the minimum 15-month advance notice requirement.

An accelerated schedule would also eliminate the possibility of examining actual NXX utilization in 818.

B. Competitive Neutrality

By adopting a geographic split as the number relief plan, we ensure a competitively neutral relief plan.

We also place a high priority on promoting the development of measures to ensure the efficient utilization of NXX codes so that carriers are not competitively disadvantaged by limited access to numbering resources. Number pooling is one essential tool to promote efficient utilization of NXX codes in the 818 NPA.

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. There are numerous and substantial technical, administrative, and cost issues related to number pooling, however, that must be addressed. In particular, more intensive tracking of number allocation will be required. 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 Industry Numbering Committee (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 step toward the establishment of number pooling, the assigned ALJ has solicited comments concerning what sorts of NXX code reporting requirements or other measures may be appropriate to protect existing 1,000-number blocks from undue “contamination” pending the implementation of number pooling. We shall place a high priority on the expedited implementation of number pooling in the 818 NPA and conducting a study of current usage.

C. A Plan for Efficient Utilization of Number Resources in the 818 NPA

As a framework for going forward with a plan for the 818 NPA, we note that the Commission had already begun initiating various programs, in conjunction with efforts ongoing at the federal level, to promote more efficient utilization of numbering resources. We acknowledge the FCC’s plenary jurisdiction over numbering issues within the United States. The FCC has delegated limited jurisdiction to state commissions regarding the oversight of numbering resources. The FCC has also limited state’s discretion to address numbering problems by adopting rules with which this Commission must comply until or unless additional delegated authority is granted. For example, the FCC has forbidden service-specific or technology-specific area codes for wireless communications services or for electronic communication media such as fax machines or computers modems.

Our prospective plans for addressing code exhaustion in the 818 NPA will build on the work, which has already been initiated. In June 1996, we issued D. 96-06-062, recognizing the need to establish code conservation measures in the 310 NPA to forestall premature code exhaustion before the 562 NPA split could be finalized. One of the measures established was a rationing process utilizing a lottery to allocate a prescribed number of NXX codes each

month. In response to continuing code shortages, the assigned ALJ issued a ruling on January 13, 1998, soliciting further comments on what measures to conserve and efficiently utilize NXX codes on a statewide basis.

In response to comments filed pursuant to that ruling, we issued D. 98-08-037, which initiated a series of technical workshops to address NXX code conservation and efficient utilization through various means. One of the most promising measures potentially to alleviate the shortage of numbering resources is the use of number pooling. Initiatives have been ongoing at both the state and federal levels to implement number pooling. On November 6, 1998, the FCC's Common Carrier Bureau released a report for comments entitled "Number Resource Optimization Working Group Modified Report to the NANC on Number Optimization Methods." The NRO Report identified both individual telephone number (ITN) pooling and 1,000-block pooling as options to be pursued. The most imminent form of number pooling being developed involves the disaggregation of NXX codes into discrete blocks of 1,000 numbers. Once 1,000-block number pooling is implemented, carriers will be able to obtain an assignment of minimum blocks of 1,000 per rate center, rather than the minimum 10,000-number blocks under current procedures.

Pursuant to D. 98-08-037, we authorized the establishment of a number pooling industry task force to work toward implementing number pooling. Our progress toward implementing number pooling was impacted, however, by a FCC Order issued on September 28, 1998, responding to a petition filed by the Pennsylvania Commisison. In the FCC's Pennsylvania Order⁵, the Commission clarified the scope of authority over numbering issues it had

⁵ Memorandum Opinion and Order and Order on Reconsideration, FCC 98-228, Released September 28, 1998.

delegated to the states in the Second Report and Order.⁶

In that order the FCC declined “to grant states authority to order mandatory number pooling”. (Id., ¶ 24.) Rather, the FCC authorized state commissions to experiment with voluntary number pooling trials, consistent with the guidelines adopted in the Pennsylvania Order.

[S]tate commissions may order that a certain number of NXX codes in a new area code be withheld from assignment and saved for pooling purposes. No carrier, however, may be denied a NXX code so that it can be saved for pooling purposes. If a NXX code exhaust situation in an area code becomes so dire that there are not NXXs available to assign to carriers, the NXXs that have been withheld from assignment must be made available for carriers. States are thus free to implement number pooling trials that comply with the guidelines set forth in this Order. (Pennsylvania Order, ¶ 27.)

At the same time, recognizing that circumstances vary from state to state, the FCC authorized states to seek additional authority to conduct number pooling trials “which fall outside of the guidelines we adopt in this Order.” (Id., ¶ 31.)

We therefore encourage such state commissions, prior to the release of any order implementing a number conservation plan or number pooling trial, to request from the Commission an additional, limited, delegation of authority to implement these proposed conservation methods, comparable to the authority we are granting to Illinois in this Order. (Id.)

Pursuant to the Pennsylvania Order, the assigned ALJ, in his ruling of October 14, 1998, stated that for the present time, the Commission’s number

⁶ Second Report and Order and Memorandum Opinion and Order, FCC 96-333, Released: August 8, 1996.

pooling program would be carried forward by the Task Force in the form of an experimental voluntary trial. Comments were solicited from parties as to how the trial program should be structured and implemented.

Workshops were subsequently conducted pursuant to the ALJ ruling to address the voluntarily number pooling plan. We required the Number Pooling Task Force to submit to the assigned ALJ an implementation schedule for number pooling within California by March 31, 1999. The Task Force did not develop such a timeline or any other recommendations on how a pooling trial should be conducted. Instead, in an Interim Report to the CPUC issued in March 1999, the Task Force explained that it had reached consensus “against recommending a voluntary number pooling trial in California at this time, given the positions that various parties have taken on the matter.” Specifically, the Task Force reported that the incumbent local exchange carriers (ILECs) refuse to participate in a voluntary trial. The Task Force further reported that the competitive local exchange carriers (CLECs) are of two views: a minority wish to pursue a voluntary pooling trial in hopes of obtaining blocks of numbers smaller than 10,000, while the majority of CLECs consider voluntary pooling trials to be a waste of time and resources if the ILECs will not participate.

As a result, the industry Task Force found itself at a stalemate in exploring number pooling based upon the limited jurisdictional authority of the state commission. We thus remain concerned that merely relying on efforts at the federal level to implement number pooling will not provide a solution soon enough to meet the needs of carriers and customers in the 818 NPA without new area code relief. In the Report of the Number Resources Optimization Working Group to the FCC last fall, the NANC stated that because thousand-block pooling can be implemented within 19 months from the date of a regulatory order, it is the pooling option with the greatest potential to be implemented by

December 31, 1999.⁷ The FCC recently issued a Notice of Proposed Rulemaking (NPRM) on number conservation issues, including number pooling. However, a final decision in that rulemaking is not anticipated in the near term⁸. We would welcome FCC guidelines on mandatory number pooling, but that solution appears to be still many months away.

1. Interim Plan for a Voluntary Number Pooling

We conclude that a new area code is required to provide NXX code exhaust relief in the 818 NPA. Nonetheless, we still believe that number pooling efforts in the 818 NPA should proceed without delay in the interests of maximizing the efficient utilization of numbers, and extending the life of the 818 NPA after the new area code takes effect.

We shall therefore go forward with the development of a voluntary number pooling trial in the 818 NPA. We direct the Telecommunications Division, with the assistance of Lockheed Martin, to devise a number pooling trial for the 818 NPA. Lockheed Martin has expertise as both the NANPA and as pooling administrator in trials in other states. Lockheed Martin is, thus, directed to act as pooling administrator for this trial under the direction of the Telecommunications Division.

We are mindful of the FCC's desire to maintain a nationally cohesive numbering system, and we do not wish to undercut that effort. We anticipate working closely with the FCC and the industry to ensure that we do not impede the FCC's efforts for national standards for number pooling. We

⁷ See Public Notice DA98-2265, Released: November 6, 1998, pp. 1, 4.

⁸ To be sure, California is not suggesting that the FCC circumvent due process. Rather, the CPUC is requesting authority to act in the interim, until the FCC has adopted rules through its administrative processes.

anticipate that we can model the voluntarily pooling trial in the 818 NPA after existing number pooling trials in other states or in conjunction with number pooling standards being developed by the FCC's working groups. Once the FCC finalizes national number pooling standards and a national pooling administrator, we envision that the voluntary trial we establish in the 818 NPA can be migrated over to the national system.

Voluntary number pooling in the 818 NPA shall be conducted on a 1,000 block basis. By this order, we direct the NANPA to set aside one NXX code for each of the rate centers in the 818 NPA to be used for the trial. In addition, we direct TD and Lockheed Martin to design the trial such that carriers may donate NXX codes and 1,000 blocks to the trial. Carriers may volunteer to participate in the number pooling trial and the costs of setting up and administering the trial will be shared equally amongst all carriers who volunteer. Carriers who are interested in volunteering for the number pooling trial must notify the Director of the Telecommunications Division by no later than October 1, 1999.

Once the volunteers are identified, the Telecommunications Division may appoint industry members to assist it and Lockheed Martin on the protocols for the trial. Also, the ALJ assigned to this proceeding may issue rulings, as needed, regarding the requirements of how the trial will be developed and conducted.

Moreover, we are mindful that the FCC will likely establish a national number pooling cost recovery mechanism once national standards and a national pooling administrator are established. We anticipate that there will be some true-up of the costs for the voluntarily trial in the 818 NPA with the national costing mechanism at a later date.

Carriers who choose not to volunteer for the trial will still

have access to NXX codes through the monthly rationing process.

TD shall serve and file a status report on the results of the number pooling trial February 29, 2000.

2. Availability of NXX Codes

The FCC has required Code Administration to make “at least one” NXX code in the existing NPA available to every existing telecommunications carrier in the affected area code 90 days before the introduction of a new overlay area code as set forth in FCC Docket 96-333. Since we adopt a geographic split as the relief option, this requirement does not apply.

Nonetheless, given our deferral in adopting an implementation schedule for the new area code split, it may become necessary to reduce the monthly NXX lottery allotment to prevent technical exhaust. We shall address this issue further in a subsequent order.

VI. Conclusion

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 geographic will have less overall adverse impacts than the overlay alternative proposed for the 818 NPA. Accordingly, we approve the geographic split (Alternative 2B-A). We shall later adopt a schedule for implementation of the Alternative 2B-A.

VII. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure on June 30, 1999. Comments were received on July 20, 1999. Based on review of filed comments, we have revised the draft decision to adopt a split instead of an overlay.

Findings of Fact

1. Area code relief is needed due to the impending exhaustion of NXX codes in the 818 NPA projected to occur during the first quarter of 2001.

2. The Area Code Relief Coordinator convened a series of meetings with the telecommunications Industry Planning Team to discuss and develop relief alternatives for the 818 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 two options: (1) an overlay; and (2) a two-way geographic split.

5. 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.

6. As the 818 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

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

16. 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.

17. Although customers in the 818 NPA may already be accustomed to dialing 1+10 digits for a 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.

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

19. While both the overlay and geographic split have certain adverse impacts, the geographic split (Alternative 2B-A) will have less overall adverse impacts than the overlay alternative proposed for the 818 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 section 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 geographic split (Alternative 2B-A) for the 818 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 Alternative 2B-A geographic split plan should be approved in accordance with the terms and conditions adopted in the order below.

5. A further record should be developed concerning the prospects for more efficient NXX code utilization for rate centers within the 818 NPA before adopting a schedule to implement a new area code split in the region, as directed in the ordering paragraphs below.

6. The Commission should place a high priority on promoting the development of measures to promote the efficient utilization of NXX codes so that carriers are not competitively disadvantaged by limited access to numbering resources prospectively.

7. The Commission should make a further assessment of appropriate measures needed to protect existing 1,000-number blocks from contamination pending implementation of number pooling and should implement a voluntary number pooling trial in the 818 NPA.

O R D E R

IT IS ORDERED that:

1. The proposed geographic split for the 818 Numbering Plan Area (NPA), identified as Alternative 2B-A, as presented by the North American Numbering Plan Administrator (NANPA) is hereby approved.

2. The schedule for implementation of the relief plan shall be adopted in a subsequent order. Likewise, the schedule for customer and industry notification and for education shall be addressed in a subsequent order.

3. The schedule for any new facilities-based CLCs to notify the NANPA if they intend to request an 818 NPA NXX code shall be addressed in a subsequent order.

4. The ALJ shall issue a ruling instituting a process for a voluntary number pooling trial to be implemented in the 818 NPA.

5. The ALJ assigned to this docket will issue a ruling delineating the process whereby code holders within the 818 NPA shall provide necessary information

concerning NXX code utilization rates. The returned information shall be treated confidentially and kept under seal for a period of two years. It is therefore not necessary for parties to file motions for confidential treatment of the provided information.

6. The Telecommunication Division shall file and serve a report on the status of the code utilization study and voluntary number pooling trial by February 29, 2000.

This order is effective today.

Dated _____, at San Francisco, California.

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