

The Commission, by Secretarial letter of April 11, 1996, informed interested parties of the filing of the NPA Relief Coordinator's petition concerning the 412 area code number shortage, and solicited comments by May 11 and reply comments by June 1, 1996. That letter asked that respondents specifically identify any disputed material facts relevant to the Commission's decision. Commenters generally favored either a split with the City Pittsburgh and the Pittsburgh Airport changing to a new area code (identified as Alternative #3B), or an overlay with a new area code being used for all new service (Alternative #1). Second choice for both camps was a split with Pittsburgh retaining the 412 area code, while the surrounding area and Airport changed to a new area code (Alternative #4A).

Subsequent to the Secretarial letter, Mr. Milby advised the Commission that 412 phone numbers were being depleted even quicker, thus creating a "jeopardy" condition as recognized in the Guidelines and requiring extraordinary conservation measures. Industry members met in Pittsburgh on May 21, 1996 to discuss this emergency. By letter-petition of June 12, 1996, Mr. Milby stated the participants had reached consensus on interim number conservation procedures. That letter-petition, identified with the original area code relief petition, asks that the Commission approve the agreed-upon interim procedures described to address the emergency.

DISCUSSION

The Commission received comments from a number of telecommunication service providers, from residential customers and businesses, from entities representing

collective interests, from the Office of Consumer Advocate and the Office of the Small Business Advocate. Although the service providers disagreed on the results of instituting the various options, no one raised a disputed material fact that would require evidentiary hearings, nor can we imagine how such hearings would aid resolution of this issue. The written comments adequately express their drafters' views on how the decision should be made.

The Guidelines, in Section 5, describe in detail the "split" and "overlay" methods.² Section 5.1 describes the split method, which is simply the creation of two (or more) geographic areas, with one retaining the old NPA code and a new code for the newly-defined area. As the Guidelines recognize, this has been used for practically all NPA relief prior to 1995. The public is generally familiar with this method. Section 5.3 describes the overlay method generally, and 5.3.1-.4 describe four types of overlays. An overlay occurs when a new NPA code is used in the same area (or areas) covered by the code which is facing the number shortage. Numbers from the new code will be assigned for all new growth. The Guidelines note that ten-digit dialing will be required for many customers once a new area code is overlaid upon an existing area code, so ten-digit dialing is recommended for all local calling. This is part of the proposal for overlay in the Pittsburgh area, *i.e.*, every phone call would require use of all ten digits. An advantage of the overlay noted in the

² The Guidelines also describe the "boundary realignment" method, but that is not usable here.

Guidelines is that the "permissive dialing period" can be eliminated, so new numbers become available sooner.

There can be little doubt that customers would prefer no change, since any of the proposals will produce some confusion, will have costs and will create inconvenience. However, with a number shortage some change is unavoidable. Not surprisingly, several incumbent telecommunication service providers (known as Incumbent Local Exchange Carriers, or "ILECs"), who have a substantial number of customers, prefer to have an overlay, since this would be most advantageous to them. Conversely, competitors just entering the market and providers of new services prefer a split, since this would reduce a competitive disadvantage that might occur if their customers believed they would need a new phone number only if they chose to deal with a new provider.

The Hickory Telephone Company, the Yukon-Waltz Telephone Company, The Citizens Telephone Co. of Kecksburg, the Local Government Academy, the Latrobe Area Chamber of Commerce, the Township of Shaler, Youth Guidance, Inc., Mt. Lebanon, the Laurel Business Institute, Three Rivers Youth, Bethel Park, and the Enterprise Corporation³ all expressed support for use of an overlay, citing the cost of changing such things as stationery as the principal reason for opposing a split. The three small telephone companies expressed the belief that their customers would be unaffected by an overlay, and that only

³ Some Philadelphia-area entities submitted comments concerning the 412 NPA. We will consider their comments in another proceeding, not this proceeding.

"new" customers would have to bear the burden of a new area code. We do not know what the growth expectations are for these companies, but absent a supply of unused phone numbers, their new customers (or existing customers who add new lines) would also face using a new NPA code with an overlay. These three companies understood that ten-digit dialing for *all calls* would be mandatory with an overlay; most of the others listed above did not mention the necessity of ten-digit dialing for local calls, and they may not have realized this requirement is part of the proposal.

Jeffrey Carpenter is a residential customer who prefers an overlay, contending the cost and inconvenience of changing devices such as fax machines, burglar alarms and cellular phones to reflect a new area code militates against a split. He realizes that with an overlay such equipment would also have to be changed, although it would not be as much equipment at the same time, but neither choice insulates customers from such chores. Mr. Carpenter contends customers need to get used to the idea of dialing ten-digits for all calls, since he believes this is inevitable. We agree. Mr. Carpenter refers to Maryland's implementation of an overlay plan, which we discuss below.

Maryland determined an overlay would be suitable because it will work best with "local number portability," with a customer using the same phone number no matter who provides service. Long-term number portability will probably require ten-digit dialing, so one of the objections to an overlay would be less significant. There is little point in using a split when long-term number portability will occur in the near future, since a customer will

have a unique ten-digit number that will "follow" that customer wherever he goes. Although long-term number portability is not yet available in Pennsylvania, an interim solution using remote-call forwarding is now available.

The Commission agrees that local number portability is important and urges that it proceed. The local exchange carriers (LECs) should move quickly to implement the long-term national number portability solution which was recently mandated by the Federal Communications Commission to begin by the third quarter of 1997.

The North Pittsburgh Telephone Company (NPTC), Bell Atlantic NYNEX Mobile (BANM), Bell Atlantic-Pennsylvania (BA-PA) and GTE North Inc (GTE) all support an overlay. NPTC argues that an overlay is fairest, will cost the least, will not "confer competitive advantage or disadvantage," and will be least confusing to customers. NPTC also states number portability will necessitate ten-digit dialing so customers may as well get used to it. BANM argues overlay is cost-effective, that all providers "will be treated fairly," that it will not impose costs on businesses or consumers, that the "Maryland precedent" should be used here and that wireless customers would be unfairly burdened under a split. BA-PA argues that with an overlay everyone will get to keep their existing phone numbers, that the spiraling demand for new numbers is shortening the intervals between splits, and advanced arguments parallel to those made by BANM and NPTC. GTE recognizes that the main problem with an overlay is ten-digit dialing, but states this should not deter use of an overlay since GTE implemented eleven-digit dialing for "home NPA toll calls" and has had

only a handful of complaints. GTE comments, p. 3. GTE refers to the Commission's disposition of a formal complaint against its use of eleven-digit dialing for toll calls within the home NPA. GTE comments, p.4.

The statements by BA-PA about phone numbers having to change with a split but not with an overlay are correct. Moreover, with number portability, if a customer changes to another service provider, he can keep his existing number. We believe customer confusion may occur with either a split or an overlay. Customers may find that many familiar phone numbers have changed under a split. On the other hand, with an overlay they will know that existing phone numbers have not changed. While they will have to get used to a new area code, they will know it covers the same geographic area as the old one, and municipalities will not be split into different codes.

The Commission believes the overlay proposed here can be competitively neutral. BA-PA states that all telecommunication service providers will be treated equally, in that all new service will be under the new area code once existing CO codes are exhausted. Should customers elect to change their local service provider, they can avail themselves of our recently adopted interim number portability solution which now permits customers to keep their 412 telephone numbers. This interim solution will serve customers during the transition to the national number portability solution.

Parties favoring a split and opposing overlay are Sprint Spectrum L.P. (Sprint), Teleport Communications Group Inc.(TCG), AT&T, The United Telephone Company of

Pennsylvania/Sprint Communications Company Inc. (United), MCI Telecommunications Corp. (MCI), MFS Communications Company Inc. (MFS), the Washington Hospital and George Foster. Mr. Foster claims that businesses would not want to have more than one area code in the same office. Sprint claims there would be customer confusion as to what constitutes a toll call with an overlay. United claims that requiring competitive local exchange carriers (CLECs) to use the new area code would place them at a disadvantage to BA-PA, which would retain the existing area code. United also claims that local number portability is not close to occurring in Pennsylvania, so the use of an overlay should not be premised on portability in the near future. We disagree. As previously discussed, interim number portability is available now and long-term number portability will begin next year. With portability, an overlay is the most practical means of addressing number shortages. It would not be prudent regulation to cause customers as well as carriers to bear the substantial costs associated with a geographic split, only to implement an overlay in the not so distant future. The overlay method of addressing the number shortage seems to be the least disruptive when area code relief is needed, since the alternative would be to have smaller and smaller geographic divisions. Not implementing an overlay in the 412 area at this time would only delay the inevitable.

MFS contends that with an overlay the occurrence of multiple area codes at the same premises, coupled with ten-digit dialing for all calls, would thoroughly confuse customers. MFS also contends customers are familiar with splits and splits can be

Implemented with fewer technological glitches now. MFS cites customer surveys showing preference for splits instead of overlays. MFS also cites the FCC decision in Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, 10 FCC Rcd 4596 (1995)(Ameritech) for the proposition that an overlay that provides competitive disadvantages is impermissible. In Ameritech, the FCC held that the particular overlay, which would have used the new code for only wireless carriers, provided an unreasonable disadvantage. The proposal before us is not limited to one type of service provider, so we do not believe the proposal conflicts with the Ameritech holding. Both the FCC and this Commission must consider whether a proposal can be fairly implemented. TCG recited the requirements for an NPA relief plan as set forth in Ameritech: (1) resources must be available on an efficient, timely basis to service providers, (2) the plan should not unduly favor or disadvantage an industry segment or consumer group and (3) no technology should be favored. TCG contends the overlay proposed here would transgress these guidelines. We do not believe that this proposed overlay violates the Ameritech guidelines.

MFS discusses the Maryland Commission's recent decision allowing use of an overlay, in Re: New Telephone Area Codes, 165 PUR 4th 344 (1995). MFS contends that Maryland assumed it would have number portability by the time of overlay implementation and premised adoption of the overlay on such availability. However, review of the decision by the Maryland Public Service Commission reveals that it is premised on the notions that ten-digit dialing is inevitable and is already commonplace in the Washington, D.C.

metropolitan area, and that number proliferation means that splits would be more rapid and more disruptive. 165 PUR 4th, 348-350.

TCG and MCI made arguments similar to those of MFS. TCG noted there would be phone book format changes with an overlay, since all ten digits would have to be listed. MCI and TCG state that local number portability is a prerequisite to use of an overlay. MCI points out that use of a split now preserves the option of using either splits or overlays in the future, while use of an overlay would make it impossible to subsequently use a split.

Several parties filed reply comments. Those favoring an overlay disagreed with the TCG view of the Ameritech holding. Generally the parties continued arguments about the relative costs and whether an overlay would be unduly anti-competitive. The OCA correctly notes that any of the plans will cause confusion and disruption. The OCA opined that with an overlay, customers would be unaware of whether a call was a toll call. OCA feels there is substantial value in retaining seven-digit local dialing and that an overlay could disadvantage new service providers. The OCA did not endorse one of the two split proposals over the other. The SBA filed reply comments contending that some of the business benefits (not having the expense of stationery changes, etc.) could be outweighed by the disadvantage to competition for local exchange service that could occur with an overlay. The SBA, however, agrees that number portability may well make an overlay the best choice, but contends that for now the splits are the best options.

The Commission has determined that the advantages of using an overlay outweigh the advantages of a split. From the customer's perspective, the overlay option should be the least inconvenient. This option permits the existing customers to keep the 412 area code, thereby avoiding the costs associated with changing to a new area code. Many of the comments indicated customers place a high value on maintaining their existing telephone numbers. If a split were used, the areas would likely be split again in the not too distant future, leading to more disruptions. As several commenters noted, once an overlay is used, customers will come to understand it and future overlays will be less expensive to implement than splits. As stated above, the FCC has directed that long-term number portability should be implemented starting next year. Local exchange carriers should quickly implement that solution. We expect BA-PA and all other affected LECs to file implementation plans for the 412 area code within ninety (90) days of entry of the FCC order. We also note that the proposed overlay option would require ten-digit dialing for all calls within the old and new area codes.

Since ten-digit dialing is the overlay feature that customers may object to, all LECs should continue the use of seven-digit dialing within the area code to the extent technically feasible and for as long as it remains feasible. Ten-digit dialing should become permissive with institution of the overlay code but should not become mandatory until necessary.

The Commission urges all incumbent local exchange carriers (ILECs) to conserve their existing 412 telephone exchange resources in order to maximize the number of remaining exchanges available to competitive local exchange carriers (CLECs). The Commission also urges ILECs and CLECs to work together to minimize the number of existing customers who will have to have a different area code, under the overlay, for an additional line in their home. As to the extraordinary jeopardy procedures set forth by Mr. Milby in the letter of June 12, 1996, we expressly approve the procedures on which the industry came to consensus. The principal feature of the plan is that only up to seven CO codes total will be assigned to service providers per month until NPA relief is fully implemented (on or about June 30, 1997). The assignments will be on a first come first served basis, with procedures for requesting codes and for under and over amount requests. Finally we note that TCG had proposed a particular solution to number shortages, which is set forth in an attachment to Mr. Milby's letter. We urge industry participants to consider and explore all options, including new technology, to address number shortages. The goals of increased competition and new services should not be contrary to customer convenience and preferences, nor should some customers benefit while others suffer; THEREFORE,

IT IS ORDERED:

1. That the petition of the NPA Relief Coordinator is granted in that the Commission determines the 412 Area Code Relief Plan Alternative #1, by which the existing 412 area has a new area code overlay to be used for new service, shall be implemented.

2. All LECs shall continue the use of seven-digit dialing within each area code to the extent technically feasible and for as long as it remains feasible. Ten-digit dialing may become permissive with institution of the overlay code, but should not become mandatory until necessary.

3. That the extraordinary jeopardy procedures set forth as an industry consensus in the letter of June 12, 1996 from D. Wayne Milby, NPA/Code Administration, are expressly approved.

4. That this proceeding is hereby terminated.

BY THE COMMISSION:



John G. Alford

Secretary

(SEAL)

ORDER ADOPTED: June 20, 1996

ORDER ENTERED: September 12, 1996

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265**

**PETITION OF NPA RELIEF COORDINATOR
RE: 412 AREA CODE RELIEF PLAN**

**PUBLIC HEARING -
JUNE 20, 1996
JUN-96-L-82*
DOCKET NO. P-00961027**

STATEMENT OF COMMISSIONER JOHN KANGER

Like many people across the country, Pennsylvanians are increasingly using the telecommunications network to become more efficient in their jobs and to better use time at home. The benefits of this increasing use of the network are real and measurable. Unfortunately, problems associated with the increased use of the network can be real and measurable. Today, the Commission deals with one of these problems, a telephone number shortage in the 412 area code.

To put it plainly, there is no painless answer to this shortage. No matter what course the Commission adopts, the Commission's decision will inconvenience some consumers.

The cause of the number shortage is the communications explosion that is rapidly sweeping through society. Second phone lines are being installed at a record rate. Faxes, beepers, and other products are proliferating. The result is that the supply of numbers is being gobbled by number-hungry consumers.

Indeed, the supply of numbers is declining so rapidly that the days of 7-digit phone calling may be nearly over. Certainly the days when an area code would last 20 years or so are long gone. Now any new area code that this Commission may establish through a geographic split may last for as much as 8 years and as little as 4 years.

Two solutions have been proposed. The first would split the 412 geographic area into two separate area codes. The geographic split would require a substantial number of families and businesses to learn the new area code. Additionally, every business in the new area code would have to pay for new company literature, stationery and advertisements with the new area code number.

If the geographic split is maintained as the normal policy response to number exhaustion, consumers will be squeezed more rapidly into smaller geographic areas that eventually may be little bigger than zip codes. Moreover, on an increasingly frequent schedule, some consumers will have to expend funds to update stationery and advertising to reflect yet another area code.

The second solution is called the overlay plan. An overlay would assign a new area code to the same geographic area and require all phone calls to be made dialing 10 digits as opposed to the current system of 7 digit dialing. The overlay plan would allow for the unlimited expansion of 10 digit telephone numbers. It, however, will also inconvenience many consumers.

In a highly mobile society, the telecommunications network must have the ability to let people keep the same telephone number even when they move or change phone companies.

Number portability has also been identified as one of the most important technological advancements necessary to achieve real competition for local exchange telephone customers. This Commission noted in the recent NPS Application that number portability was essential to local telephone competition. Without number portability, most customers will not switch phone companies, since a change of phone companies would require a change of numbers.

The overlay plan has been criticized as anti-competitive by competitive local exchange companies (CLECs), because it would disproportionately affect their customers. The CLECs also do not believe a permanent number portability solution will be in place by the time relief is necessary for the 412 area code. This criticism should not be ignored. Competition is vital to Pennsylvania's telecommunications future, and this Commission is required to promote and protect competition by Chapter 30.

If number portability is not available to allow customers in the existing 412 area code to retain those numbers, the overlay plan would, indeed, be highly anti-competitive. The interim number portability utilizing call forwarding technology is not a good long-term solution, because it penalizes the CLECs by imposing a cost only on the CLECs.

On July 13, 1995, the Federal Communications Commission (FCC) adopted a Notice of Proposed Rulemaking in CC Docket No. 95-116 seeking comments on technical and policy issues relating to number portability. On March 14, 1996, the FCC issued a Public Notice seeking comment on how the passage of the 1996 Telecommunications Act may affect development of number portability. Aggressive action on the part of the FCC and this Commission on deployment of a permanent number portability system

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is essential to the success of the overlay plan and local exchange competition in Pennsylvania.

If the Petitioners cannot guarantee by July 1, 1997 the existence of a permanent number portability system before the need to implement a new numbering system for the 412 area code, then the geographic split plan should be used. So far, no such guarantee has been offered.

Given all these considerations, my preference would be to approve conditionally an overlay plan. I would condition approval on the existence of a permanent number portability system by July 1, 1997 which is the date by which a new area code must be in place. If this condition could not be met or guaranteed, then I would implement a geographic split.

Unfortunately, the majority of this Commission is not willing to condition appropriately an overlay plan. Consequently, I cannot support the majority view.

Finally, to allow LECs to continue offering 7 digit dialing after implementation of the overlay plan makes the majority proposal seriously anti-competitive. As I understand the majority's proposal, an existing monopoly customer can maintain 7 digit dialing so long as they stay a customer of the local phone monopoly. If that customer were to switch to a new phone company and receive a new telephone number and area code, then the customer would have to start 10 digit dialing. Obviously, that is a substantial and unfair competitive advantage for the existing monopolies.

For these reasons, I dissent.

June 20, 1996

DATED

John Hanger

JOHN HANGER, COMMISSIONER

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

**PETITION OF NPA RELIEF
COORDINATOR RE: 412 AREA
CODE RELIEF PLAN**

**PUBLIC MEETING-
JUNE 20, 1996
DOCKET NO. P-961027
JUN-96-L-52***

STATEMENT OF COMMISSIONER DAVID W. ROLKA

I share the concern that an overlay plan which requires mandatory 10 digit dialing for local and toll calls alike will cause customer confusion. Adoption of a geographic split plan will permit continued seven digit dialing for local calls within the area code for at least five more years based on the projection that a relief plan adopted by July 1, 1996 will last somewhere between five to nine years. I also agree that competitive local exchange companies (CLECs) will be competitively disadvantaged because each new customer would be required to obtain a new telephone number. It has been suggested that an overlay plan at this time would not provide nondiscriminatory access to telephone numbers by all telecommunications providers in contravention to Section 251(b)(1) of the Telecommunications Act of 1996. I believe that this concern, as well as the potential for an overlay plan to constitute a barrier to market entry in contravention to Section 253(a) because of its disproportionate impact on CLECs, are further reasons why a geographic split should be adopted at this juncture.

I do not quarrel with the observation that the telecommunications industry is evolving toward a mandatory 10 digit dialing convention. I also recognize that with the implementation of local number portability, 10 digit dialing is required. I cannot accept, however, this rationale as a basis for adopting an overlay plan at this time, given that the time frame for implementing local number portability remains presently uncertain. The FCC is soon expected to issue a final rule to prescribe a national number portability framework. Implementation of that framework will not be immediate and will be phased in. Local number portability will establish a truly competitively neutral framework within which CLECs and incumbent LECs can operate. Given that local number portability is not a viable near term reality, I cannot endorse this rationale as the basis for an overlay plan. It is particularly troublesome to rely on the rationale that an overlay plan is appropriate at this time because local number portability is clearly on the horizon of being implemented, when the CLECs posit that an overlay plan will competitively disadvantage them at the present time. The comments of United/Sprint aptly make this point:

If a geographic split is adopted now, CLECs will have an opportunity to begin offering local service and acquire customers in existing area codes within a level-playing field NPA environment. The anti-competitive concerns that CLECs face today as the local market is just beginning to open may be different in the future, once true local

number portability is implemented. The Commission's decision regarding an area code relief plan today should be based on the current dynamics of the telecommunications environment.

United/Sprint Comments, p. 6. The anticompetitive implications arise via an overlay approach by virtue of requiring the CLECs to undertake the new area code NXX assignments while reserving the present area code NXX assignments to the incumbents. Although it has been posited that interim number portability will allow customers to retain their existing telephone number if they choose to switch local service providers, the interim solution is technically deficient and inefficient. The deficiencies adversely impact quality of service and the inefficiencies will accelerate the area code exhaust because a second set of NXX numbers is required for each "portable" telephone number.

The introduction of local exchange competition has accelerated the exhaust situation in the 412 area code, and at the same time makes the decision regarding the appropriate relief plan a critical one to assure that the Commission establishes a level playing field for all competitors. I believe that an overlay plan will undermine the Commission's efforts to foster local exchange competition and will only foster customer confusion. For these reasons, I support the staff recommendation to adopt a geographic split, identified as alternative # 4A.

June 20, 1996
DATED

David W. Rulka
DAVID W. RULKA, COMMISSIONER