STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: http://www.dps.state.ny.us

PUBLIC SERVICE COMMISSION

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LAWRENCE G. MALONE
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Secretary

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 9, 1998

DOCKET FILE COPY ORIGINAL

Hon. Magalie Roman Galas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

RE: In the Matters of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 et al., CC Docket No. 96-98, CC Docket No. 95-185, NSD File No. 96-8, CC Docket No. 92-237, and IAD File No. 94-102

Dear Secretary Galas:

Enclosed for filing is an original and eleven (11) copies of the Motion for Leave to File Supplemental Petition, Supplemental Petition for Reconsideration, and Affidavit in Support of Supplemental Petition for Reconsideration of the New York State Department of Public Service submitted in the above-captioned matter.

Sincerely,

Lawrence G. Malone

Lawrence G. Malone
General Counsel
New York State
Department of Public Service
Three Empire State Plaza
Albany, New York 12223

Enclosure

cc: A. Richard Metzger, Jr.
Chief
Common Carrier Bureau
Federal Comm. Commission
1919 M Street, N.W.
Washington, D.C. 20554

Geraldine Matise
Chief
Network Services Division
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 1, 1998

Janice Miles
Common Carrier Bureau
1919 M Street, N.W., Room 544
Washington, D.C. 20554

RE: In the Matters of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 et al., CC Docket No. 96-98, CC Docket No. 95-185, NSD File No. 96-8, CC Docket No. 92-237, and IAD File No. 94-102

Dear Ms. Miles:

Enclosed is the Motion for Leave to File Supplemental Petition, Supplemental Petition for Reconsideration, and Affidavit in Support of Supplemental Petition for Reconsideration of the New York State Department of Public Service submitted in the above-captioned proceeding.

Sincerely,

Cheryl L. Callahan

Cheryl L. Callahan
Assistant Counsel

Enclosure

RECEIVED

JAN 2 0 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matters of	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185
	)	
Area Code Relief Plan for Dallas and Houston, Ordered by the Public Utility Commission of Texas	)	NSD File No. 96-8
	)	
Administration of the North American Numbering Plan	)	CC Docket No. 92-237
	)	
Proposed 708 Relief Plan and 630 Numbering Plan Area Code and Ameritech-Illinois	)	IAD File No. 94-102

MOTION FOR LEAVE TO FILE SUPPLEMENTAL PETITION FOR RECONSIDERATION

FILED BY
THE NEW YORK STATE
DEPARTMENT OF PUBLIC SERVICE

Dated: Jamuary 9, 1998
Albany, New York

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matters of	)	
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MOTION FOR LEAVE TO FILE SUPPLEMENTAL PETITION FOR RECONSIDERATION

FILED BY
THE NEW YORK STATE
DEPARTMENT OF PUBLIC SERVICE

INTRODUCTION AND SUMMARY

The New York Department of Public Service (NYDPS), pursuant to 47 C.F.R. §1.106(f), hereby moves for leave to file the attached Supplemental Petition for Reconsideration (Supplemental Petition) in the above-captioned proceeding.

The NYDPS filed a Petition for Reconsideration (Petition) on October 6, 1996. The Petition seeks reconsideration of the portion of the Federal Communications Commission's (Commission) Local Competition Second Report and

Order that requires 10-digit dialing uniformly throughout the United States on intra-state calls when an area code overlay is instituted (Petition p. 2).

Since the Petition was filed, new information has become available and circumstances relevant to the Commission's deliberations have changed significantly. New information, available as a result of a New York Public Service Commission (NYPSC) proceeding instituted to determine the best way to provide additional central office codes in New York City,[2] shows that an area code overlay can be structured with competitively neutral conditions. The overlay plan approved by the NYPSC provides pro-competitive numbering relief consistent with the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Further, the Court of Appeals for the Eighth Circuit has decided in California v. FCC, 1274 F.3d 934 (8th Cir. 1997) that the Commission lacks jurisdiction to promulgate dialing parity rules for intraLATA calls.

The impending exhaustion of central office codes in New York City,[3] the results of the NYPSC's investigation and the

---

[1] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, FCC 96-333, 61 Fed. Reg. 47284 (1996) (Local Competition Second Report and Order).

[2] NYPSC Case 96-C-1158 - Proceeding on Motion of the Commission to Investigate the Options for Making Additional Central Office Codes Available in the 212 and 917 Area Codes in New York City.

[3] It is anticipated that New York Telephone Company (New York Telephone) will exhaust all available central office codes in the 212 area code in June 1998, the 718 area code in early 1999, and the 917 area code in late 1999. Thus, number relief for the 212 area code must be provided by early 1998 and for the other area codes in New York City shortly thereafter.

Eighth Circuit decision are relevant and material to the issues raised in the NYDPS's original Petition. Accordingly, the NYDPS requests permission to file the attached Supplemental Petition.

Respectfully submitted,

Lawrence G. Malone
General Counsel
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, New York 12223-1350
(518) 474-2510

Of Counsel

Cheryl L. Callahan
Assistant Counsel

Dated: January 9, 1998
Albany, New York

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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SUPPLEMENTAL PETITION FOR RECONSIDERATION

FILED BY
THE NEW YORK STATE
DEPARTMENT OF PUBLIC SERVICE

Dated: January 9, 1998
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SUPPLEMENTAL PETITION FOR RECONSIDERATION

FILED BY
THE NEW YORK STATE
DEPARTMENT OF PUBLIC SERVICE

INTRODUCTION AND SUMMARY

On October 7, 1996, the New York State Department of Public Service (NYDPS) filed a Petition for Reconsideration (Petition) of the Federal Communications Commission's (Commission) Local Competition Second Report and Order.[1] NYDPS sought reconsideration of that portion of the Local Competition Second Report and Order that required 10-digit dialing on local calls when an area code overlay was instituted (Petition p. 2).

---

[1] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 FCC Docket No. 96-98, Second Report and Order Memorandum and Opinion, FCC 96-333, 61 Fed. Reg. 47284 (1996) (Local Competition Second Report and Order).

The Commission has not acted on the NYDPS's petition.[2] The NYDPS hereby supplements its petition with new information related to number relief in New York City (Point I). We also draw the Commission's attention to recent case law that supports the NYDPS's request that the Commission refrain from imposing 10-digit dialing on local telephone customers. Since the NYDPS's Petition was filed, the Court of Appeals for the Eighth Circuit issued a decision in California v. FCC, 124 F.3d 934 (8th Cir. 1997). The Court vacated the Commission's dialing parity rules (47 C.F.R. §§ 51.205 - 51.215) as applied to intraLATA telecommunications.

DISCUSSION

I. Mandatory 10-Digit Dialing Is Not Necessary To Promote Competition

The stated purpose of the Commission's 10-digit dialing requirement is to prevent dialing disparity and to ameliorate anti-competitive effects of an overlay (Local Competition Second Report and Order at 47329-47331, para. 281 - para 293).[3] New information, disclosed in a New York Public Service Commission (NYPSC) proceeding investigating the options for making

---

[2] It is anticipated that all available central office codes will be exhausted in the 212 area code (which serves the New York City borough of Manhattan) by June 1998, the 718 area code (which serves the other four New York City boroughs) by early 1999, and the 917 area code by late 1999. Increased demand may accelerate these dates. Timely action must be taken to ensure the continued availability of new telephone numbers in New York City.

[3] See also, Pennsylvania Public Utility Comm'n for Expedited Waiver of 47 C.F.R. Section 52.19 for area code 412 Relief, FCC Docket No. 96-98, Order, FCC 97-675 12 FCC Rcd 3783 (1997) (Pennsylvania Order).

additional area codes available in the 212 and 917 area codes in New York City,[4] demonstrates that this rule is not required to further the pro-competitive national policies of the Act. In fact, it may impede efficient number administration without furthering competition.

Based on an extensive investigation of options for making additional central office codes available in the New York metropolitan area, the NYPSC found that an area code overlay will provide the greatest number relief in New York City.[5] An area code overlay will provide a longer numbering relief period and significantly less customer inconvenience at a lower overall cost (Affidavit of Allan H. Bausback [Bausback Aff.] ¶ 4). The New York City area has already endured a series of area code changes so further changes should be minimized.[6] Imposition of the Commission's 10-digit dialing requirement would require all callers in Manhattan to dial 10 digits within their area code although most of the consumers, community groups and speakers at NYDPS public statement hearings overwhelmingly support an area

---

[4] NYPSC Case 96-C-1158, Proceeding on Motion of the Commission to Investigate the Options for Making Additional Central Offices Available in the 212 and 718 area codes in New York City.

[5] NYPSC Opinion No. 97-18, Opinion and Order Concerning New York City Area Codes (Issued and Effective December 10, 1997 (NYPSC Area Code Decision) (Attached).

[6] A geographic split was implemented in 1985, whereby the 718 area code was established and assigned to the boroughs of Brooklyn, Queens and Staten Island. In 1992, to further prolong the life of the 212 area code, the Bronx was moved from the 212 area code to the 718 area code. The 917 area code was introduced in 1992 as an overlay to provide further relief to the 212 and 718 area codes.

code overlay without mandatory 10-digit dialing (Bausback Aff. ¶ 5).

The Commission imposed the 10-digit dialing requirement on the premise that, otherwise, dialing "disparities" would exist and place CLECs at a competitive disadvantage. Any potential anti-competitive effects that may exist as a result of dialing "disparities" between customers in the "old" area code and customers in the "new" area code will not occur in New York because the circumstances that exist today have significantly changed since the Commission adopted its 10-digit dialing requirements. Specifically, CLECs have a larger pool of numbers available in the existing area code (Bausback Aff. ¶ 15). Moreover, the area code overlay plan adopted by the NYPSC is competitively neutral. It includes the following provisions:

1. Continued application of the anti-discrimination provisions of the central office code assignment guidelines;

2. Permanent local number portability to ensure competitively neutral access to existing number resources;

3. Implementation of number pooling[7] as soon as it is technically feasible in order to ensure competitively neutral access to unassigned numbers;[8]

4. A comprehensive outreach and education program to acquaint the

---

[7] Number pooling as used here would allow the assignment of telephone numbers from the existing area code(s) on an as needed basis without regard to the company serving the customer.

[8] It is anticipated that number pooling will be introduced in Manhattan by April 1, 1998 and introduced throughout New York City by January 1, 1999, (coincident with the availability of local number portability).

> public with the overlay and its operation.

(Bausback Aff. ¶ 10). These conditions make the overlay competitively neutral and ameliorate potential anti-competitive effects of dialing "disparities" of an area code overlay in New York City.

Enforcement of the anti-discrimination provisions of the central office code assignment guidelines and the availability of permanent local number portability prior to activation of the area code overlay also avoid the need for mandatory 10-digit dialing in all situations. In New York City, permanent number portability will be available as early as April 1998 (Bausback Aff. ¶ 11). The incumbent local exchange company (incumbent LEC) is not guaranteed retention of current number assignments. The market will determine the distribution (or redistribution) of existing number resources. Thus, competitors will have equal access to existing number resources and the development of competition will not be impeded by an overlay. Further, number pooling will be available as an additional safeguard. Barring technical constraints, number pooling may be implemented at or about the same time as permanent number portability (Bausback Aff. ¶ 12).

The Commission expressed concern that CLECs will receive most number assignments from the new area code rather than the existing area code, making the new area code less attractive (Local Competition Second Report and Order at 47330, para. 287; Pennsylvania Order para. 19). This premise is not universally applicable. Although CLECs apparently were unable to

obtain central office codes in many of the approximately 100 rate centers in the Pittsburgh areas (Pennsylvania Order para. 21), the low number of rate centers in Manhattan allows all competitors to obtain central office codes in all rate centers (Bausback Aff. ¶ 8).[9] Moreover, number pooling will ensure that all carriers will have equal access to available numbers in the existing area code regardless of size and timing of market entry (Bausback Aff. ¶ 13)

The CLECs have substantially lower number utilization rates than the incumbent LEC (15% compared with a number utilization rate of 80% for the incumbent LEC) and more available telephone numbers in proportion to their market shares (Bausback Aff. ¶ 14 and ¶ 15).[10] Therefore, CLECs in New York City are not at a competitive disadvantage with respect to number resources. In any event, the new area code is likely to receive rapid usage by both the CLEC and incumbent LEC customers in light of the growing demand for telephone numbers in New York City (Bausback Aff. ¶ 7).[11] This demand will quickly eliminate any perceived anti-competitive effects of an overlay.

---

[9] There are three rate centers in Manhattan (Bausback Aff. ¶ 8).

[10] Although the incumbent LEC has more numbers available on an absolute basis than does its competitors, it actually has fewer numbers in proportion to its market share (Bausback Aff. ¶ 14).

[11] There is no evidence that CLECs will disproportionately have to meet number demand by receiving number assignments in the new area code. In fact, CLECs are more likely to experience customer growth by customers changing carriers; and number portability will allow these customers to retain their current telephone numbers (Bausback Aff. ¶ 13).

In sum, the overlay plan approved by the NYPSC furthers competition and addresses the anti-competitive issues raised by the Commission while providing a longer number relief period than a geographic split. Mandatory 10-digit dialing, however, would not only inconvenience the public but it could impede efficient number administration. Perhaps most importantly, it would not further the Commission's competitive goals. Thus, the Commission's 10-digit dialing requirement should be revoked.

II. The Commission's Jurisdiction To Administer The North American Numbering Plan Does Not Extend To Requiring 10-Digit Dialing For Intrastate Calls

The Local Competition Second Report and Order states that 10-digit dialing is required in area code overlay situations to ensure dialing parity amongst customers in the old area code and customers in the new area code (Local Competition Second Report and Order at 47330, para. 286-287).[12] The Commission relies on section 251(e)(1) of the Communications Act of 1934, as amended by the Telecommunications of 1996 (the Act), in requiring 10-digit dialing when an area code overlay is implemented (47 U.S.C. § 151 et. seq.). The Act gives the Commission exclusive jurisdiction with respect to the North American Numbering Plan. Specifically, the Act authorizes the Commission to "administer telephone numbering and to make such numbers available on an equitable basis." Section 251(e)(1).

The Commission's 10-digit dialing requirement, however, is neither the type of activity envisioned for number

[12] This requirement is implemented by 47 C.F.R. § 52.19(c)(3).

administration nor necessary for the equitable distribution of telephone numbers under the North American Numbering Plan. The Commission's jurisdiction with respect to number administration involves the "coordination and distribution" of telephone numbers and does not extend to dialing parity for intrastate calls. See, California v. FCC, 124 F.3d 934 (8th Cir. 1997) [Wherein the Court held that the Commission exceeded its jurisdiction in promulgating dialing parity rules for intraLATA calls].

The Act requires local exchange carriers (LECs) to provide dialing parity (Section 251(b)(3)). Both the Commission and the states share a common interest in seeing that LECs provide dialing parity -- the Commission with respect to interstate communications and the states with respect to intrastate communications. See, Section 271(e)(2)(b). As stated in our Petition, "there is no indication that Congress intended that the Commission would have authority over dialing parity for intrastate calls, in contrast to other provisions of the Act giving the Commission jurisdiction over number portability (251(b)(2)) and numbering administration (251(e)(1)) (Petition p. 5)." Nothing in the Act grants the Commission intrastate jurisdiction over dialing parity. California v. FCC, 124 F.3d 934, 941-942.

Further, the Act expressly reserves the states' jurisdiction over practices in connection with intrastate communications. The Act specifically states:

> that nothing [in the Act] shall be construed to apply or to give the Commission jurisdiction with respect to...charges, classifications, practices, services, facilities, or regulations for or in

> connection with intrastate communication service by wire or radio of any carrier... (emphasis added).

(Section 152(b)). Such practices include local dialing. As the Eighth Circuit stated in Iowa Utils. Bd. v. FCC, 120 F.3d 753 (8th Cir. 1997), section 152(b) "fences" off the matters within its scope from the Commission. In the Court's words:

> [w]hile subsection 251(b)(3) requires dialing parity at the intrastate level, it makes no reference whatsoever to the FCC. See, 47 U.S.C.A. §251(b)(3). Without a clear grant of authority to the FCC, Section 2(b) stands as a fortification against the Commission's intrusion into telecommunications matters that are intrastate in character.

California v. FCC, at 940. Although the court in California v. FCC limited its holding to intraLATA calls because petitioners did not request relief beyond the intraLATA aspects of the Commission's dialing parity rules, the court's rationale is equally applicable to intrastate calls generally and particularly to calls covered by 47 C.F.R. § 52.19.

The application of the Commission's 10-digit dialing rules "would inappropriately override state regulators' authority to decide what intrastate calling arrangements are best suited to the public interest within their states." U.S. v. Western Elec. Co., Inc., 569 F. Supp. 1057, 1109 (D.D.C. 1982), aff'd sub nom, California v. U.S., 464 U.S. 1013 (1983). The Commission's dialing parity rules (47 C.F.R. §§ 51.205 - 51.215) are no longer valid with respect to intraLATA calls under the holding in California v. FCC. Inasmuch, as Section 152(b) of the Act preserves intrastate jurisdiction to the states, imposing mandatory 10-digit dialing on interLATA intrastate calls is

equally beyond the Commission's jurisdiction. Thus, the Commission lacks authority to impose dialing parity rules governing intrastate calls as a condition to an area code overlay.

CONCLUSION

For the reasons stated herein, and in our October 7, 1996 Petition for Reconsideration, the Commission should vacate its rules that impose 10-digit dialing for intrastate calls in areas served by area code overlays.

Lawrence G. Malone
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Of Counsel

Cheryl L. Callahan
Assistant Counsel

Dated: January 9, 1998
Albany, New York

ATTACHMENT TO SUPPLEMENTAL PETITION FOR RECONSIDERATION
FILED BY THE NEW YORK STATE
DEPARTMENT OF PUBLIC SERVICE

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

OPINION NO. 97-18

CASE 96-C-1158 - Proceeding on Motion of the Commission, Pursuant to Section 97(2) of the Public Service Law, to Evaluate the Options for Making Additional Central Office and/or Area Codes Available in the 212 and 917 Area Codes of New York City.

OPINION AND ORDER
CONCERNING NEW YORK CITY AREA CODES

Issued and Effective: December 10, 1997

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

COMMISSIONERS:

John F. O'Mara, Chairman
Maureen O. Helmer
Thomas J. Dunleavy

CASE 96-C-1158 - Proceeding on Motion of the Commission, Pursuant to Section 97(2) of the Public Service Law, to Evaluate the Options for Making Additional Central Office and/or Area Codes Available in the 212 and 917 Area Codes of New York City.

OPINION NO. 97-18

OPINION AND ORDER CONCERNING
NEW YORK CITY AREA CODES

(Issued and Effective December 10, 1997)

BY THE COMMISSION:

INTRODUCTION AND PROCEDURAL HISTORY

Telephone numbers within New York City (the City) now bear one of three area codes (technically known as "numbering plan areas" (NPAs)): 212 is assigned to landline service in Manhattan; 718 is assigned to landline service in the remaining boroughs, and 917 is assigned primarily to wireless service throughout the City.[1] The 212 area code is expected to run out of available central office codes as early as the first quarter of 1998; the 718 code is now expected similarly to exhaust early in 1999; and the 917 area code is expected to exhaust in fall of 1999.[2]

In an order issued December 31, 1996, we noted the impending exhaustion of central office codes (NXX codes) in area codes 212 and 917 and instituted this proceeding "to determine

---

[1] The 718 code was established in 1985 and initially assigned to Brooklyn, Queens and Staten Island. In 1992, to further prolong the life of the 212 code, The Bronx was moved from 212 to 718, leaving only Manhattan in 212. The 917 code was introduced in 1992, also to provide relief for 212.

[2] These exhaust dates, based on latest estimates by the Communications Division, are sooner than those forecast earlier in the case.

the best way to provide additional central office and area codes in New York City."[1] We directed New York Telephone Company (New York Telephone or the company) to file a report setting out its proposals for achieving that goal and invited persons interested in receiving copies of that report to submit their names to the Secretary. The report, addressed primarily to area code 212, was duly filed on February 27, 1997. In response to requests by staff and a directive from Administrative Law Judge Joel A. Linsider,[2] New York Telephone on May 15, 1997 supplemented its report to provide additional proposals related to area codes 917 and 718, recognizing that 718 was not in imminent danger of exhaust.

To state the matter most generally, New York Telephone discussed two methods for providing the needed relief: a geographic split, which would divide the 212 area into two regions, and an overlay, which would assign all new central office codes in Manhattan to the new area code once 212 had been exhausted.[3] New York Telephone favored the overlay.

On March 5, 1997, a notice was issued convening an administrative conference to structure the proceeding; the notice was served on all parties who had requested copies of New York Telephone's report or had otherwise expressed interest in the case. The conference, held in New York City before Judge Linsider on March 25, 1997, was attended by representatives of the company; the New York City Mayor's Office and the New York

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[1] Case 96-C-1158, Order Instituting Proceeding (issued December 31, 1996).

[2] Case 96-C-1158, Ruling on Scope and Procedure (issued April 16, 1997) (the Scope Ruling), p. 4.

[3] The report also referred to a boundary realignment remedy, which would have assigned a portion of northern Manhattan to the 718 area. (Such a step would resemble that taken in 1992, when the 212 NPA was relieved by transferring The Bronx from 212 to 718.) Boundary realignment was clearly the least desirable remedy on many accounts, and the parties, at the collaborative conference described below, properly agreed that it should be considered no further.

City Department of Information Technology and Telecommunications (the City); AT&T Communications of New York, Inc. (AT&T Communications); Cellular Telephone Company d/b/a AT&T Wireless Services (AT&T Cellular); Teleport Communications Group, Inc. (Teleport); MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. (MCI); Bell Atlantic NYNEX Mobile[1] (BANM); and David Bronston, pro se. Staff of the Department of Public Service (staff) participated, as it has throughout the case, in an advisory capacity.

At the conference, in response to suggestions by various parties that the case involved factual issues warranting discovery and perhaps evidentiary hearings, the Judge invited parties to submit lists of issues on which they might want to conduct discovery. Four parties (MCI, Teleport, AT&T Communications, and BANM) did so. In the ensuing Scope Ruling, he determined that the case involved primarily policy issues and that, while policy judgments could not be made in a factual vacuum, no need had been shown for evidentiary hearings. At the same time, he recognized the need for parties to exchange information, and he therefore authorized the commencement of discovery, which continued throughout the case and elicited considerable information. He also invited written comments critiquing New York Telephone's report and proposing alternative arrangements, as well as replies to those comments, and he scheduled a collaborative conference of the parties, hoping thereby to achieve some consensus. Finally, with regard to the scope of the case, the Judge noted that in instituting the inquiry, we had sought to provide additional number resources throughout New York City, in area code 917 as well as 212. As already noted, therefore, he directed the company to respond more

[1] Now Bell Atlantic Mobile.

substantively than it had to a request from staff that it supplement its report with regard to 917 relief.[1]

Initial comments were duly filed by the City, the State Consumer Protection Board (CPB), BANM, MCI, Sprint Communications Company L.P. (Sprint), and AT&T Communications jointly with AT&T Cellular (jointly, AT&T). Replies were filed by the City, BANM, MCI, AT&T, Teleport, and New York Telephone. The collaborative conference, held in New York City on June 16 and 17, 1997, was attended by New York Telephone, BANM, AT&T Communications, AT&T Cellular, MCI, Sprint, Time Warner Communications Holdings, Inc. (Time Warner), Teleport, the City, the Manhattan Borough President's Office, and Alan Flacks, pro se. Judge Linsider facilitated the conference and staff representatives participated as advisors. Although no consensus could be reached on the fundamental issue,[2] the parties' discussions clarified many of the issues and underlying concerns, and most of the parties regarded the process as a useful one.

Following the conference, staff prepared an options paper (the Staff Paper), in which it reviewed the parties' positions and offered its own evaluation.[3] A copy of the Staff Paper is Attachment A to this opinion and order. On July 22, 1997, Judge Linsider issued the Staff Paper for comment; comments

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[1] Judge Linsider left open the schedule for considering eight-digit local dialing, a long-term remedy staff had requested the company to examine. The company had responded that this measure could be considered only on a nation-wide basis. The Judge questioned that premise, but agreed that the issues presented by eight-digit local dialing were too numerous and complex to be decided in time to provide the needed relief in the 212 NPA.

[2] As noted above, the parties did agree to remove boundary realignment from consideration. In addition, they agreed, whatever else was decided, that existing wireless customers in all five boroughs would be grandfathered in their 917 overlay. That result is adopted, since there is no reason to require those customers to change their area codes.

[3] "New Area Code(s) for New York City: A Description of Options (July 22, 1997).