

ORIGINAL

Decision 96-10-067 October 25, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service } R. 95-04-043
 } (Filed April 26, 1995)

Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service. } R. 95-04-044
 } (Filed April 26, 1995)

O.P.I.N.I.O.N

Introduction

By this decision, we address what role the Commission should have in performing area code relief administration in relation to Pacific Bell (Pacific) as California Code Administrator.

Telephone-number administration is governed by the North American Numbering Plan (NANP). Under the NANP, telephone numbers throughout the United States are composed of a three-digit area code, a three-digit central office (NXX) code, and a four-digit (XXXX) line number. Codes for each Numbering Plan Area (NPA or area code) are assigned by Bell Communications Research, Inc. (Bellcore), which currently serves as administrator of the NANP.

Within each geographic area, the predominant local exchange carrier (LEC) traditionally has administered the assignment to carriers of NXX codes within NPAs.

Participants in the workshop reached a consensus on the following issues.

- 1 Each central office (NXX) code represents 10,000 telephone numbers. Each NPA contains 7.9 million numbers available for assignment.

As the largest local exchange carrier in California, Pacific presently serves as the California Code Administrator. In this role, Pacific assigns central office codes to itself as well as other carriers, including cellular carriers, paging companies, and others needing telephone numbers within California. Carriers use these assigned central office codes to provide telephone numbers to their customers. Pacific is also responsible for forecasting the projected exhaustion of numbers available for assignment within California's area codes.

In Decision (D.) 95-08-052, settling a complaint over the introduction of an area code relief plan for the 310 NPA, the Commission recognized that the appearance of a conflict of interest exists in Pacific's dual role as Code Administrator and competitor in the local exchange market.

The Commission directed the Commission Advisory and Compliance Division (CACD) to hold a workshop among industry participants to coordinate the selection of a neutral third party as new Code Administrator. In a July 1995 order, the Federal Communications Commission (FCC) established a North American Numbering Council (NANC) which will transfer code administration from Bellcore to a centralized independent entity. The Commission thus ordered that this selection process be coordinated with the FCC docket, CC 92-237. CACD was directed to file a report on the results of the workshop in the Commission's local competition Docket, R.95-04-043.

CACD held a workshop on February 21, 1996, among industry participants to coordinate the selection of new California Code Administrator (area code and central office code). CACD issued a report on April 12, 1996 indicating the workshop participants reached a consensus on the following issues.

- o An interim local Code Administrator should be selected during the 27 months or more each carrier has to complete local code administration through the NANC.

The FCO should be encouraged to accelerate the NANC efforts to transfer local code administration to an independent entity (perhaps through National Association of Regulatory Utility Commissioners (NARUC) input). The interim local Code Administrator should be a neutral party and should assume partial (Pacific proposal) code administration functions. CACD should be the neutral party. While Pacific stated at the workshop that it prefers a full transfer of code administration responsibilities, the industry team members attending the workshop expressed their belief that a full transfer may jeopardize the code assignment function. Pacific still believes that the Commission should not reject the possibility of such a full transfer in the near future. Pacific identified a subset of code administration functions which are competitively sensitive. Pacific proposed to transfer the identified competitively sensitive functions to CACD and to provide support and training to CACD. Pacific suggested it could work further with CACD, and the industry, to accomplish a full transfer of code administration responsibilities. CACD would thereby assume such responsibilities on a phased-in basis as it develops the expertise needed to process the more technical aspects of code assignments. Since the same technical personnel will be involved in training CACD and assigning codes, Pacific argues that transferring functions on a phased-in basis ensures that carriers and customers will not suffer during the transfer. Pacific would retain ongoing responsibility for competitively neutral data administration functions during the interim period until taken over by the Commission or until the newly selected NANC Administrator assumes complete code administration responsibility.

The competitively sensitive code administration functions identified by Pacific to be transferred are:

o Collection and Analysis of Data for Central Office Code Utilization Survey (COCUS)

The primary function is to identify NPA relief requirements by predicting NXX code depletion.

o Initial and Ongoing Code Request Validation. This function includes verification of an applicant's California operating authority, enforcement of audits and reclamation as required in the confirmation of additional code requests, code activations, code use changes or code transfers, and settling of appeals.

o Area-Code-Exhaustion Forecasting. The early identification of area-code exhaustion is necessary to ensure compliance with state statutes on area-code-exhaustion notification and to allow the industry the greatest possible time to plan for area code relief.

o Area-Code-Exhaustion Industry Planning Facilitation. This function starts with notifying current and potential codeholders of pending code exhaustion, facilitating the industry relief planning process, submitting relief plans to the Commission and NANPP, and monitoring implementation of the final plan.

o Jeopardy Condition Facilitation. This function involves coordinating and facilitating special and extraordinary code conservation measures among current and potential code holders.

o Public Meetings Facilitation. This function involves the conduct of public meetings on area-code-exhaustion notification in compliance with state statute.

assumes complete code administration responsibility.

The remaining data administration functions to be retained by Pacific are:

o Day-to-day Processing and Tracking of Code Requests. This function involves the processing of code-applicant submissions, the formal processing of forms, and the tracking of final confirmation of code activation.

o Database Integrity. This function is the verification and monitoring of inputs into two software systems, as well as confirmation that the correct data is published in two other software systems and other reports based on these systems.

o Ongoing Records Administration. This function addresses ongoing administration as information changes take place due to code reclamation, transfer of codes, changes in NXX code information, etc.

o Troubleshooting. This function is focused primarily on ensuring that the applicant's code is in service within a 45-day period; it also involves ongoing resolution of network call blocking or billing problems.

We provide a more detailed description of each of these duties in Attachment 1. As indicated in CACD's report, the workshop did not resolve the issues of required staffing levels for the transferred functions or the source of funding. Parties were authorized to file comments on CACD's Report on May 17, 1996.

The demands of increasing competition will intensify the need for new NXX code openings and NPA-relief plans. The following code administration activity must be supported over the next few years:

o There were 733 code openings in 1995, and more than 1,000 are expected in 1996 and 1997. California has 13 area codes, and will add three more in 1997.

Four area code relief plans are in the initial planning stage (213, 415, 714, 916).

- o Four future area code relief plans will be required by 2000 (209, 310, 408, 510)
- o Three area codes are in a jeopardy condition, requiring special conservation measures (310, 415, 619).

Based on estimates of Pacific, the minimum resources required by the Commission to take over the partial transfer of functions would be the following:

- o Between six and 10 personnel to manage the COCUS, Forecasting, Planning, and Facilitation functions.
- o Access to the Bellcore database systems for monitoring of systems, at a cost of \$300,000 per year.

The partial transfer of Code Administrator duties would enable the Commission to manage the controversial aspects of Central Office Code Administration and to exercise the enforcement powers cited in the Central Office Code Administration Guidelines (e.g., Audits, reclamation of codes, etc.). This minimizes concerns that could be generated by competitors if Pacific were required to exercise these enforcement powers.

Position of Parties

DRA and Coalition

The Coalition and the Division of Ratepayer Advocates (DRA) agree that Pacific should shed all responsibility for code administration as soon as possible because of conflicts of interest and the potential for anticompetitive harm that might result, when at the opening of the local exchange market in California, Pacific is simultaneously the largest incumbent LEC as well as the Code Administrator. The Coalition and DRA express concern about the potential misuse by Pacific, as the Code Administrator, of CLCs'

highly sensitive and competitively valuable projections of their NXX requirements. Moreover, this reluctance of CLCs to submit such forecasts to Pacific may exacerbate the problem of timely monitoring and planning for NPA exhaustion. Commission assumption of the role of receiving and summarizing code utilization forecasts and NPA exhaustion monitoring and planning can overcome these problems.

However, a complete transfer of Pacific's responsibilities at this time is problematic according to DRA and the Coalition. Therefore, the Coalition and DRA urge the Commission to accept interim responsibility for the most competitively sensitive code administration functions, as outlined in Pacific's proposal and specification of the functions to be transferred and retained. However, neither the Coalition nor DRA endorse Pacific's characterization that the transfer of certain functions means that the Commission will assume the title of Code Administrator, and believe that such a characterization simply adds unnecessary complexity and confusion to the process.

The Coalition and DRA recommend that the Commission initially dedicate eight employees to code administration along with one supervisor. Staffing at the higher end of Pacific's estimate is desirable, in view of the many near-term and concurrent activities that will need to occur, and in light of the need to assume these functions as quickly as possible. The Coalition also recognizes that the assignment of eight or more Commission employees to perform the transferred functions constitutes a substantial commitment of Commission resources. However, such a commitment appears to represent the minimum level necessary to insure that these functions are performed in an adequate and above-all, timely manner. In approving the transfer of these functions from Pacific to the Commission staff, it is imperative for the Commission to assign a high level of priority to this project and

Section 21(e) (1)

resolve to support it with the proper level of staffing, funding, and other resources.

The Coalition and DRA suggest that the Commission may not wish to have the work group assigned to NPA planning activities report directly to the Executive Director, rather than being contained within one of the existing Divisions, to allow for clear lines of responsibility and to emphasize that the designated staff are indeed dedicated to discharging their duties in a timely and efficient fashion.

As noted briefly above, the Coalition and DRA consider Public Utilities (PU) Code Section 431 Utilities Reimbursement Account Fee the appropriate mechanism to fund the Commission's code administration responsibilities. It is already established and can be augmented, if necessary.

The Coalition and DRA do not believe that legislation is required to enable the Commission to undertake partial code administration responsibilities on an interim basis. However, since the Telecommunications Act of 1996 vests authority over numbering issues with the FCC, the Coalition and DRA propose that the FCC be notified of the partial, interim role the Commission will assume at the request of the telecommunications industry and at the suggestion of the Code Administrator.² The Coalition and DRA believe the FCC will not take issue with an interim arrangement achieved by industry consensus.

The Coalition and DRA also propose the establishment of an industry advisory committee to serve as a "buffer" between the Commission staff and Pacific. Since Pacific will clearly have to provide some of the training that Commission staff will require on code administration, and since it is inevitable that Commission staff will need a source of ready expertise and experience to refer

from Pacific to the Commission staff, it is imperative for the Commission to assign a high level of priority to this project and

² Section 251(e)(1).

to, the opportunity exists for Pacific to be too "generous" with its expertise on for Commission staff to rely too heavily upon it. An advisory committee through which communications between Commission staff and Pacific can filter will preserve Commission staff's neutrality as well as the industry's perception of Commission staff as neutral and fair. It will help ensure the confidentiality of the sensitive information Commission staff will gather from the industry, and will provide Commission staff with an alternative source of counsel and direction regarding the functions assumed.

DRA agrees that an industry committee would be useful, but disagrees with the Coalition that Pacific should be necessarily excluded from the industry committee. While DRA does not believe it would be appropriate to deny or restrict access by any part of the Commission staff to representatives of information provided by any Commission regulated utility, it recognizes that neutral code administration by the staff is critical to the success of its discharge of this responsibility.

If DRA's proposal were accepted, the Coalition believes it is an arms-length arrangement among the advisory committee members and would have to be agreed upon so that Commission staff did not simply channel all its questions, concerns (and perhaps, seek inadvertently, information) to the Pacific member of the advisory committee. The Coalition advocates excluding Pacific from a seat on the advisory committee, and ordering Commission staff to interface only with the advisory committee after the initial period of training by Pacific. The Coalition believes the exclusion of Pacific would make the arms-length relationship structural rather than procedural and, therefore, easier to enforce, and will safeguard the sensitive information in Commission staff's custody.

Additional resources must be added to absorb the functions identified on page 12 of the workshop report issued by the GAO on April 12, 1995. While GAO has not projected the cost

GTEC agrees that Pacific may gain certain competitive advantages by serving the dual role of Code Administrator and competitor in the local exchange market. GTEC is equally concerned, however, that the proposed interim cure, the transfer of administration functions to the Commission's staff, may cause additional costs and administrative inefficiencies that eclipse the potential competitive advantage that Pacific may gain from its status. Therefore, unless it is clearly demonstrated that the suggested transfer can be successfully accomplished and will not result in such additional problems, GTEC recommends that Pacific should remain the Code Administrator pending final selection of the new national Numbering Plan Administrator by the NANO.

Although the FCC is not precluded from delegating Numbering Plan Administration to state commissions at some future time, it has elected to pursue the option of using the NANO to resolve this issue. Unless and until such an express delegation occurs, GTEC believes it would be premature for the Commission to transfer the duties of code administration from Pacific to CACD or to any other third party. However, if the Commission continues its efforts to transfer these duties, GTEC believes the Commission should seek authorization from the FCC, and alert Bellcore of its plan. GTEC also believes that the proposal to transfer a portion of the code administration duties from Pacific to the CACD has the potential for process breakdowns and cost overruns if close coordination and communication between the two entities does not take place. Any lack of communication could result in codes being assigned in an untimely or improper manner and then procedural.

In order for the CACD to assume these functions, GTEC believes that additional resources must be added to absorb the functions identified on page 12 of the workshop report issued by the CACD on April 12, 1996. While GTEC has not projected the cost

of such personnel and equipment, the expense of six to ten full-time employees clearly will not be insignificant. GTEC believes the proposed transfer of functions to CACD should be evaluated in light of the potential that the new Administrator selected by the NANO may be an entity other than the CACD.

GTEC advocates that the cost of numbering code administration should be equally allocated among all certificated carriers in California, including wireline and wireless providers. GTEC believes this approach is consistent with the Telecommunications Act. Under the Act, other cost of code administration must be borne by all telecommunications carriers on a competitively neutral basis, which is to be determined by the FCC. (Telecommunications Act) §§ 1251(e)(1) and (2).

GTEC argues that the Utilities Reimbursement Account Fee established pursuant to P.U. Code § 431 is therefore not an appropriate mechanism to allocate the costs incurred by the Code Administrator because it is apportioned based on each telephone company's gross intrastate revenues, which has no direct relation to the industry-wide costs of the Code Administrator.

Pacific

Pacific agrees that the identified competitively-sensitive code administration functions can and should be transferred immediately to CACD on an interim basis until the FCC selects a permanent administrator. Pacific strongly disagrees, however, with the Coalition recommendation that a committee of three to four industry representatives be chosen to advise CACD in its interim code administration functions, and that Pacific be specifically excluded from the committee. Pacific objects to being excluded from any direct communication with code holders and carriers, and to CACD being the sole communicator with code applicants and carriers.

Pacific notes that these suggestions were not even raised by these parties until after the workshop. Pacific argues that the

Code Administrator cannot effectively perform the technical code to assignment functions in a timely manner without direct contact with code holders, code applicants and CACD. Pacific further believes that its exclusion from the industry relief planning process or its exclusion from carrier contacts for code assignments is unnecessary and would violate both the Central Office Assignment Guidelines and the NPA Relief Planning Guidelines. Section 3.3 of the NPA Relief Planning Guidelines requires that all affected industry members be given the opportunity to participate in planning relief.³ Likewise, Section 3.7 of the Central Office Code Assignment Guidelines requires that affected parties be given an opportunity to participate in the process of determining the alternatives for addressing NXX code exhaustion. Pacific is an "affected party" under the guidelines since such parties are defined as those entities who have applied for or received NXX code assignments.⁴

Concerning a funding mechanism for the partial transfer, Pacific believes that the Commission can use the Utilities Administration Reimbursement Accounts Fees (PU Code \$431) on an interim basis to finance CACD's new code administration duties, and that no further legislation would be required for this purpose. Further, Pacific requests that it be allowed to recover its costs as Code Administrator in providing numbering administration to alleviate telecommunications providers.

As an alternative to the above, Pacific has proposed that the Commission transfer the Code Administrator's duties to the Code Administrator.

Discussion
Impacts of FCC Rules

On August 8, 1996, the FCC released its Second Report and Order (FCC 96-333) which addressed, among other things, the merits of the industry relief planning process. Pacific objects to the FCC's exclusion of carriers from the relief planning process and its exclusion from any direct communication with code holders and carriers.

³ See ICCF NPA Relief Planning Guidelines 94-1215-004, Revision 3/8/96.

⁴ See ICCF Central Office Code Assignment Guidelines 95-0407-008, Revision 4/7/95.

of the California Commission's plan for a transfer of CA functions from Pacific to the Commission and its staff. The FCC, however, declined to authorize a transfer of new CA functions to the states. The FCC retained its authority to set policy with respect to all facets of numbering administration (b) by retaining authority to set broad policy on administration matters (1.9) (271) A nationwide uniform system of numbering is essential to efficient delivery of telecommunications service in the United States, according to the FCC. Under the FCC guidelines, subject to FCC implementation. The FCC did allow the states, if they performed any numbering administration functions prior to enactment of the 1996 Act, to continue to do so until such functions are transferred to the new NANP administrator.

The FCC also authorized the states to continue the task of overseeing the introduction of new area codes subject to the FCC's numbering administration guidelines. In addition to requiring the states to continue overseeing area code relief planning by the CA, the FCC further authorized the states to elect to take over from the CA the responsibility for initiating and planning area code relief. At the present time, this responsibility is handled by Pacific in its role as CCA. As explained in the FCC Order, the FCC also explained in the FCC Order that the FCC's role is to oversee the process.

Currently, when an incumbent LEC in its role as CO Code Administrator predicts that NPA exhaust is imminent, it initiates the NPA relief planning process by holding industry meetings, developing an appropriate area code relief plan or plans, and proposing that plan or several alternative plans for the state commission's consideration and adoption. Thus, state commissions do not initiate and develop area code relief plans, but states adopt, codify, or reject the final plan." (315.)

In the event that a state commission elects to take on responsibility for any or all area code relief initiating and planning functions, the state commission must notify the new NANP

administrator within 120 days of the selection of the NANP area code administrator. The state must promptly notify the current CO code administrator if it elects to take over these functions prior to the transfer of such functions to the new NANP administrator. If a state commission does not elect to perform such functions, they will be transferred to the new NANP administrator. The FCC and the Commission emphasize, however, that all state commissions will be continued to be responsible for making the final decision on how new area codes will be implemented, subject to FCC guidelines. Under the FCC 1994 guidelines, numbering administration should (1) seek to facilitate entry into the communications marketplace by making numbering resources available on an efficient and timely basis; (2) not unduly favor or disadvantage any particular industry segment or group of consumers; and (3) not unduly favor one technology over another. (278)

By ALJ ruling dated September 4, 1996, comments were solicited regarding this Commission's jurisdiction over number and CO code administration functions in light of the FCC's Second Order and Report. While the immediate focus of the ALJ ruling was on whether the Commission could conduct a lottery of NXX codes in those NPAs facing imminent code exhaustion, the issue posed in the ruling also relates to the broader question of what role the Commission can or should have in area code relief initiating and planning. We reviewed parties' comments on this issue at some length in D.96-09-087 wherein we approved a plan for lottery-based rationing of NXX codes in NPAs in which a freeze had been declared on code assignments. Parties generally agree that the FCC's delegation of area code relief planning to the states necessarily entails oversight of NXX code allocations to assure that premature exhaust does not occur. Certain CLCs argue that the Commission not only may, but must, act to protect consumer choice for all Californians by assuming responsibility for competitively neutral allocation of codes among numerous California carriers.

Discussion

In resolving parties' proposals for the transfer of certain code administration duties from Pacific to the Commission, we must consider first what authority with respect to numbering resources has been left to the states under the FCC order. To that extent we have discretion to take over numbering administration functions as proposed in the workshop report, we must then consider whether it is in the public interest to take over such functions.

We previously addressed the significance of the FCC's order on our ability to engage in code allocation functions in D.96-09-087 in which we authorized lottery-based rationing of NXX codes in the 310, 415, and 619 NPAs. In that decision we concluded that the FCC rules permit this Commission to settle disputes regarding NXX code allocations and to establish rules for code rationing as long as we act within the context of area code relief oversight and are consistent with FCC policies. In this decision, we consider whether broader responsibilities for code administration functions as proposed in the workshop report can be or should be transferred to the Commission.

In determining the extent of our authority to perform the numbering resource functions as outlined in the workshop report, we must consider the implications of whether we elect to take over full responsibility for area code relief initiation and planning. Even if we were to take over such responsibility in its entirety, we conclude that it would still preclude us from performing new NXX code administration functions which we have not previously performed, as proposed in the workshop report.

A distinction is drawn in the FCC order between code administration versus area code relief initiation and planning. As defined by the FCC, area code relief includes, but is not limited to: directing whether to adopt a geographic split or overlay as a relief measure, establishing area code boundaries, establishing necessary dates for implementing relief plans, and directing public

education and notification regarding area code changes (Sec. 52.19). By contrast, NXX code administration involves the forecasting, tracking, and assignment of NXX codes within an area code. There is a close interaction between the administration of NXX codes and the resulting need for and timing of area code relief. For example, the establishment of dates for implementing area code relief necessarily requires timely input regarding NXX code supply and demand during the relief planning interval.

Based upon the FCC Order, however, unless a particular numbering resource function is specifically required to initiate or plan area code relief, it could not be performed directly by a state commission. Thus, a transfer of new code administration functions to the Commission as proposed in the workshop report is prohibited under the FCC Order.

We recognize that the "competitively sensitive" code administration functions which the CA identifies for partial transfer as presented in the workshop report provide information which is critical for effective area code relief initiation and planning. The first three tasks proposed for transfer involve the ongoing collection, analysis, and verification of carriers' requests for new NXX codes. These code administration functions are necessary in predicting NXX code exhaustion and in timely initiation of NPA relief. We conclude, however, that since the FCC Order prohibits state commissions from taking over new code administration functions, the Commission cannot assume primary responsibility for these functions. Nonetheless, if the Commission took over area code relief planning, it would still have to be extensively and continually advised by the CA regarding the status of code openings in order to competently schedule the implementation of new NPA relief plans. Procedures would be needed to facilitate this ongoing interface between the Commission and Pacific as CA to provide for information exchange, analysis, and other necessary functions for implementing relief plans.

interpretation so that the Commission could translate the billing information into appropriate area code relief measures. The remaining functions proposed to be transferred to the Commission (i.e., facilitation of public meetings and industry meetings regarding code exhaust and jeopardy conditions) obviously involve area code relief planning. Moreover, the Commission staff in cooperation with the CA and other industry participants has already been involved in facilitating these tasks for relief plans currently in progress, as noted above. Thus, under the FCC order, the Commission can continue to perform these functions whether it elects to perform area code relief administration or not.

While the FCC gives the states the option of electing to perform area code relief administration, the question remains as to whether it is in the public interest for this Commission to take on additional responsibility for area code relief functions which have until now been performed by Pacific as CCA. The process of initiating and planning area code relief involves a complex array of tasks which ranges from the initial prediction of code exhaust through the development of a relief plan and the management of code allocations to avert code exhaust before the new area code can be activated. We do not believe it is the best use of the Commission's resources to take over all of Pacific's existing responsibilities for initiating and planning area code relief at this time.

We acknowledge the concern that Pacific's dual role as CCA and the largest LEC competitor creates at least the potential for a conflict of interest. This concern should ultimately be resolved, however, once the NANP number administrator is selected and takes over all code administration functions from Pacific. In the remaining time until this transfer of functions occurs, we conclude that active Commission oversight of Pacific's area code relief administration is our preferred solution. We do not believe it would be economically efficient for the Commission to invest

significant resources in procuring and training new staff to take over the principal responsibility for area code relief and joint administration. Accordingly, Pacific shall continue its existing responsibilities for code administration functions, including area code relief planning, until the NANP administrator takes over these duties.

We do recognize, however, the necessity for active Commission involvement in the monitoring of Pacific to assure it performs NXX code allocations and area code relief functions in a timely, efficient, and competitively neutral manner. Commission oversight is necessary to assure that the CA forecasts NXX code exhaustion early enough to allow for consideration of all feasible relief options and soon enough to avert premature code exhaustion. Moreover, consistent with our findings in D:96-09-087, we can prescribe rules governing how codes are to be allocated in conjunction with area code relief initiation and planning.

In recognition of the growing scarcity of numbering resources in California and the heightened contentiousness of NPA relief plans in an emerging competitive telecommunications environment, we have already begun to take on a more active role in the process of area code relief planning. For example, the Commission staff has been facilitating recent public meetings on area code exhaustion. The Commission staff has conducted workshops to facilitate extraordinary code conservation measures for the 310 NPA. These tasks require cooperative efforts between the Commission staff, the CCA, and other industry participants. As part of the 310 NPA relief plan, we directed Commission staff to determine compliance by 310 NXX code holders with existing industry code conservation guidelines. In D:96-06-062, we directed staff to continue to review code utilization reports for 310 NXX code holders through the spring of 1997. In D:96-09-087, we concluded that FCG rules permitted the Commission to settle disputes regarding NXX code allocations and to establish rules for code

rationing as long as we act within the context of are code relief oversight and in conformance with FCC policies.

We conclude that it is appropriate to extend the responsibilities assigned to Commission staff in D.95-06-062 for the collection and analysis of code utilization rates in the 310 NPA to include all NPAs subject to in-progress NPA relief plan implementation. We shall also authorize Commission staff to

actively monitor Pacific's collection, analysis, and validation of COCUS data for the prediction of area code exhaust throughout the NPAs in California. We intend to exercise proactive oversight of area code relief planning to ensure that numbering resources are managed in a competitively neutral manner and are efficiently utilized to mitigate the risk of number shortages or rationing.

Since we are not taking over all of the functions which have been proposed in the workshop report, the need for additional Commission resources should be mitigated. To the extent that we are increasing the scope of our oversight of Pacific's activities as CA, however, we recognize that some additional staff resources must be devoted to this effort. Accordingly, we direct the Executive Director of the Commission to confer with the

Telecommunications Division Director to undertake the necessary administrative measures to identify any incremental resource needs and to assign those resources so that the Commission can effectively take on the oversight duties as outlined above.

To the extent any Commission budget augmentation is necessary to carry out the duties outlined in this order, we conclude that the Section 431 Utilities Reimbursement Account Fee is a reasonable mechanism for funding.

We disagree with GTEC that the cost of code administration should be equally allocated to all certificated carriers in California, including wireline and wireless carriers. Because of the significant range of differences among carriers in terms of size and revenues, the allocation of an equal charge per carrier would create a disproportionate effect on smaller carriers.

... as long as we act within the context of the code rates. We believe that funding from Section 431 provides a more appropriate funding vehicle by assessing the cost as a uniform percentage of revenues on each carrier. Pacific's request for cost recovery for the code-administration functions which it continues to perform will be given further consideration and addressed in a subsequent decision.

Findings of Fact

1. Decision (D.) 95-08-052 directed the Commission Advisory and Compliance Division (CACD) to hold a workshop to coordinate the selection of a neutral third party to replace Pacific Bell (Pacific) as the California Code Administrator.

2. Although the Federal Communications Commission (FCC) has established a North American Numbering Council (NANC) to select a new Numbering Plan Administrator, it is expected to take several months for the new independent entity to commence local code administration.

3. The continuation of Pacific as the California Code Administrator has raised concerns regarding potential conflict of interest given its role as an incumbent local exchange carrier in a competitive market.

4. Pacific identified a set of competitively sensitive code administration functions which could be transferred to CACD on an interim basis pending action by the NANC.

5. The competitively sensitive code administration functions identified by Pacific are:

- o Collection and analysis of data for central office code utilization survey (COCUS).
- o Initial and ongoing code request validation.
- o Area-code-exhaustion forecasting.
- o Area-code-exhaustion industry planning facilitation.
- o Jeopardy-condition-facilitation.

Public meeting facilitation.

6. The code administration functions identified by Pacific which are not competitively sensitive are:

- o Day-to-day processing and tracking of code requests.
- o Database integrity.
- o Ongoing records administration.
- o Troubleshooting.

7. On August 8, 1996, the FCC adopted its second Report and Order and Memorandum Opinion and Order (Rules) which addressed CO code administration and area code relief planning.

8. Under its adopted rules, the FCC retained jurisdiction for overall code administration policy but permitted the states to initiate and plan area code relief.

9. The process of initiation and planning of area code relief includes the monitoring of the availability of NXX codes development of contingent plans for code rationing where necessary to avert premature code exhaust.

10. The FCC Rules also allow the state to continue to perform any number administration functions which they performed prior to enactment of the 1996 Telecommunications Act until such functions are transferred to the new North American Numbering Plan Administration.

11. The FCC found that the transfer of new CO code administration functions to the states pending the transition to the new NANP would not foster nationwide consistency and that states wishing to assume such responsibilities would lack requisite experience to perform the functions with speed and accuracy.

12. The FCC specifically rejected a proposal by the California Commission to assume responsibility for CO code administration functions on an interim basis.

13. It would not be the most efficient use of this Commission's resources to take over from Pacific the full responsibility for initiating and planning area code relief.

Conclusions of Law

1. The FCC Rules adopted on August 8, 1996 (FCC-333) permit this Commission to exercise oversight and adopt rules regarding NXX code administration in the context of area code relief planning, but the FCC rules do not permit this Commission to assume principal responsibility for new NXX code administration functions.

2. Funding for any additional Commission staff resources to oversee and monitor Pacific's code administration and area code relief planning functions should be provided through the Section 431 Utilities Reimbursement Account Fees.

3. Consistent with the FCC order, Pacific should continue to perform its existing NXX code administration duties until the NANC selects a new national number administrator.

4. The Commission should not elect to assume full responsibility for initiating and planning area code relief, but should devote Commission staff resources to proactively monitor Pacific's code administration duties to assure that area code relief is initiated and planned in a competitively neutral and efficient manner, as set forth in the ordering paragraphs below.

ORDER

IT IS ORDERED that:

1. Pacific Bell shall continue to perform its existing NXX code administration and area code relief planning duties during the transition period until a new NANP administrator is selected and takes over those duties.

2. The same responsibilities assigned to the Commission staff in D.96-06-062 for the collection and analysis of code utilization rates in the 310 NPA to check compliance by NXX code

holders with code conservation guidelines should be extended to include all NPAs subject to in-progress NPA relief plan implementation.

3. The Commission staff shall also be authorized to actively monitor Pacific's area code relief administration, collection, analysis, and validation of COCUS data for the prediction of area code exhaust throughout the NPAs in California to facilitate efficient and competitively neutral allocation of NXX codes.

4. The Commission staff shall continue to perform its existing duties relating to conducting public meetings regarding area code relief and in generally facilitating code conservation among telecommunications carriers.

5. The Executive Director of the Commission shall confer with the Telecommunications Division Director to undertake the necessary measures to assign the resources required to assure the Commission staff duties as outlined in this order can be performed effectively and efficiently.

This order is effective today.

Dated October 25, 1996, at Sacramento, California.

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

Commissioner Daniel Wm. Fessler,
being necessarily absent, did not
participate.

Functions to be transferred

Collection and Analysis of Data for the Central Office Code Utilization Survey (COCUS)

This function is identified in Section 8.1 of the Central Office Code (NXX) Assignment Guidelines.

8.1 Annual COCUS studies will be conducted utilizing projected demand forecasts, provided by code holders (see Section 6.4), to identify NPAs nearing exhaust. The schedule for projected exhaust will be forwarded by NANPA to the appropriate Code Administrator and published in summary format for industry use.

The primary purpose of this function is to identify NPA (area code) relief requirements by predicting NXX code depletion. This function requires the following tasks:

- Distribute the COCUS template requesting current NXX code use and five year forecast of central office codes, (reference appendix Q of Central Office Code (NXX) Assignment Guidelines for COCUS template), to all current codeholders.
- Identify and contact future codeholders for inclusion in five year forecast for each NPA.
- Maintain and update contact list of codeholders for each NPA.
- Review all projections for reasonableness and completeness.
- Develop an independent forecast of potential growth that may not be captured in participating current codeholders and future code holders' projections.
- Monitor changes in industry, technology and regulation, and project impacts on NPA resource requirements.
- Compile and perform independent verification of submitted COCUS data.
- Transmit aggregated Statewide data by NPA (Area Code) to North American Numbering Plan Administration (NANPA) for report generation.
- Identify exhausting area codes that will require relief planning.
- Inform and distribute current and future codeholders of COCUS results where NPAs exhausts are projected in the near future.

The collection of code exhaustion function requires the following tasks:

- Monitor all code assignment activities. (Report to be provided by Pacific Bell for CPUC review)
- Initiate enforcement of non-compliance of Part 4 of Central Office Code (NXX) Assignment Rules document, as identified in Section 6.3.3 of the Central Office Code (NXX) Assignment Guidelines.
- Initiate reassignment procedures as identified in Section 7 of Central Office Code (NXX) Assignment Guidelines as required.
- Initiate audits, if required, as identified in Appendix A of Central Office Code (NXX) Assignment Guidelines.

Functions to be transferred

Initial and Ongoing Code Request Validation
This function is the verification of an applicant's authority to operate in the State of California, (Section 4.0, subsection 4.1), the enforcement of audits and reclamation as required in the confirmation of additional code requests, (Section 4.0, subsection 4.2), code activations, (Section 6.3, subsection 6.3.3), code use changes or code transfers, (Section 6.3, subsection 6.3.1 & 6.3.2), as identified in the Central Office Code (NXX) Assignment Guidelines. This function also includes the settling of appeals as identified in Section 11 of the Central Office Code (NXX) Assignment Guidelines.

- The initial validation function requires the following tasks:
• Confirm an applicant's certification to operate in the State of California, (Provide Pacific Bell with current list).
• Initiate audits as identified in Appendix A of Central Office Code (NXX) Assignment Guidelines as needed.
• Resolve code applicant appeals as identified in Section 11 of Central Office Code (NXX) Assignment Guideline.

- The ongoing validation function requires the following tasks:
• Monitor additional code requests, code use changes or transfer of codes among code holders. (Report to be provided by Pacific Bell for CPUC review)
• Enforcement of special and extraordinary conservation measures related to jeopardy as identified in section 8 Central Office Code (NXX) Assignment Guidelines as required.
• Initiate reclamation procedures as identified in Section 7 of Central Office Code (NXX) Assignment Guidelines as required.
• Initiate audits, if required, as identified in Appendix A of Central Office Code (NXX) Assignment Guidelines.
• Resolve code applicant appeals as identified in Section 11 of Central Office Code (NXX) Assignment Guideline.

- The confirmation of code activation function requires the following tasks:
• Monitor all code assignment activations. (Report to be provided by Pacific Bell for CPUC review)
• Initiate enforcement of non-compliance of Part 4 of Central Office Code (NXX) Assignment Request documents, as identified in Section 6.3.3 of the Central Office Code (NXX) Assignment Guidelines.
• Initiate reclamation procedures as identified in Section 7 of Central Office Code (NXX) Assignment Guidelines as required.
• Initiate audits, if required, as identified in Appendix A of Central Office Code (NXX) Assignment Guidelines.

Functions to be transferred

Area Code Exhaust Forecasting

This function is in addition to the COCUS process. Since the COCUS is done on an annual basis, supplemental tracking and forecasting on a monthly basis. Significant increases in current code holders requests, dramatic changes in growth patterns, emergence of new and not previously identified code applicants, etc. necessitates the need to supplement COCUS data on an area code specific basis.

The early identification of area codes exhaust is needed to ensure compliance with the CPUC statutes on area code exhaust notification and to allow the industry the greatest amount of time possible to develop an area code relief plan.

This function requires the following activities:

- Establish the baseline forecast, as defined by the annual COCUS.
- Document changes to the COCUS data (e.g., Current code holders requests for codes exceed projected requests; Requests from previously unidentified code applicants; Dramatic changes in phone service requests by end users; etc.)
- Develop a refined forecast for all area codes on a monthly basis.
- Identify the earliest projected date of exhaust for all area codes.
- Identify area codes requiring jeopardy status.
- Notify all current code holders, the industry, and the NANPA of the latest projections for all area codes requiring relief planning and/or possible jeopardy measures.
- Monitor exhausting and jeopardy status area codes.
- Announce, plan and moderate Industry meeting(s).

- Document and file report with Commission should issue remain unresolved.
- File plan with Commission.
- Submit plan to NANPA.
- Monitor implementation of final plan.

Functions to be transferred

Area Code Exhaust Industry Planning Facilitation

This function is specifically identified in section 10.0 of the Central Office Code (NXX) assignment Guidelines and the NPA Code Relief Planning Guidelines.

In summary, this function requires the following activities:

- Notify current codeholders and potential code holders impacted by the specific area code exhaust.
- Communicate with NANPA and secure an NPA assignment for the exhausting area code after a proposal has been developed.
- Select and secure meeting location(s) for industry meeting(s)
- Provide detailed area code specific background material and the latest forecast for the exhausting area code.
- Provide and coordinate presentations related to current code usage, revised forecast data, and relevant data on the area code (e.g., City boundaries, political boundaries, key demographic information, and key communities of interest requiring special attention, etc.).
- Coordinate updates of the exhausting area code forecast with the industry's assistance.
- Validate and analyze all updated forecasts for completeness and reasonableness.
- Identify if a jeopardy situation may occur and notify the industry and NANPA.
- Initiate steps to hold meetings to develop conservation measures as needed.
- Moderate and document the industry's planning progress through the following steps:
 - Identification of alternative relief methods.
 - Definition of attributes for all alternatives.
 - Identification of criteria for evaluating relief alternatives.
 - Selection of relief plan.
 - Development of public statements and press releases.
 - Community and end user stakeholder plan for notification and education.
- Document and file final report with Commission should issues remain unresolved.
- File plan with Commission.
- Submit plan to NANPA .
- Monitor implementation of final plan.

Jeopardy Condition Facilitation

This function is identified in section 8.0, subsections 8.3 to 8.6 of the *Central Office Code (VXX) Assignment Guidelines*, which describe the actions to be taken for special and extraordinary conservation measures.

In summary this function requires the following activities:

- Notify current codeholders and potential code holders impacted in the jeopardy area code.
- Select and secure meeting location(s) for industry meeting(s).
- Provide detailed background material and forecast related to jeopardy area code.
- Provide and coordinate presentations on the special conservation procedures that could be invoked.
- Establish workshops or subcommittees to develop NPA-specific procedures for code conservation.
- Coordinate the ongoing update of the jeopardy forecast with the industry's assistance on a monthly basis.
- Moderate and document the industry's progress through the following steps:
 - Identification of special conservation measures to be invoked.
 - Identification and development of NPA-specific extraordinary conservation measures to be invoked.
 - Preparation of a final jeopardy plan.
 - Development of public statements and press releases.
 - Community and end user stakeholder plan for notification and education.
- File number resource management plan with Commission.
- Monitor implementation of jeopardy plan.
- Keep NANPA and the Industry informed.

Functions to be transferred

Public Meeting Facilitation

This function is required by the GPUC Statutes on area code exhaust notification

This function requires the following activities:

- Coordinate a minimum of three public meetings within the area code approaching exhaust.
- Coordinate the notification of the Industry, the Public, and communities within the area code.
- Involve the Industry in the planning and development of the Public meetings
- Contact key stakeholders as required by unique circumstances
- Notify current codeholders and potential code holders of all Public meetings
- Select and secure meeting locations for all required Public meetings and additional Public meetings if requested
- Provide for stenographer to record and distribute transcripts of the meeting
- Provide detailed background material and forecast related to the area code
- Provide and coordinate presentations of the relief plan(s).
- Moderate Industry, Public and key stakeholder discussions
- Document issues requiring additional Industry analysis and coordinate follow-up
- Reconvene and moderate additional Industry meeting if required to resolve open issues.
- File transcripts with the Commission.
- Document and file final report with Commission should open issues remain unresolved.

- File number resource management plan with Commission
- Monitor implementation of jeopardy plan
- Keep NAWPA and the Industry informed

Functions to be retained

Day to day processing and tracking of code requests

This function is the processing of code applicant's submission of Part 1 & Part 2, the formal processing of Part 3 of Central Office Code NXX Assignment Request forms, and the tracking of final confirmation of code activation, Part 4 of Central Office Code (NXX) Assignment Request documents.

This function will not include those activities described in "Functions to be transferred: Initial and Ongoing Code Request Validation"

In summary this function will require the following tasks:

- Provide copies of Central Office Code (NXX) assignment Guidelines as requested by code applicants.
- Educate and train code applicant(s) as needed.
- Provide assistance in identifying potential code conflicts or special needs of the code applicant (e.g., Wireless entities have certain technical limitations that prevents certain codes assignments.)
- Accept Part 1, and when appropriate Part 2, of Central Office Code NXX Assignment Request forms for assignment of NXX code.
- Process Part 3 of Central Office Code NXX Assignment Request forms.
 - a) If assigned, contact code applicant.
 - b) If request is incomplete, work with the code applicant to complete.
 - c) If request is denied, work to resolve issues.
 - d) If assignment is suspended by the CPUC, inform the code applicant.
 - e) If the NPA is in jeopardy, inform the code applicant of the procedures and their options.
- Work with the CPUC and the code applicant if an appeal process is initiated by the code applicant, as identified in Section 11 of Central Office Code (NXX) Assignment Guideline.
- Confirm inputting of data into RDBS and BRIDS by Pacific Bell, as authorized by section 1.8 of Central Office Code NXX Assignment Request - Part 1, with the applicant's submission of Central Office Code NXX Assignment Request forms - Part 2
- Confirm input by code applicant into RDBS and BRIDS within a 5 working day period, if Pacific Bell is not authorized to perform input by section 1.8 of Central Office Code NXX Assignment Request - Part 1.
- Maintain an ongoing tracking database of NXX Code Requests for all code applicants. (See attached example.)
- Track and ensure that the code is opened within the specified 66 days or
- Confirm receipt of Part 4 confirmations and provide status to the CPUC.

Functions to be Retained

Database integrity

This function is the verification and monitoring of inputs into the RDBS and the BRIDS system, as well as, confirmation that the correct data is published in the LERG and TPM and other products based on these systems.

This functions requires the following tasks:

- Monitor discrepancy reports between LERG and TPM.
- Investigate discrepancy, ascertain correct data, and correct appropriate database(s).
- Maintain access to the data sources that populate the different data fields in the RDBS and BRIDS.
- Monitor and manage changes implemented by the Industry to the RDBS and BRIDS databases.

Ongoing Records Administration

This function addresses ongoing administration as information changes takes place due to code reclamation, transfer of codes, changes in NXX code information, etc.

This functions requires the following tasks:

- Monitor and coordinate information changes with all code holders.
- Coordinate with the CPUC that all code transfers are still valid per the Central Office Code (NXX) Assignment Guideline.
- Update records when codes are reclaimed and notify the CPUC.
- Update records or confirm that records are updated when transfer of codes take place due to merger or acquisition and notify the CPUC.
- Update records or confirm that records are updated when changes in the original Central Office Code NXX Assignment Request forms - Part 2 is changed or is no longer valid.

- Confirm inputting of data into RDBS and BRIDS by Pacific Bell, as supported by section 1.8 of Central Office Code NXX Assignment Request - Part 1, with the applicant's submission of Central Office Code NXX Assignment Request Form - Part 2
- Confirm input by code applicant into RDBS and BRIDS within a working day period, if Pacific Bell is not authorized to perform input by section 1.8 of Central Office Code NXX Assignment Request - Part 1.
- Maintain an ongoing tracking database of NXX Code Request for all code applicants (see attached example).
- Track and ensure that the code is opened within the specified 60 days or
- Confirm receipt of Part 4 confirmations and provide status to the CPUC.

Troubleshooting

This function is focused primarily on ensuring that the code applicant's code is in service within the 66 day process, ongoing resolution of network call blocking or billing problems.

This function requires the following activities:

- Monitor systems to ensure that all operational functions are being performed.
- Perform trouble investigations when contacted by code applicant, code holder or network users.
- Analyze and help resolve problems related to misrouted calls or calls that cannot be completed.
- Analyze and help resolve problems related to incorrect billing.
- Expedite solution(s) to trouble reports.