

APPENDIX A



Federal Communications Commission
Washington, D.C. 20554

208732 :29

DA 98-2463

December 1, 1998

Ms. Helen M. Mickiewicz
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102-3298

Re: Petition of California Public Utilities Commission and the People of the State
of California for Granting Additional Authority to Conduct NXX Code
Rationing; NSD File No. L-98-136

Dear Ms. Mickiewicz:

This is in response to your November 3, 1998, letter requesting additional authority from the Commission to conduct monthly lotteries for NXX codes prior to adoption of an area code relief plan or establishment of an area code relief date. Your letter also requests authority to resolve disputes among industry participants pertaining to the terms and conditions of NXX code rationing.

Section 52.19(a)(2) of the Commission's rules delegates to state commissions the authority to order NXX code rationing pending implementation of area code relief. 47 C.F.R. § 52.19(a)(2). A state commission may exercise this power, however, only after "decid[ing] on a specific form of area code relief (i.e. a split, overlay, or boundary realignment) and [] establiab[ing] an implementation date for that relief."

We understand that extenuating circumstances exist in California, which are unique in the United States. As of December 1998, California will have 23 area codes, more than any other state.¹ Since January 1, 1997, the industry, the California Public Utilities Commission (California Commission), and the North American Numbering Plan Administrator (NANPA) will have implemented 10 area code relief plans.² Furthermore, the majority of California's area codes are in jeopardy.³ The Legislature in California has enacted statutes, to be effective January 1, 1999, which contain detailed meeting and notice requirements designed to "afford affected customers an opportunity to discuss the potential impact of the proposed area code relief options and measures that may be taken to mitigate potential disruptions." California Assembly Bill 2716, adding Section 7931 to the California Public Utilities Code, at (e)(2). The meeting requirements and most of the notice requirements of the statutes must be complied with prior to industry submission of an area code relief plan to the California Commission. According to your letter, by industry practice and by statute, an area code relief

¹ See Petition for Reconsideration by the California Public Utilities Commission and the People of the State of California, filed November 5, 1998, at 5.

² *Id.*

³ *Id.* at 11.

208782

Ms. Helen Mickiewicz
December 1, 1998
Page 2

plan may be adopted only after receiving this industry recommendation.

Recognizing the circumstances that exist in California at the present time, we temporarily grant authority to the California Commission to continue to conserve NXX codes through the use of lotteries, as has been its practice, prior to determining the form of area code relief and the implementation date for such relief.⁴ We are sensitive, however, to concerns that parties may have regarding this limited, additional grant of authority. Therefore, shortly after release of this letter order, we will seek public comment on whether situations exist in California which warrant continuing this grant of authority and the public interest implications thereof. We will also seek comment on the impact this grant of authority may have on the competitive marketplace for telecommunications service in California, and whether this impact could be minimized through the imposition of terms and conditions for continuing this grant of authority.

Accordingly, pursuant to section 251(e)(1) of the Communications Act of 1934,⁵ the authority granted in paragraph 57 of the *Pennsylvania Order*,⁶ and the authority delegated in sections 0.91 and 0.291 of the Commission's rules,⁷ we grant temporary authority to the California Commission to continue to conduct its current central office code rationing measures prior to the implementation of area code relief—including the authority to determine all aspects of how central office codes shall be assigned pursuant to that rationing—until such date as the Bureau concludes its examination of the California Commission's request.

We thank you for your letter, and we look forward to continuing the dialogue initiated by the California Commission relating to the rationing of central office codes.

Sincerely yours,



Yog R. Varma
Deputy Chief, Common Carrier Bureau

⁴ This authority to delegate has been granted to the Common Carrier Bureau. See Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, FCC 98-224, CC Docket No. 96-98, NSD File No. L-97-42, *Memorandum Opinion and Order and Order on Reconsideration*, at paras. 31 and 57 (rel. September 28, 1998) (*Pennsylvania Order*).

⁵ 47 U.S.C. § 251(e)(1).

⁶ See *Pennsylvania Order*, at para. 57.

⁷ 47 C.F.R. §§ 0.91 and 0.291.

APPENDIX B

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 3, 1998

Larry Strickland, Bureau Chief
Common Carrier Bureau
Federal Communications Commission
1919 M. St., NW, Suite 500
Washington, D.C. 20054

Re: *Petition of California Public Utilities Commission and the People of the State of California for Granting Additional Authority to Conduct NXX Code Rationing*

Dear Mr. Strickland:

On September 11, 1998, the Federal Communications Commission (FCC or Commission) adopted FCC 98-224 (hereafter, the Order), which addressed a Petition for Declaratory Ruling regarding are code relief measures adopted by the Pennsylvania Public Utility Commission (PaPUC). In responding to the Petition, filed by Providers of Commercial Mobile Radio Service in Pennsylvania, the FCC elected to go beyond the request for declaratory ruling and, on its own motion, to reconsider "the portion of the *Local Competition Second Report and Order* where [the FCC] delegated authority to state commissions to implement new area codes". (Order, ¶ 23.) The Commission then stated that it was delegating "a limited amount of additional authority to state commissions that will allow them to order NXX code rationing in certain situations". (*Id.*)

The California Public Utilities Commission and the People of the State of California shortly will be filing a Petition for Reconsideration of FCC 98-224. Among other things, the California Public Utilities Commission will ask the FCC to authorize states to implement NXX code rationing after jeopardy has been declared and before a relief plan has been adopted or an implementation date set. In addition, California will ask the Commission to give express authorization to state commissions to resolve disputes among industry participants pertaining to the terms and conditions of a code rationing process. FCC staff have advised the CPUC, however, that Commission action on the Petition for Reconsideration could take some months. In the interim, if the FCC views the California lottery process

to be "state-ordered", the CPUC is acting outside the scope of authority granted in the Order. Further, if the Commission believes states have no authority to resolve industry disputes regarding an NXX code lottery, then the CPUC is acting without authority. FCC staff have advised the CPUC to submit this Petition for Granting Additional Authority to allow the CPUC to resolve any possible uncertainty regarding our authority to oversee the lottery in California or to resolve industry disputes regarding the lottery.

1. The CPUC Requests Additional Authority to Continue to Conduct Its Monthly Lottery

In its Order, the FCC determined that, in light of conditions in Pennsylvania and other states, it would be appropriate to authorize states to order NXX code rationing under certain conditions. Specifically, the Commission decided that state-ordered rationing could only be effected when 1) "the industry has been unable to reach consensus on a rationing plan to extend the life of an area code until implementation or relief", 2) "if the state commission has decided on a specific form of area code relief", and 3) if the state commission "has established an implementation date" for the area code relief plan. (Order, ¶ 24.) To demonstrate the difficulties this rule change presents, we shall describe briefly here the history of the California NXX code lottery process and how that process works.

In 1996, the CPUC sought comments from the parties on code conservation measures. In the comments submitted, several parties proposed a lottery. In D.96-02-062, the CPUC adopted a series of code conservation measures, and ordered the parties to file further comments on the lottery proposals. (D.96-06-062, Ordering Paragraph [OP] 6.c.) In June of 1996, then-California Code Administrator (CCA) Pacific Bell imposed a 30-day code assignment freeze for the 415 and 619 NPAs. On July 19, 1996, Pacific Bell, in its capacity as the CCA, filed a report with the CPUC describing both the results of the 30-day freeze and reporting that, in industry meetings, a consensus was reached "regarding implementation of rationing as well as a lottery when demand exceeds supply". (D.96-09-087, mimeo, p. 5.)¹ The CCA's report was accompanied by industry position papers. Other comments were submitted to the CPUC in July of 1996. In addition, the assigned Administrative Law Judge sought comments from the parties on the implications for California NPA relief planning of the FCC's Second Report and

¹ D.96-09-087 is appended to this letter as Attachment 1.

Order. Following receipt of the CCA report, position papers and several sets of comments, the CPUC issued D.96-09-087 which established a lottery process.

The CPUC's decision adopted the consensus recommendation of the industry with a few exceptions.² For example, industry participants could not agree on what percentage of NXX codes should be assigned as "initial" codes versus for "growth". D.96-09-087 resolved that issue by adopting a 60% initial/40% growth basis for NXX code allocation. (D.96-09-087, mimeo, pp. 23, 35, OP 4.) This conclusion required the CPUC to adopt a modified version of the Massachusetts lottery guidelines. (Id. at 35, OP 4.) In addition, "the industry was unable to agree . . . on whether to give a special protection to carriers of last resort in designing a lottery". (Id. at 19.) In D.96-09-087, the CPUC decided that carriers of last resort with no numbers in a particular wire center were to be placed first on the relevant lottery priority list. (Id. at 23.)

Pursuant to the industry consensus plan, modified and adopted in D.96-09-087, the California lottery is implemented in the following manner: the CCA determines when an NPA should be placed into jeopardy and so informs the industry. The industry then meets, examines the CCA's data, and votes to determine when the NPA should be placed into jeopardy. The CCA then notifies the industry and the CPUC of the jeopardy status. At a planning meeting for the particular NPA, industry participants vote to go forward with a code rationing process by placing the NPA into lottery. The CPUC staff conduct the monthly lottery at the CPUC's offices in San Francisco. A carrier selected to receive one or more codes in the lottery process receives authorization to claim the code from the CCA; the CPUC does not itself assign the codes.³ The CCA then assigns the code(s) to each successful carrier.

This entire process occurs after the NPA in question has gone into jeopardy, but before the CPUC has adopted an implementation plan or set a relief date. Indeed, in many cases, the NPA goes into jeopardy even before the industry planning group has developed recommendations to be submitted to the CPUC. Pursuant to the change to Rule 52.19 (47 C.F.R. § 52.19), California's lottery process, if the

² The CPUC notes that no party appealed D.96-09-087.

³ Pursuant to the Second Report and Order, the CPUC is mindful that it cannot assign NXX codes and has never attempted to do so.

Commission deems it to be a "state-ordered" rationing process, is occurring outside the scope of authority the Commission has granted to state commissions. If the CPUC, however, ceases to conduct the lottery as it has functioned for the past two years, NXX codes in those NPAs already in jeopardy will virtually vanish overnight. That is, they will be assigned in a matter of days on a first-come-first-served basis, and any carrier unable to obtain codes will be denied the opportunity to offer service in those affected NPAs.

In addition, California's area code relief planning process is governed, in part, by Sections (§§) 2887, 7930, and 7931 of the California Public Utilities Code.⁴ These code sections require specific notices to the public and to the CPUC. Section 7930 requires "at least three public meetings in the affected geographical area to give affected subscribers an opportunity to be heard on the potential impact of the [area code relief] proposal". . . . In 1998, the CPUC, working closely with the industry, proposed to the California Legislature sweeping changes to § 7930 to protect both the industry and the public. The Legislature enacted the CPUC's bill, which takes effect January 1, 1999. The revised statute contains even more detailed meeting and notice requirements for implementing area code relief.⁵ All of the meeting requirements contained in the new version of § 7930 and most of the notice requirements must be effected before the industry submits a recommended relief plan to the CPUC. The statute and industry practice require the CPUC to adopt an NPA relief plan only after receiving a recommendation from the industry. Again, this "statutory" process frequently occurs while an NPA is in jeopardy.

The FCC states explicitly in FCC 98-224 that "[i]n delegating authority to the state commissions to implement new area codes, we intended that state commissions would use that authority to implement relief when jeopardy has been declared". (Order, ¶ 32.) For all of the reasons stated here, it is absolutely impossible for the CPUC to implement relief "when jeopardy has been declared". Often an NPA is in jeopardy for more than a year before the CPUC can complete the relief planning process, which by statute must include affording the public the opportunity to participate. Indeed, the industry may vote to place an NPA in jeopardy in order to ensure that NXX codes continue to be available for assignment to carriers until relief can be implemented in compliance with California law and industry guidelines. If the FCC does not reconsider its change to Rule 52.19, the CPUC

⁴ Copies of these statutes are appended to this letter as Attachment 2.

⁵ A copy of the new version of § 7930 is appended to this letter as Attachment 3.

could easily face a situation in which all NXX codes in an NPA are claimed within a few days, while the CPUC would still have to follow the statutorily prescribed area code relief process for many months before relief could be implemented.

2. The CPUC Requests Additional Authority To Resolve Disputes Among Industry Participants Pertaining To The Terms And Conditions Of NXX Code Rationing

In D.96-09-087, at the request of the industry, the CPUC resolved several issues pertaining to how the lottery should be conducted. For example, the CPUC determined that 60% of all new NXX codes assigned should be as initial codes, and 40% as growth codes. Similarly, the CPUC adopted a provision that accorded special protection to carriers of last resort which possessed no numbers in a particular wire center. No party challenged the CPUC's resolution of these disputed issues.

In an October 8, 1998 conference call, FCC staff indicated that this action was beyond the CPUC's scope of authority, and recommended that we seek reconsideration of the Order to resolve this question in the long term. In the short term, we seek additional authority to resolve disputes among industry participants pertaining to how the lottery is to be conducted. The CPUC has scheduled a workshop for mid-November to review the procedures governing the existing NXX code rationing process in California. We anticipate that, once again, the parties will not agree on all terms and conditions, and will seek resolution by the CPUC of disputed issues.

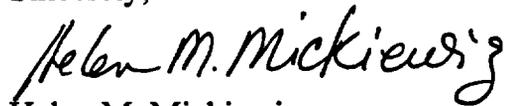
3. Conclusion

For these reasons, California requests that the FCC grant additional authority to the CPUC to continue to conduct its monthly code rationing, or lottery, process. In addition, California requests that the FCC confirm that the CPUC has authority to resolve disputes among industry participants pertaining to the terms and conditions of NXX code rationing. Also, for the reasons described in this request, the CPUC requests that the Commission consider this request on an expedited basis.

Larry Strickland
November 11, 1998
Page 6

Thank you for your attention to this matter. If you have any questions, you may contact me at (415) 703-1319.

Sincerely,

A handwritten signature in cursive script that reads "Helen M. Mickiewicz". The signature is written in black ink and is positioned above the typed name.

Helen M. Mickiewicz
Senior Staff Attorney
California Public Utilities Commission

APPENDIX C

LOCKHEED MARTIN 

Lockheed Martin IMS
NANPA CO Code Administration
1800 Sutter St, Suite 570
Concord, CA 94520
Phone: 925-363-8736
Fax: 925-363-8713

Date: December 4, 1998

To: 707 NPA Industry Planning Participants and Code Holders

From: Fredda Hutchison, CA Code Administrator

RE: 707 NPA Freeze Declaration

After monitoring the activity in the 707 NPA for the last few months, it is apparent that the demand has increased. Because of the current demand for NXXs, as compared to the number of codes available for assignment, 707 is declared in jeopardy and an immediate freeze of code assignments in the 707 NPA is required.

According to the Central Office Code Assignment Guidelines, "A jeopardy NPA condition exists when the forecasted and/or actual demand for NXX resources will exceed the known supply during the planning/implementation interval for relief." The Guidelines also state, "Upon receipt of the notice of the jeopardy situation from the Code Administrator, each code holder *must* review their forecast and demand data and provide the information to the Code Administrator within 30 days using the 'Jeopardy COCUS' form (Appendix E)."

All requests submitted for the 707 NPA will be suspended as a result of the freeze. There will be a 707 NPA Jeopardy meeting held at the NANPA office, 1800 Sutter St., 1st floor conference room, Concord, CA on December 15th, 1998, at 9 a.m. At this meeting a vote will be taken to determine whether the 707 NPA will be placed in "extraordinary measures" and included in the lottery process.

A follow up letter will be issued after the decision is reached on December 15th, 1998, regarding the status of the 707 NPA.

If you have any questions regarding code applications, contact Fredda Hutchison, CA Code Administrator at 925-363-8736. Please fax the Jeopardy COCUS form to 925-363-8713.

RECEIVED TIMEDEC. 4. 8:49PM

- Initial
 Follow-up

JEOPARDY NPA

Central Office Code Utilization Survey Worksheet

Company: _____ NPA: _____

Location (State, Province or Country): _____

COCUS Administrator: _____ Phone: _____

← Actual → Forecasted Requirements →

Description	As of	(+3 mos)	(+6 mos)	(+9 mos)	(+12 mos)	(+18 mos)	(+24 mos)	(+36 mos)
	___	___	___	___	___	___	___	___
1. Reserved Codes								
2. Protected Codes								
3. Plant Test Codes								
4. Special Codes								
5. Local Exchange Carrier Codes								
6. Interexchange Carrier Codes								
7. Commercial Mobile Radio Carrier (CMRS) Codes								
8. Total Codes (Sum of Lines 1 - 7)								

Return completed form to:

No later than: _____

APPENDIX D

LOCKHEED MARTIN



Special California COCUS Results

12/10/98

Lockheed Martin - NANPA

12/10/98

Background

LOCKHEED MARTIN



- ◆ California industry requested NANPA to perform year-end COCUS at September statewide quarterly meeting
- ◆ Special survey form was designed to provide forecasts on a quarterly basis over the next 3 years
 - Each California NPA was included on the form
- ◆ Survey request was faxed to 52 California service providers on October 3, 1998 with requested response by 11/1/98
- ◆ 42 service providers responded to the survey
 - 5 service providers indicated no plans in foreseeable future to provide service
 - 5 did not respond to follow-up call

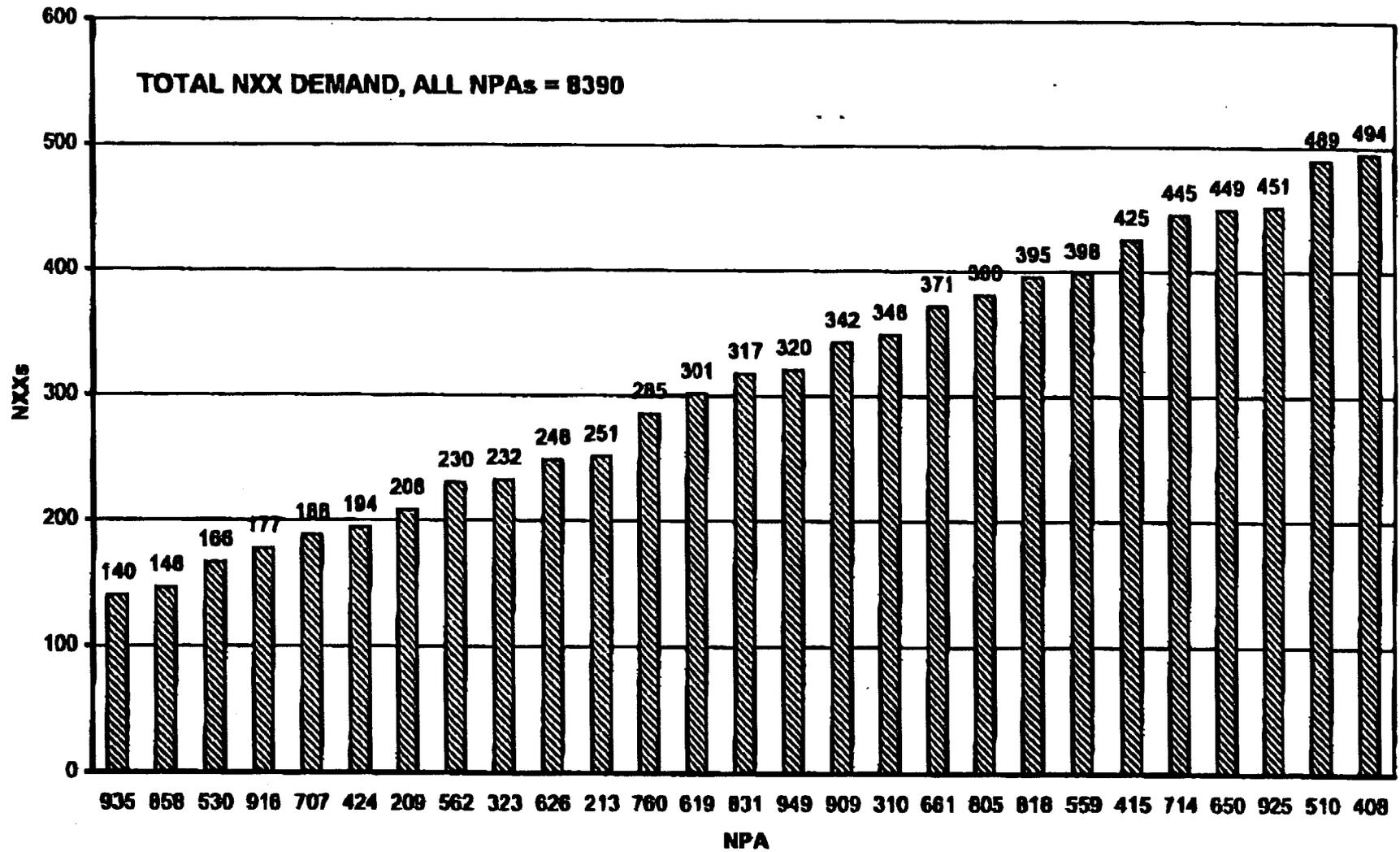
Assumptions

LOCKHEED MARTIN



- ◆ Starting point for each NPA exhaust projection was 11/1/98 list of available codes from NANPA Code Administration
 - ◆ Available NXX codes for each NPA were reduced by the respective quarterly NXX forecasts
 - Exhaust occurs when the available codes = 0
 - ◆ Linear regression analysis was used to project the exhaust of each NPA
 - ◆ For scheduled geographic splits, estimates of available codes were made at the time of relief to project the subsequent exhaust, e.g., 209/559, 805/661, 619/858/935
 - ◆ It was assumed each new NPA relief code provides 780 new NXXs
-

TOTAL FORECASTED NXX DEMAND - 1Q99 TO 4Q01



SPECIAL COCUS FORECAST OF CO CODES (NXXs) IN CALIFORNIA NPAs

NPA	Avail. NXXs 11/1/98	FORECASTED DEMAND FOR NXXs												Totals
		1Q99	2Q99	3Q99	4Q99	1Q00	2Q00	3Q00	4Q00	1Q01	2Q01	3Q01	4Q01	
209	108	26	15	19	14	17	22	17	16	15	15	17	15	208
213	459	22	22	20	18	25	27	19	18	22	18	24	16	251
310	104	62	46	33	28	26	26	21	24	23	20	22	17	348
323	396	28	26	20	17	22	17	15	21	19	13	17	17	232
408	279	49	42	40	45	44	39	38	41	41	38	40	37	494
415	249	33	40	39	38	37	34	34	34	36	33	35	32	425
424	0	7	2	28	30	33	22	14	13	11	12	12	10	194
510	274	49	43	41	41	49	35	38	41	42	37	37	36	489
530	383	18	12	17	13	24	13	13	10	13	14	11	8	166
559	0	37	39	37	38	38	32	35	30	32	28	27	25	398
562	386	22	20	20	22	19	21	16	17	23	15	19	16	230
619	167	34	28	31	26	26	26	24	20	24	21	20	21	301
626	420	26	21	24	22	24	20	18	19	22	17	18	17	248
650	338	44	38	36	38	40	37	34	34	42	35	36	35	449
661	0	39	32	32	29	29	29	27	29	34	29	29	33	371
707	344	27	14	17	11	18	13	18	13	15	16	13	13	188
714	242	62	53	45	46	40	40	34	28	25	20	30	22	445
760	290	26	26	30	23	26	21	26	22	25	18	24	18	285
805	87	47	51	41	39	49	36	26	17	26	16	19	13	380
818	233	61	47	45	41	41	36	25	21	26	14	24	14	395
831	604	28	25	25	25	34	24	28	22	32	24	26	24	317
858	0	12	9	16	19	10	15	10	11	12	11	9	12	146
909	166	41	38	30	32	34	26	26	29	28	16	21	21	342
916	324	22	16	16	13	22	14	13	12	16	11	11	11	177
925	517	56	42	35	35	41	34	33	32	41	33	34	35	451
935	0	9	8	10	11	7	12	16	18	14	10	12	13	140
949	545	51	29	22	22	25	24	22	26	25	24	27	23	320

8390

NO. 3765 P. 6

DEC. 14. 1998 12:51PM

12/10/98

NANPA

APPENDIX E



Federal Communications Commission
Washington, D.C. 20554

208733

December 2, 1998

DA 98-2465

Mr. James J. McNulty
Secretary
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Request for Written Response
CC Docket No. 96-98, NSD File No. L-97-42

Dear Secretary McNulty:

Thank you for your letter of November 25, 1998, with your questions regarding the Pennsylvania Commission's authority to allocate NXX codes in the 215, 610, and 717 Numbering Plan Areas (NPAs) in Pennsylvania. We understand that the situation in Pennsylvania is critical: two North American Numbering Plan Administrator (NANPA) planning letters indicate that both the 215 and 610 NPAs have been completely exhausted since July 31, 1998,¹ and an order of the Pennsylvania Commission indicates that the 717 NPA has been exhausted since May 1998.² Two overlays, one for the 610 NPA and one for the 215 NPA are both scheduled to be activated on May 1, 1999.³ The split of the 717 NPA is scheduled to be completed by April 8, 1999. In all of the NPAs at issue, permissive 10-digit dialing in 215 and 610, and permissive dialing in 717, are scheduled to begin on Saturday, December 5, 1998.

In paragraph 49 of the *Pennsylvania Order*,⁴ the FCC delegated additional authority to the Pennsylvania Commission "to hear and address claims of carriers claiming that they do not, or in the near future will not, have any line numbers remaining in their NXX codes, and will be unable to serve customers if they cannot obtain an NXX code, or that they are using or will have to use extraordinary and unreasonably costly measures to provide service." The FCC stated

¹ See letters from R. C. Breidenbaugh, NANP Administration, dated July 31, 1998 (NANP Planning Letters PL-134 and 135). These letters are available electronically at <<http://www.nanpa.com>>.

² Pennsylvania Public Utility Commission, Petition of NPA Relief Coordinator re: 717 Area Code Relief Plan, *Opinion and Order on Reconsideration*, DN P-00961071 (adopted May 21, 1998).

³ See NANP Planning Letters 134 and 135.

⁴ Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Memorandum Opinion and Order and Order on Reconsideration*, FCC 98-224, CC Docket 96-98, NSD File No. L-97-42 (rel. September 28, 1998) (*Pennsylvania Order*).

200734

Secretary McNulty
December 2, 1998
Page 2

further that, "[if] those carriers cannot serve customers because they do not have numbers, or if they are having to use extraordinary and unreasonably costly measures to obtain numbers in order to provide service before implementation of the new area codes, the Pennsylvania Commission should work with the code administrator to ensure that those carriers have access to NXX codes outside of the rationing plan."⁵

Also in the *Pennsylvania Order*, the FCC sought the North American Numbering Council's (NANC) recommendation as to whether, in the future, the state commissions or the North American Numbering Plan Administrator should perform the function of evaluating whether a carrier that is subject to an NXX code rationing plan should receive an NXX code or multiple NXX codes outside of the parameters of the rationing plan if it demonstrates that it has no numbers and cannot provide service to customers, or is having to rely on extraordinary and costly measures in order to provide service.⁶ The Pennsylvania Commission appears concerned that, because of the referral to the NANC, the FCC may have limited the Pennsylvania Commission's authority to allocate NXX codes in the 215, 610, and 717 areas to carriers that make a showing of extraordinary need, as outlined above. As explained further below, this was not the case. The FCC recognized that the Pennsylvania Commission would need to address carrier requests in an expedited fashion, and therefore granted additional authority to the Pennsylvania Commission to do so.

You requested clarification of the authority granted it in paragraph 49 of the *Pennsylvania Order* in light of a petition from a carrier, which relies on the proposition that the Pennsylvania Commission has authority to allocate NXX codes during the implementation phase of previously ordered area code relief in the 215, 610, and 717 NPAs.⁷ In this letter, we clarify that, to the extent there is a disagreement between the Pennsylvania Commission and the NANPA or the telecommunications industry in Pennsylvania, with regard to carriers' claims that they do not, or in the near future will not, have any line numbers remaining to serve customers, the Pennsylvania Commission shall be the arbiter of the dispute. Below, we address specific questions identified to us by the Pennsylvania Commission.

1. What limitations on the Pennsylvania Commission's authority did the FCC impose in the *Pennsylvania Order* regarding the allocation of NXXs during the implementation phase for previously-ordered area code relief in the 215, 610 and 717 areas of Pennsylvania?

⁵ *Id.* at para. 49.

⁶ *Pennsylvania Order* at para. 51.

⁷ Letter from James J. McNulty, Pennsylvania Public Utility Commission, to Anna M. Gomez, FCC, dated November 25, 1998, at 1.

Secretary McNulty
December 2, 1998
Page 3

208725

Because of the exigent circumstances in 215, 610, and 717, the FCC permitted Pennsylvania's current rationing plan to continue.⁸ In addition, as stated above, the FCC granted additional authority to the Pennsylvania Commission to hear and address carriers' claims that they do not, or the near future will not, have any line numbers remaining in their NXX codes, and will be unable to serve customers if they cannot obtain an NXX code, or that they are using or will have to use extraordinary and unreasonably costly measures to provide service. In addressing those claims, the FCC gave the Pennsylvania Commission guidance on what type of showing carriers should be required to make to support their need for additional NXX codes.⁹ The FCC did not intend to limit the Pennsylvania Commission's options with regard to carriers' required showings. Rather, the FCC's delegation of authority to the Pennsylvania Commission in this context was broad. It did not require industry consensus prior to the Pennsylvania's Commission's decision on carrier applications for extraordinary relief. The only limitation that the FCC put on the Pennsylvania Commission was that any order for relief by the Pennsylvania Commission should not disfavor particular carriers, should not impede carriers' ability to enter the market, and should not put carriers in the position of violating the FCC's rules.¹⁰

2. **What, if any, legal impact/restrictions does the NANC's recommendation have on the Pennsylvania Commission's authority to allocate NXXs during the implementation phase for previously-ordered area code relief in the 215, 610, and 717 areas in Pennsylvania?**

None. The FCC must act upon the NANC's recommendation to give the recommendation legal effect. In addition, the Commission's request for NANC's recommendation on carriers' receiving NXX codes outside of a code rationing plan was not meant to apply to the Commission's delegation in paragraph 49 to the Pennsylvania Commission. The FCC's delegation to the Pennsylvania Commission was separate and apart from its request to the NANC. Thus, the Pennsylvania Commission may request whatever information it deems necessary to review a carrier's request for NXX codes outside of the current rationing plan.

3. **Is absence of industry consensus a necessary predicate to the exercise of the Pennsylvania Commission's authority during the implementation phase for the previously-ordered area code relief in the 215, 610, and 717 areas in Pennsylvania?**

⁸ *Pennsylvania Order* at para. 48.

⁹ See *Pennsylvania Order* at para. 49 (suggesting that evidence may include a carrier's business plan, requests for new service that the carrier has denied due to a lack of numbering resources, and the number of requests for new service received by the carrier).

¹⁰ *Id.*

203733

Secretary McNulty
December 2, 1998
Page 4

The absence of industry consensus is not a necessary predicate to the Pennsylvania Commission's authority to address requests for extraordinary relief in the 215, 610, and 717 NPAs. The Commission recognized the exigent circumstances that Pennsylvania is facing in those areas, and expressly delegated authority to the Pennsylvania Commission to ensure that carriers lacking adequate numbering resources have access to NXX codes outside the Pennsylvania Commission's rationing plan. Although we favor solutions that receive industry consensus, in recognizing the exigent circumstances in Pennsylvania, the FCC granted the Pennsylvania Commission the authority to "hear and address" claims of carriers that do not, or will not, have adequate line numbers to serve customers. In this limited situation, the Pennsylvania Commission shall make the determination that a carrier may receive an NXX code outside of the rationing plan, and work with the NANPA to ensure that that carrier is provided an NXX code outside of the rationing plan.

4. Does the *Pennsylvania Order* authorize the Pennsylvania Commission to exercise the regulatory authority needed to address NXX allocations for all NXXs during the implementation phase for previously-ordered area code relief in the 215, 610, and 717 areas in Pennsylvania?

The *Pennsylvania Order* permits the current NXX code rationing plan to continue; under paragraph 49, the Pennsylvania Commission, working with the code administrator, may allocate NXX codes outside of the rationing plan if such codes are not otherwise set aside. FCC rules, however, require that, if an area code overlay is implemented, every telecommunications carrier authorized to provide service 90 days before the introduction of the new area code must be assigned at least one central office code in the existing area code.¹¹ This rule limits the Pennsylvania Commission's authority to adjust the current allocation of NXX codes reserved for new-entrant competitive local exchange carriers, or to use these reserved NXX codes for extraordinary purposes. If the Pennsylvania Commission determines that such NXX codes are needed, it may file a waiver request of this rule. Given the current situation in Pennsylvania, the Common Carrier Bureau will address such a request in an expedited manner.

We thank you for your letter, and we look forward to continuing the dialogue initiated by the Pennsylvania Commission relating to the allocation of central office codes within the 215, 610, and 717 NPAs.

Sincerely yours,



Yog R. Varma
Deputy Chief, Common Carrier Bureau

¹¹ See 47 C.F.R. § 52.19(c)(3)(iii).

APPENDIX F

ALJ/TIM/gab

Case File

Mailed

AUG 07 1996

Decision 96-08-042 August 2, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MCI Telecommunications Corporation)
(U 5001 C),)

Complainant,)

vs.)

Pacific Bell,)

Defendant.)

MCI Telecommunications Corporation)
(U 5001 C),)

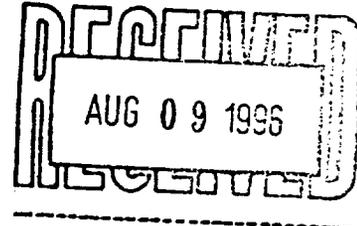
Complainant,)

vs.)

Pacific Bell,)

Defendant.)

Case 96-03-039
(Filed March 21, 1996)



Case 96-03-040
(Filed March 21, 1996)

Staff Copied
SC

Consultants Copied
DB/SS

415 Split Option 2: As shown in Figure 2, this option is identical to Split Option 1 with the exception that Marin County would also stay in the 415 NPA under Split Option 2. The lives of the NPAs under this plan are as follows:

Old NPA (415):	3 years,	11 months
New NPA:	16 years,	4 months

415 Split Option 3: This would be the same as either Split Options 1 or 2, except that the San Bruno wire center (SNBUCA02) would be included in the New NPA and not the 415 NPA. This would result in Millbrae, San Bruno, South San Francisco, and SFO being entirely within the New NPA. A slightly greater portion of Daly City would also be in the New NPA, but Daly City would remain split between the 415 NPA and the New NPA. Split Option 3 would also cause Brisbane to be divided between two area codes. Figure 3 shows the boundaries of Split Option 3 relative to the affected cities in San Mateo County. Split Option 3 would extend the life of the old (415) NPA under both Options 1 and 2 by 25 months; and reduce the life of the new area code under Options 1 and 2 by 28 months.¹³ The forecasted lives of the old and new NPAs under Split Option 3 are as follows:

	<u>Lives Assuming Option 3 Is Also Implemented</u>	
Option 1	Old NPA (415):	6 years, 4 months
	New NPA:	10 years, 4 months
Option 2	Old NPA (415):	6 years, 0 months
	New NPA:	14 years, 0 months

¹³ CCA report of June 28, 1996, Transcript p. 37.

APPENDIX G



**GTE California
Incorporated**

One GTE Place
Thousand Oaks, CA 91362-3811
805 372-8000

August 20, 1998

**CA500GC
R2.1H1**

U 1002C

received
8/26/98

Advice Letter No. 8806

Public Utilities Commission of the State of California

GTE California Incorporated (GTE) hereby transmits for filing the Second and Third Amendments to a Governmental Contract for services for the City of Long Beach.

The original contract was for common carrier dial tone service for a term commencing on July 1, 1993 and terminating on June 30, 1994, with yearly options to extend the agreement through June 30, 1998. This service was provided at prevailing tariff rates.

The First Amendment was filed under Advice Letter No. 5639, and was approved by the Commission on June 30, 1994.

The Second Amendment was for DS1 Service. This amendment was signed on May 10, 1995. Unfortunately, this amendment was not filed with the Commission.

The single purpose of the Third Amendment is to extend the term of the first and second amendments for nine months, from July 1, 1998, through March 31, 1999, by mutual consent of the parties.

GTE respectfully requests an effective date of July 1, 1998, which is consistent with and reflective of the June 16, 1998, date of approval by the City Council of the City of Long Beach. The Third Amendment was executed on August 10, 1998, by the City of Long Beach.

We are supplying the following documentation to substantiate GTE's actions to amend this contract in a timely manner prior to June 30, 1998:

- 1. A letter dated June 4, 1998, from GTE to the Director of General Services for the City of Long Beach, documenting a previous meeting in which the parties agreed to extend the local dial tone agreement for 9 months at existing rates.**
- 2. A copy of the minute order (official record) dated June 16, 1998, from the City of Long Beach, approving the extension for nine months in an amount not to exceed \$1,396,500.00, the amount of current monthly charges under the existing agreement for this nine month period.**



CITY OF LONG BEACH

DEPARTMENT OF GENERAL SERVICES

333 WEST OCEAN BOULEVARD • LONG BEACH, CALIFORNIA 90802 • (562) 570-5000

RECEIVED
CITY CLERK
LONG BEACH, CALIF
98 JUN 10 PM 2:29

June 16, 1998

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

SUBJECT: Agreement with GTE California Incorporated to Provide Local Dial Tone Telephone Services
COST: \$1,396,500 (General Services Fund)

It is recommended that the City Council request the City Attorney to prepare all necessary documents and authorize the City Manager to execute said documents to amend Agreement #23078 to provide local dial tone telephone services with GTE California Incorporated by extending its term for a period of nine months in an amount not to exceed \$1,396,500.

BACKGROUND

The City of Long Beach entered into a five-year agreement with GTE California Incorporated beginning July 1, 1993 to provide local dial tone services. The existing rate structure applied to the City of Long Beach was approved by the California Public Utilities Commission (CPUC) and will expire June 30, 1998 if the contract is not extended. GTE has agreed to amend Agreement #23078 to extend its term for a period of nine months.

At the present time, there are no viable alternatives for replicating the local dial tone services provided by GTE from either a cost or service perspective. From a cost standpoint, the present rate structure authorized by the CPUC would terminate with the expiration of the existing contract, and would revert to a less competitive rate structure resulting in higher monthly costs. A new agreement with GTE would require the filing with and approval by the CPUC of a new rate structure in order to have costs remain the same or lower, which is infeasible given the current time parameters of the existing contract. From a service viewpoint, there is no other company that can provide all of the required services at the present time. Alternatives are further limited because there is currently no capability to preserve existing City phone numbers with a new provider. The City currently has 10,000 numbers in the 570 prefix series. It is anticipated that the issue of number portability will be resolved within the next six months when the CPUC will require this capability among service providers.

To ensure that the City continues to receive the lower rate structure and avoid the related costs of reissuing 10,000 phone numbers, the City Council is requested to approve the amendment and extension of the term of the existing contract for a period of nine months beginning July 1, 1998 and ending March 31, 1999. The amount of the agreement shall not exceed \$1,396,500. This figure is based on current usage patterns, proposed rates and estimated growth in usage over the term of the agreement.

C-14 JUN 16 1998 Request C/A prepare. Authorize CM to execute

HONORABLE MAYOR AND CITY COUNCIL
June 16, 1998
Page 2

It is expected that a longer term solution addressing both cost and service issues will be developed during the nine month period authorized in the contract extension.

Deputy City Attorney Everett L. Glenn is assisting the Department of General Services with this matter.

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Request the City Attorney to prepare all necessary documents and authorize the City Manager to execute said documents to amend Agreement #23078 to provide local dial tone telephone services with GTE California Incorporated by extending its term for a period of nine months in an amount not to exceed \$1,396,500.

Respectfully submitted.



ROBERT J. METZGER
DIRECTOR OF GENERAL SERVICES

RJM:cmw

APPROVED:



JAMES C. HANKLA
CITY MANAGER