

APPENDIX L

Transcript excerpt from Inglewood (310) Public
Participation Meeting
November 18, 1997

MS. LINDSEY: Cheryl Lindsey, City of Redondo

6 Beach.

7 I only wanted to make the brief comment
8 that on an overlay would it be true that business
9 that currently has all of their lines in place, a
10 few years down the road when they go to add a new
11 line for the public, a voice or a fax line, they may
12 have different area codes then for their business?
13 And I just wanted to make that comment because it
14 hasn't been made before.

15 MR. HESCOX: Thank you.

16 MS. OLIVARES (Pacific Bell):
I'd just like to say that that is

17 a possibility, but it's not necessarily true. And
18 in the example of a residence, if you're a current
19 customer of, say, Pacific Bell and you want a second
20 line, if there is a number available with the same
21 area code we would give that to you. If you're a
22 small business and you have 10 lines and want to add
23 a couple more lines, if those are available we would
24 give that to you. If not -- the example would be a
25 larger institution, a university that has 5,000

60

L. R. LINN & ASSOCIATES

1 numbers and wants another 1,000, we might not have
2 1,000 numbers in that particular wire center, then

3 they would have to get those new numbers from the
4 new area code. So there is that possibility. And a
5 customer, a business or residence could choose and
6 there may be some competitive reason to get a new
7 number or want to have that representation. So you
8 could certainly choose to have the new area code.

Transcript excerpts from additional Public Participation meetings
ordered by ALJ Pulsifer
San Diego, April 28, 1998

MR. CARBONE (UCAN): ...Finally I'd like to address Pacific

23 Bell's fundamental role in overlay recommendations.

24 Pacific Bell has been actively seeking support for an

25 overlay. Why? I've been asking myself that question

CANEDY AND CANEDY

1 a number of times this week and here's my concern.

2 1.5 million people are expected to move into San Diego

3 in the next eight years. That's a lot of new phone

4 numbers in addition to the thousands of now wireless

5 customers added each month. In large degree Pacific

6 Bell controls the relief of phone numbers for these

7 new lines. If Pacific can offer new customers the old

8 619 area code despite the overlay, it will maintain an

9 enormous competitive advantage for Pacific. This is

10 the exact type of harm that will kill competition. If

11 this body recommends an overlay and if the commission

12 adopts this program, Pacific Bell cannot have the

13 ability to offer old 619 area codes to new customers

14 to any extent greater than its competitors.

15 Finally, send written comments to the

16 commission by the 6th. Anyone who desires to provide

17 input to those comments is encouraged to contact UCAM.

18 Thank you. I appreciate the time.

19 MS. HERNANDEZ: Thank you. I just wanted

20 to give you a little insight about a couple of things

21 that you mentioned. The alternatives 10A and 10C were

22 recommended to the commission incorporating the input

23 from those November meetings. And after those
24 November meetings were finished another, Alternative
25 11, was brought up, so our administrative law judge

CANEDY AND CANEDY

1 ordered us back out to hear your input on that.

2 MR. CARBONE: Our concern, Madam Chair,
3 is that in the public participation process we have
4 yet to hear why the two proposals 10A and 2B were
5 considered superior and preferable to all of the other
6 alternatives before the commission and before the code
7 administrative. We've yet to hear why those two
8 proposals rose to the top and why more importantly
9 perhaps how the Alternative 11 was designed.

10 MS. OLIVERAS: I'd like to make a couple
11 of comments. As you know, there are now a number of
12 telecommunication companies which do provide local
13 service in San Diego.

14 MR. CARBONE: Sorry to interrupt, but
15 perhaps if you look at the residential side of things
16 there are actually no competitors of Pac Bell for
17 residential phone service in San Diego at this time,
18 zero.

19 MS. OLIVERAS: I believe that there are,
20 but we can perhaps talk about it after the meeting.
21 There are several companies that do provide service.
22 Also, I wanted to say your comment about new
23 customers, in the proposal for the overlay, all new
24 customers would go into the new area code. So any new
25 customers that came to Pacific Bell would be assigned

CANEDY AND CANEDY

1 a new area code. Pacific Bell would not assign any
2 new customers in the 619 area code.

3 MR. CARBONE: Miss Oliveras, I've
4 actually been told by one of your external affairs
5 directors that as a part of the customer service that
6 Pacific Bell would be able to offer its existing
7 customers and perhaps new customers would be the
8 assignment of the old 619 area code, so whether
9 there's just a miscommunication there or not that's
10 certainly the impression we were given.

Transcript excerpt from Local Jurisdiction Meeting
Inglewood City Hall
One Manchester Boulevard
Inglewood, California
Wednesday, August 27, 1997

18 MR. O'KRENT (The Telephone Connection):
I would like to address her

19 comment.

20 I just want to make a point of
21 clarification regarding the overlay. It's very
22 important. It is not true that just because there's
23 an overlay every time you add a second line you'll
24 get a different area code. It may be true, but it's
25 not necessarily true.

64

L. R. LINN & ASSOCIATES

1 The reason is the telephone companies like
2 Pacific Bell and GTE and paging companies like Page
3 Net and mine, we have an inventory of numbers. So
4 we're going to use up what we have. So in the case
5 of City Hall, I can't tell you with any probability
6 what that means. But I want to make it clear to
7 people that it isn't an automatic given that if you
8 have an overlay the next time you order telephone
9 service you're going to have a different area code...

10 MS. JENNO: Kathy Jenno, J-e-n-n-o, City of

11 Torrance.

12 I pretty much have a question. The
13 overlay alternative, I agree that it would seem more
14 feasible to have the wireless as the new area code.

15 But I see a problem with existing business, existing
16 residents possibly having two area codes within
17 themselves. One of the possibilities is, if a
18 person already has service, if they could get a new
19 number in the same area code, or have the option to
20 change all the numbers within the same area code.

21 MS. OLIVARES (Pacific Bell):
Yes, that's absolutely an option.

22 It is not required that when you add lines to your
23 existing lines of a business that you would have to
24 take a new area code. If in the small event that
25 might happen, then you certainly could change all of

95

L. R. LINN & ASSOCIATES

1 your lines to the new area code so they would all be
2 together.

Transcript excerpts from additional Public Participation meetings
ordered by ALJ Pulsifer
La Mesa, April 27, 1998

MS. OLIVARES: I would just like to

18 comment on your mentioning about reserving 619
19 numbers because of the churn, and in fact, the way
20 this would be implemented, existing customers would
21 be able to -- if you were a resident and you wanted
22 a second line, no matter which telephone provider
23 you have, you could request to have a 619 number.
24 If you're a small business, the same thing, because,
25 of course, there are and will continue to be

43

1 scattered numbers because of the churn.

310 AREA CODE
PUBLIC MEETING
West Hollywood, California
Thursday, November 20, 1997

MR. SAVOIE (West Hollywood Chamber of Commerce): ...

17 I love the suggestion that was made about
18 in terms of any potential lawsuits from cellular
19 companies or paging companies of dealing with
20 outgoing phone calls. Every ATM, every gas pump,
21 every check-out stand at Ralph's uses a phone line
22 because you're using your credit card. It doesn't
23 matter what the number is for that. Also, if you
24 have a large business, perhaps, that has trunk lines
25 or centrex lines where you have one phone number and

45

L. R. LINN & ASSOCIATES

1 if that phone number is busy it feeds calls to
2 others. It doesn't really matter what those feeding
3 phone numbers are. They could be any area code in
4 the world and it wouldn't matter.
5 Those kind of uses, if you really smartly
6 plan it out and you really look at those kind of
7 things, you could switch over all those phone lines
8 tomorrow and it wouldn't affect one business, it
9 wouldn't affect one resident calling those numbers.
10 I just think -- I know it's a competition
11 between all phone numbers coming into the bowl
12 here, AT&T, GTE, Pac Bell, ICG, everyone coming in.

13 They're all looking at perhaps protecting their
14 market share, which I understand, and protecting
15 their clients. But I think you have to look at the
16 consumer side of it and look at what is going to
17 cause the least disruption to people, and I think
18 the overlay represents that.

19 Thank you.

20 MS. SZETO: Thank you, sir.

21 MS. OLIVARES: Could I make another quick
22 comment?

23 I just wanted to -- this is Paula
24 Olivares, Pacific Bell -- speak for Pacific Bell to
25 that issue, the outgoing calling types of lines.

46

L. R. LINN & ASSOCIATES

1 And we are thinking very seriously -- a lot of our
2 pay stations, our pay coin telephones. That's
3 something that we could easily change. Were the
4 overlay to be adopted, we could change all of our
5 coin phones to the new area code because when you
6 stop to use a pay phone you really don't care what
7 the area code is of the phone that you're using.
8 It's an outgoing call, just as you said. I just
9 wanted to share that. Thank you.

APPENDIX M

Case File

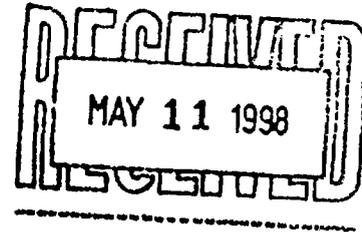
BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking
on the Commission's Own Motion
into Competition for Local Exchange
Service.

R.95-04-043

Order Instituting Investigation
on the Commission's Own Motion
into Competition for Local Exchange
Service.

I.95-04-044



EMERGENCY MOTION FOR IMMEDIATE ALLOCATION OF NXX CODES TO MEDIAONE TELECOMMUNICATIONS OF CALIFORNIA, INC.

Pursuant to Commission Rule of Practice and Procedure 45, MediaOne Telecommunications of California, Inc. ("MediaOne") (U-5549-C) hereby moves for an order immediately providing it with NXX codes in the 213, 310, 714 and 626¹ area codes as set forth in the attached declaration.² In support of this motion, MediaOne submits the following:

1. Facts

MediaOne intends to offer ubiquitous residential facilities-based local exchange service in its cable franchise areas in greater Los Angeles. MediaOne began offering residential services in Culver City and West Los Angeles on April 1, 1998. MediaOne

¹ MediaOne will be offering service in locations served by the 562 Numbering Plan Area ("NPA"). This area code is not currently in jeopardy and therefore this motion does not request the allocation of NXX codes in that NPA.

² The attached document is the confidential declaration of James Pierce, MediaOne Director of Network Planning and Design, Western Region, in which he identifies the NXX codes requested to be allotted to MediaOne and their associated rate centers. In addition, the declaration describes MediaOne's service territory and local exchange telephone service plans. Due to the competitively sensitive nature of the declaration, MediaOne is filing it under seal pursuant to General Order 66-C. Confidential treatment is required because specifying rate center areas will indicate market entry strategy to competitors.

is believed to be the only facilities-based local exchange telephone corporation competing in the residential market in that service territory with incumbent local exchange companies ("ILECs") GTE California Incorporated ("GTEC") and Pacific Bell ("Pacific").³ As indicated in the attached confidential Declaration, to offer telephone services ubiquitously in the area, MediaOne must acquire enough NXX codes to cover all of the applicable rate centers, which spans five separate area codes: 213, 310, 714, 626 and 562. Unfortunately, to date, MediaOne has obtained only nine codes, all of which have been obtained pursuant to Commission sanctioned lotteries in the affected area codes. In the event that the requested relief is not granted, MediaOne will remain constrained in its offering of service to residents now served by GTEC and Pacific which do not have to compete for scarce initial codes.⁴

2. Argument

MediaOne hereby requests a one-time waiver from the Commission's lottery rules in order to secure the codes needed in the rate centers indicated in the attached Declaration. Without this minimum allotment, MediaOne will not be able to offer local residential services to customers waiting for a competitive choice and will be faced with the enormous cost of stranded investment in telephony-ready facilities in these areas. It makes no sense to have to wager its business against the luck of the draw for codes if a competitively neutral

³ Based on comments made by the participants at the February 24, 1998 En Banc Hearing in this proceeding, there also appears to be few, if any, resellers operating in this service area.

⁴ Early on in this proceeding, this Commission recognized that facilities-based local exchange service competition could only occur if facilities-based CLCs (a) executed interconnection agreements with ILECs, (b) built or acquired necessary facilities, (c) opened NXX codes and (d) signed up subscribers D.96-03-020 at 80. To date, MediaOne has entered into Commission approved interconnection agreements and built out its facilities. It has begun to offer services and sign up customers, but with inadequate NXX codes, it is unfairly limited in its ability to provide service.

alternative exists.⁵ Doling out a code or two to lucky requesters every month in a lottery, rather than meeting an immediate need for codes, will frustrate not only MediaOne's plans, but also frustrate the Commission's goals and residential customers waiting for competitive choices.⁶

In D.96-09-087, this Commission adopted lottery-based rationing of NXX codes in NPAs which are subject to a freeze.⁷ In so doing, the Commission adopted a procedure whereby 60% of all NXX codes allotted would be reserved as initial codes with the remaining 40% designated as growth or additional codes. Id. at 24. The Commission did not adopt a process whereby exemptions to the lottery would be granted for facilities-based carriers, as requested by some parties. However, in so doing, the Commission specifically stated that it would consider **case by case exemptions** if market entry was foreclosed to new entrants. As the Commission noted,

We shall closely monitor the results of any lottery, however, and shall direct the Commission's Telecommunications Division to keep careful statistics on any new entrants who are foreclosed from entry into a given market solely because of denial of NXX codes. We shall keep our options open for dealing with this potential problem as conditions warrant.

Ibid.

Moreover, the Commission specifically held that denial of an NXX code in an NPA effectively precludes market entry. "If a new entrant is denied access to any NXX codes in the

⁵ The proposed decision approving an overlay in the 310 NPA on the May 7, 1998 Commission agenda will not affect the necessity for prompt Commission action on this Motion. Nor will the introduction of Local Number Portability (LNP) scheduled for the Los Angeles MSA in June, 1998. MediaOne has an urgent need for NXX codes now, and the overlay, if approved, will not take effect until mid-1999. LNP will likewise not improve the ability to assign numbers to new customers or offer existing customers additional lines.

⁶ MediaOne acknowledges that grant of this request should preclude its lottery involvement for initial codes for a temporary period commencing from the date of Commission allotment, so that this allotment is properly charged against it under the lottery process.

⁷ In this case, the area codes in which we seek NXX codes are subject to lottery.

NPA, that entrant will be precluded from entering the NPA market." Id. at Finding of Fact 8b, p. 29. As documented in the attached declaration, absent Commission intervention requiring the immediate issuance of the needed NXX codes, MediaOne will be foreclosed from further entry in four NPAs in its service territory and thereby denied the ability to compete effectively with GTEC and Pacific.

The current marketplace reality is that even if a new entrant has invested hundreds of millions of dollars to provide service to a large NPA, as MediaOne has done, that new entrant must assign at least one NXX code in each rate center within the NPA where facilities-based service is offered. This is because CLC conformity to the ILEC's existing rate centers is the only way to ensure correct measurement and billing of telephone calls and to avoid business-stopping billing disputes with incumbent providers.⁸

The current lottery makes it impossible to accumulate enough NXX codes to offer competitive local telephone service in an ubiquitous service territory. When a new entrant wins a code, the code must be used within six months or returned (with a possibility of an additional six-month extension). Even if a carrier were to win a code a month, it could never accumulate more than twelve codes at a time, since a code must be used within six months (one year with extension), or be returned. Thus, a new entrant can only roll out service on a rate center basis, potentially stranding all investment outside that particular rate center. Not only is this strategy irrational from a marketing and economic viewpoint, but it undeservedly tarnishes a new entrant's reputation, as customers and competitors make claims of spotty availability of service, undermining effective competition with the ILECs.

⁸ To date, other alternatives are not available because further code conservation measures (besides the lottery) have yet to be adopted and fully implemented

The Commission's current number rationing policy has worked in large measure to preserve the status quo. The Commission laudably exercised its authority in D.96-09-086 by calling for a bifurcated lottery, whereby 60 percent of available codes went to initial codes and 40 percent went to growth codes. However, the prolonged effect of the lottery is that the number of NXX codes obtained has not been sufficient to provide for robust local exchange competition, especially in the residential market which is arguably more disaggregated than business customers.⁹

The policy of the 1996 Telecommunications Act was not preservation of the status quo. It specifically mandates that "No. . . State may prohibit or have the effect of prohibiting the ability of any entrant to provide any interstate or intrastate telecommunications service."¹⁰ The result of the present rationing of NXX codes in a rate center driven marketplace will drastically effect MediaOne's Southern California market entry. This request will allow the Commission to implement its goal of residential competition as well as federally mandated pro-competitive, consumer-benefiting policies.

Likewise, granting this motion will implement the mandate of this state's legislature and governor. Section 709(e) of the PU Code specifically sets forth the legislature's and the Governor's commitment to removing barriers to entry and promoting local exchange services competitive with the ILECs. It provides, in pertinent part, that:

⁹ This request for codes could be handled by taking the codes from future lotteries or, in other words, from the "back end" of the lottery. In that way, other carriers that need NXX codes will not be disadvantaged and MediaOne would not be required to wait one to two years to obtain resources it is ready to put into use now.

¹⁰ 47 U.S.C. Section 253.

The Legislature hereby finds and declares that the policies for telecommunications in California are as follows:

* * * * *

(e) To remove the barriers to open and competitive markets and promote fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choice.

ibid. In this case, denial of requisite NXX codes is an insurmountable barrier to entry into those rate center areas where MediaOne has no codes which in turn denies price and product competition and consumer choice, in violation of Section 709(e) of the PU Code unless rectified by grant of this motion.

The Federal Communications Commission ("FCC") also recognizes the anticompetitive effect of restricting the availability of numbers to new entrants. In its Ameritech Decision, the FCC observed that "[t]he timely availability of numbers is essential if new providers are to enter and new services are to appear in the telecommunication marketplace. . . . Unavailability of numbers, or unreasonable allocations of available numbers, could prevent or discourage consumers from taking new services."¹¹ Here, the unavailability of numbers prevents the expansion of facilities-based local exchange competition in Southern California.

Conclusion

This Commission has already held that (i) denial of an NXX code in an NPA precludes market entry in that NPA, and (ii) that it will take extraordinary steps to ensure facilities-based market entry when the NXX code lottery forecloses market entry. MediaOne cannot effectively provide the first facilities-based residential local exchange service in competition with the ILECs in Southern California absent the immediate grant of NXX codes as

¹¹ In the Matter of the Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, FCC 95-19, Issued January 12, 1995 ("Ameritech Decision") at 9.

specified in the attached declaration. As a result, the Commission must immediately allot the requested NXX codes to MediaOne.

Dated this 6th of May, 1998 in Oakland, California.

Theresa L. Cabral

Jeremy H. Stern
Vice President
Corporate and Legal Affairs
550 N. Continental Blvd., Suite 250
El Segundo, California 94062
(310) 647-3059

Theresa L. Cabral
Senior Corporate Counsel
1999 Harrison Street, Suite 660
Oakland, California 94612
(510) 273-8680

*Attorneys for MediaOne
Telecommunications of California*

APPENDIX N

"state Commissions are uniquely positioned to understand local conditions and what effect new area codes will have on those conditions."² The Commission found that it could establish the lottery as part of its authority to "initiate and implement area code relief" and "to settle disputes regarding NXX code allocations and to establish rules for code rationing through a lottery or other means, as long as [it] act[s] within the context of area relief oversight and [is] consistent with the broad policies set forth within the FCC rules."³ The Commission concluded that its oversight of code conservation is within the scope of the number administration functions it performed prior to the Telecommunications Act of 1996 ("Act").⁴

Pacific Bell challenges MediaOne's request on the grounds that even if the Commission could oversee the implementation of a new area code, that jurisdiction does not extend to the actual assignment of codes (via the number administrator), under any circumstances. Pacific Bell would thereby limit this Commission's role to that of relief planner. The Commission's interpretation of its jurisdiction however expressly encompasses resolving NXX code disputes in order to "remov[e] barriers to competitive entry."⁵

Although the Commission declined to adopt the position advocated by facilities-based providers for case-by-case exemptions to the lottery, the Commission stated it would review situations in which carriers find themselves precluded from offering service because of a lack of numbers.⁶ The Commission has jurisdiction to establish lotteries, to manage number resource issues, to order area code splits and/or area code overlays and to order code

² See, Lottery Decision, mimeo at 8, quoting the FCC's Second Report and Order, (FCC 96-333) August 8, 1996, para. 272.

³ Id. at 11.

⁴ Id. at 12.

⁵ Id. at 24.

⁶ Id.

allocation exemptions from the lottery, if it wishes to do so, when a new entrant, such as MediaOne, cannot serve customers strictly because it lacks NXX codes.

In spite of Pacific Bell's argument that no state commission can favor one group over another, the Commission has the jurisdiction to favor new entrants over incumbents in the lottery when that serves its goals of opening competition, as it did when it established the 60-40 percent split of available codes in the Lottery Decision.⁷ The Federal regulations Pacific Bell quotes stress that in addition to equity considerations, which are addressed in detail below, numbers need to be administered in a manner that facilitates entry into the telecommunications marketplace.⁸ This Commission has already implemented a lottery system which slightly favors initial code requests over growth code requests because it advances the critically important policy of enabling market entry and it reserved for itself an open door to address the specific instance MediaOne has raised. The Commission can, and should, grant MediaOne's motion to enable it to enter the given markets it stands ready to serve.

ii. Unless MediaOne Can Secure NXX Codes Residential Competition In California Will Continue To Stagnate.

While MediaOne's Motion relied on this "given market" language concerning specific geographic (rate center) areas, "given market" could just as easily mean the residential market. Nextlink/TCG argue that residential telephone competition is "important" but does not rise to the level of deserving "preferential" treatment.⁹ Such treatment however, may well be deserved and justified as the California Cable Television Association's (CCTA's) supporting filing illustrates. Both Congress, the FCC and this Commission have strongly endorsed the offering of

⁷ Id.

⁸ See, 47 C.F.R. §52.9 (a) (1).

⁹ See, Nextlink/TCG at 4.

service to residents.¹⁰ Letters in support of MediaOne's Motion from Los Angeles area cities also indicate a strong interest in real residential competition.¹¹

Interestingly, TCG was adamant that it does not offer residential service in its response to Pacific Bell's long distance application.¹² In those comments, TCG rightly cautions the Commission about Pacific Bell's claims of residential competition by TCG, ICG and Brooks - all of whom deny such offerings. TCG then stresses however, that residential competition is wholly dependent on Pacific Bell's meeting the Telecommunications Act checklist.¹³ While those issues are important and are being addressed in that proceeding, MediaOne, and its supporters CCTA and fellow would-be residential service competitor Cox California Telcom ("Cox") are stressing here that for cable companies with deployed, independent broadband networks, numbers are a critical barrier to entry. TCG is not now offering residential service. MediaOne is offering residents service and would serve more communities if it could get code relief.¹⁴ As Cox explains, the lottery simply serves to indefinitely delay residential market competition.¹⁵ Neither TCG nor ICG or Brooks or any other carrier other than Cox and MediaOne, to MediaOne's knowledge, are making a serious effort to serve residents on a facilities-basis in California. Also, the big three interexchange carriers have pulled back on their resale offerings to residents.

¹⁰ See, CCTA's Response at 4-6.

¹¹ See letters dated May 20 from the City of La Mirada and Lakewood and dated May 21 from Culver City.

¹² See Reply Comments of Teleport Communications Group on Appendix A and Draft Section 271 Submissions by Pacific Bell, filed April 30, at 41-42.

¹³ Id.

¹⁴ Although affiliates provide business services, MediaOne is strictly a residential service provider at this time. Both TCG and Nextlink agreed in a conference call with MediaOne counsel on May 26, 1998, that they had misunderstood a statement in Mr. Pierce's confidential declaration. Based on that discussion, Nextlink and TCG agreed that MediaOne could correct the record on that point in this reply.

¹⁵ Cox Response at 3.

If residents are to benefit from competition, and benefit now, the Commission must grant MediaOne's Motion.

III. MediaOne Has Diligently Pursued NXX Codes.

A review of the Local Exchange Routing Guide ("LERG") will show who is rich and who is poor in numbers. It is a classic tale of the haves versus the have-nots. Pacific Bell and GTE California have, as would be expected by their incumbency, the lion's share of California's NXX codes.¹⁶

Although bursting with codes, Pacific Bell and GTE are regulars at every monthly lottery with their code requests. For Pacific Bell to argue that the lottery forecloses it from the market as much "if not more than MediaOne" is outrageous.¹⁷ Pacific Bell's strong opposition to MediaOne trying, in desperation, to get codes via its Motion, is like Imelda Marcos opposing a young girl from getting her first pair of pumps. The fact is that Pacific Bell and other incumbent competitive local exchange carriers ("CLECs") have codes and MediaOne does not.

And, it is not for a lack of trying. MediaOne has diligently pursued codes in the monthly lottery and will continue to try its luck every month in the future if its Motion is denied. The central policy issue is why should MediaOne, Cox and Teligent make huge capital investments in facilities only to have to wait up to a year or more to use those facilities.¹⁸

Nextlink/TCG argue that MediaOne will just "have to wait" because getting codes is simply a "question of timing."¹⁹ It is not clear why MediaOne must wait unless perhaps it is for TCG to develop and roll out its residential service business plan.²⁰ MediaOne should also not

¹⁶ See, CCTA Response at 6-7; see also, ex parte of CCTA, AT&T, MCI and MediaOne dated May 5, 1998.

¹⁷ See Pacific Bell Opposition at 5.

¹⁸ See, Response of Teligent Inc. at 2.

¹⁹ Nextlink/TCG at 5, 8.

²⁰ Id. at 4.

have to wait because Nextlink is albeit reluctantly willing to turn away customers because it lacks all the codes it needs.²¹ Waiting in line might be fair if everyone was starting from the exact same competitive point but, they are not. The incumbent LECs and incumbent CLECs with codes naturally want to hold other potential competitors back, and make them wait, as long as possible.

Pacific Bell is mistaken in its negative comments about MediaOne's diligence in trying to obtain codes. It argues that because MediaOne has not obtained codes in the 562 NPA, which is not part of MediaOne's Motion, nor is it in jeopardy, it has not been diligent in its efforts.²² Obtaining codes in an NPA that is not in jeopardy has little to do with obtaining codes that are in jeopardy. Carriers should not have to jerry rig their market entry plans based on where codes are available. Pacific Bell is not so constrained. MediaOne should not be either. In any event, MediaOne's requests for NXX codes in the 562 NPA were submitted to the Number Code Administrator and are in process.

Pacific Bell's claims regarding Santa Monica are also incorrect. MediaOne's transfer of NXX code 310-745 from the Santa Monica rate center to the Santa Monica - Mar Vista district area was complete on May 4, 1998. The exchange map MediaOne received from GTEC did not indicate that there were actually three rate centers in Santa Monica, two of which MediaOne wants to serve. Pacific Bell can rest assured that MediaOne cannot afford to double up, and has not doubled up, on codes per rate center.

Finally, Pacific Bell's suggestion that MediaOne is unaware of area code relief schedules is also off target. MediaOne's Motion addressed its need for codes as of May 6, through the end of the year. There is little reason to have confidence that codes will be readily available on the effective date of the 626/818 split (August 22). On May 21, 1998, the California Code Administrator issued a freeze on the new 818 NXX codes effective August 22, based on

²¹ See, id. at 8.

²² See, Pacific Bell Opposition at 6.

demand forecasts for those codes. It is reasonable to expect that a freeze on 626 codes will also be extended.

AT&T/MCI asks the Commission to institute code conservation measures, a position with which MediaOne wholeheartedly agrees, before numbers become a cudgel the ILECs use to beat CLECs up with in the market.²³ Unfortunately, as decried by Cox²⁴ numbers are already a competitive weapon new entrants cannot defend against or for which they can create alternative solutions.

IV. The Commission Should Not Fear, But Welcome, Similar, Bona-Fide Requests.

The first argument one learns to use in law school is the slippery slope argument. Overworked courts and underresourced administrative agencies are understandably concerned when a respondent argues that if the plaintiff or moving party's request is granted there will be a veritable stampede. There is reason to believe that if the Commission grants MediaOne's motion others will follow.²⁵ There is no reason to believe, however, that the Commission cannot handle such requests, especially if such requests are limited to requests for initial codes of facilities-based carriers who are willing to swear under penalty of perjury that (1) they are ready to offer service in the affected rate center area; (2) they will not oppose code conservation measures and (3) they will verify to the Commission the offering of service to the public in the affected a rate center area within six months or surrender the code to the code pool.

MediaOne admits such actions are more work than the present Lottery. Picking "winners and losers", as ORA shudders, may make the Commission "uncomfortable" but at least it would be done in a way that advances stated public policy objectives rather than the willy-nilly

²³ AT&T/MCI reply at 6.

²⁴ Cox Response at 3.

²⁵ See, Teligent Response.

lottery process.²⁶ It makes less sense to let poker chips in a coffee can determine which provider will be a winner or loser. This is especially true when other companies that have yet to make their investment or develop their plans can unfairly "leap frog"²⁷ ahead of MediaOne simply by being lucky in winning codes at the lottery and then sit on them.

The lottery process however encourages such behavior. There are "long lines"²⁸ at each lottery because companies have no incentive not to show up. If a company gets a code and uses it then the public interest is served. If the code is awarded but not used there are no consequences except that another company, ready to offer service, is kept at bay for another month or longer.

The Commission should be in the position of determining whether a company has made its case for lottery exemption. It should not turn its back for fear of claims of "discrimination". MediaOne would not object to others making their case, if they can. The alternative is the status quo: slow competitive entry, especially in highly disaggregated residential markets. There are many obstacles to successful facilities-based competition. For example, investment, business development, system readiness and uncooperative ILECs all can be daunting challenges. Perpetual delay and disappointment caused by code rationing only serves to exacerbate entry barriers.

Denying MediaOne's Motion while the Commission reviews and revises the lottery, as ORA suggests, will also fail to advance competition this year. Such an endeavor is appropriate for a long run solution but MediaOne's issue is immediate. Overlays, splits, code conservation, long term number portability, rate center consolidation and a lottery overhaul are all

²⁶ See, ORA Response at 3.

²⁷ See, ORA Response at 2.

²⁸ See, AT&T/MCI at 1.

in order. A waiver of the lottery for MediaOne is also in order because the Commission can, by granting it, accelerate residential service competition.

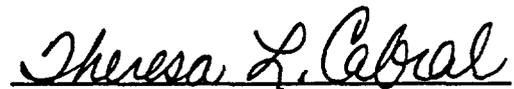
V. Conclusion.

Commissioner Duque argued in his concurring comments to the Lottery Decision that "the Lottery, although fair, produces the following outcome: Companies that have invested hundreds of millions of dollars to provide competitive telephone services to Californians now find that they must participate in a lottery to determine whether they can get the telephone numbers needed to provide services". True enough, and worse. MediaOne is investing over 600 million dollars to upgrade its broadband network in California and it has diligently participated in the monthly lottery. Unfortunately it cannot serve customers it otherwise could serve because it does not have the initial codes it needs.

To address MediaOne's need for codes now, the Commission should grant its Motion without delay.

Dated this 1st of June, 1998 in Oakland, California.

Respectfully submitted,



Jeremy H. Stern
Vice President
Corporate and Legal Affairs
550 N. Continental Blvd., Suite 250
El Segundo, California 94062
(310) 647-3059

Theresa L. Cabral
Senior Corporate Counsel
1999 Harrison Street, Suite 660
Oakland, California 94612
(510) 273-8680

*Attorneys for MediaOne
Telecommunications of California*

APPENDIX O

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



Order Instituting Rulemaking on the
Commission's Own Motion Into
Competition for Local Exchange Service

R.95-04-043

Order Instituting Investigation
on the Commission's Own Motion
into Competition for Local Exchange
Service

I.95-04-044

**COX CALIFORNIA TELCOM II, L.L.C.'S (U-5684-C)
RESPONSE TO THE EMERGENCY MOTION OF
MEDIAONE TELECOMMUNICATIONS OF CALIFORNIA INC.**

Cox California Telcom II, L.L.C. dba Cox Communications ("Cox"), pursuant to Commission Rule of Practice and Procedure ("Rule") 45(f), hereby responds to the Emergency Motion for Immediate Allocation of NXX Codes to MediaOne Telecommunications of California Inc. ("MediaOne"), which was filed on May 6, 1998 (the "Motion"). Cox supports the relief sought, as well as the procedural mechanism used, by MediaOne to secure NXX codes necessary for facilities-based competitive entry. MediaOne is not alone in its need for an emergency allocation of NXX codes throughout the rate centers in its service territories. Cox is similarly situated in the 714 and 619 NPAs, and therefore believes that the Commission should grant MediaOne's request and should consider adopting lottery-exemption procedures for other similarly situated competitive local carriers ("CLCs").

COX CALIFORNIA TELCOM II, L.L.C.'S
REPLY COMMENTS ON ALJ DRAFT DECISION

COMMENTS

- **Cox Agrees that the Commission's Lottery Procedures for New Entrants Has Served to Restrain Facilities-Based Competition**

At page 3 of its motion, MediaOne states that "[d]oling out a code or two to lucky requesters every month in a lottery, rather than meeting an immediate need for codes, will frustrate . . . the Commission's [procompetitive] goals and residential customers waiting for competitive choices." Cox could not agree with MediaOne more. As MediaOne stated later on that same page, "denial of an NXX code in an NPA effectively precludes market entry."

New market entrants have no choice but to secure at least one NXX code for every rate center in the incumbent local exchange carrier's ("ILECs") territory in which the CLC intends to offer service. While the Commission has approved theoretically CLC use of inconsistent rate centers, there exists today no technically feasible, industry-accepted method of deploying that option. Consequently, as pointed out by MediaOne in its Motion at 4, CLCs have no choice but to conform to the ILEC rate centers to ensure proper rating and billing of customer calls, and to avoid billing disputes with the ILECs. See, e.g., Pac-West Telcomm v. Evans and Volcano Telephone Cos., C.96-10-018.

The fact is for a new entrant to secure enough NXX codes to serve all rate centers within a particular NPA, that CLC may need as many as 25 NXX codes or more if it intends to serve geographically dispersed residential subscribers. Consequently, securing one NXX code (or the statistically remote possibility of securing two codes) per monthly lottery, just does not allow rapid enough

accumulation of codes to effectively enter a market. Thus, the facilities-based CLC attempting to serve residential subscribers is faced with the impossible dilemma of entering the market on a rate-center-by-rate-center basis, incorporating the unsatisfactory provisioning of spotty service coverage through-out its market, or declining to enter the market (and strand its investment in expensive switching equipment) until it has accumulated enough codes to cover a partial, but contingent area of rate centers, which places all of its early acquired NXX codes at risk if they are not opened within six months to a year of their acquisition. Neither prong of the dilemma is acceptable to new entrants who are wagering hundreds of millions of dollars in new plant investment and construction to serve these areas.

Consequently, the lottery procedures are not a satisfactory method for new entrants to secure the necessary NXX codes if they intend to bring competitive choices to residential end users. MediaOne's plight is that of every facilities-based CLC , including Cox, who has chosen to roll-out service to residential users in any one of California's major metropolitan areas which is currently facing telephone number shortages. Once MediaOne's emergency needs are satisfied, the Commission must move immediately to finding another method by which new entrants can acquire NXX codes in NPAs facing number exhaust. Otherwise, the lottery process will continue to impede the development of real facilities-based competition.

- **Granting MediaOne's Request for Emergency Relief, or Adopting More Favorable Code Acquisition Procedures for Other New Entrants, Is Not Unfair to Incumbents**

Some carriers may argue that it is unfair to grant one CLC NXX codes outside of the current lottery procedures, or to grant CLCs who are entering new markets any more favorable treatment that they are allowed under the Commission's lottery rules. This contention simply is not true. Moreover, it is an assertion that usually is made by existing carriers (including incumbent LECs, wireless service providers, and CLCs who may have become entrenched in the particular market prior to code exhaust), who have been operating for years with many NXX codes from which they can "churn" numbers to mitigate the impact of the lottery on their operations.

As a matter of policy, granting such relief is no more "unfair" than it was for the Commission to adopt lottery guidelines that allocated available NXX codes more favorably to "initial" code users than for "growth" codes. See, D.96-09-087 at 24. Such an allocation recognizes two important facts, which have been presented to the Commission on multiple occasions in various phases of this proceeding: First, incumbent carriers have a multitude of existing NXX codes to draw from, with their associated churn, and can mitigate the need for new codes through better code conservation; and second, denial of an NXX code in an NPA effectively precludes competitive, facilities-based market entry, which is in the interest of all California consumers. See, Id. at 29, FOF 8b.

Finally, MediaOne's request for relief is no more unfair to another carrier than the current lottery rules which allow ILECs like Pacific Bell and GTEC, who each have thousands of NXX codes in the "frozen" NPAs, to compete in the lotteries

to secure additional NXXs while many CLCs trying to enter those markets are forced to go forward with their entrance plans without any NXX codes. If the Commission wants residential and small business users to have competitive choice sooner, rather than not at all, it should grant MediaOne's request and move immediately to finding an alternative method for assigning scarce NXX codes to new competitive entrants.

- **The Commission Should Immediately Move to Adopt Expedited Procedures for Assigning NXX Codes in Exhaust NPAs to New Competitive Entrants**

There should be no doubt, in light of MediaOne's motion for emergency relief and observation of the Commission's lotteries, that the lotteries are impeding the development of competition in California's largest markets. This condition runs directly counter to the Commission's goals of promoting effective competition in the local exchange markets throughout the State. Moreover, there is no relief in sight, unless the Commission is willing to delay facilities-based competitive entry for years.¹ For these reasons, the Commission must act immediately and decisively to adopt new procedures for the assignment of NXX codes to competitive entrants in exhaust NPAs.

Such action should include an expedited comment cycle on exempting new entrants in NPA exhaust areas from the lottery procedures. If these carriers have a

¹ Cox would be surprised and dismayed if the Commission were willing to wait the additional time necessary to bring area code relief to these markets, particularly in light of the flight of resale carriers from the local exchange markets. Failure to do something to provide additional NXX code relief to new facilities-based competitive entrants would be tantamount to sealing the fate of doom on local exchange competition at least until the new millennium, and maybe beyond if current entrants abandon their plans to compete in California's markets.

need for initial codes in rate centers serving those areas, and there is a limited number of codes available, they should be assigned those codes until they have acquired one NXX for each rate center. Then that carrier would only be eligible for "growth" codes pursuant to the lottery process.

In considering such procedures the Commission should be watchful of incumbent LECs and wireless carriers seeking to qualify for "initial" codes in a rate center. The mere partitioning of an ILEC switch, for instance in the case of an area code split, should not qualify that carrier for an "initial" code in a "new rate center." Nor should a paging company, as another example, who has been allowed to home all of its NXX codes to a tandem switch, thus serving multiple rate centers from that switch, be allowed to qualify for "initial" codes because it chooses to assign new NXXs to end offices subtending that tandem switch. Such incumbent activities are accurately characterized as seeking "growth" codes, and should not be condoned so as to deny competitive facilities-based entrants from securing the NXXs necessary just to enter a market.

CONCLUSION

Cox California Telcom II, L.L.C. hereby responds to the emergency motion of MediaOne Telecommunications of California Inc. Cox supports grant of the motion on the merits, because its experience has shown that the Commission's lottery procedures for assigning codes to new facilities-based CLCs impedes market entry, and undermines the Commission's goals of bringing competition to California's

largest markets in any meaningful timeframe. Cox urges the Commission to grant the relief sought by MediaOne and then to move immediately to exempting new competitive entrants from the existing lottery procedures for the assignment of "initial" codes.

Dated: May 21, 1998

Respectfully submitted,



LEE BURDICK

PRIMA LEGAL SERVICES
2317 Broadway, Suite 350
Redwood City, California 94063

Attorneys for
COX CALIFORNIA TELCOM II, L.L.C.
dba COX COMMUNICATIONS

APPENDIX P

Case File

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the)	
Commission's Own Motion into)	R.95-04-043
Competition for Local Exchange Service)	
)	
<hr/>		
Order Instituting Investigation on the)	
Commission's Own Motion into)	I.95-04-044
Competition for Local Exchange Service)	
)	

RECEIVED
PUBLIC UTILITIES COMMISSION
OFFICE OF THE SECRETARY
10/12/98

RESPONSE OF THE CALIFORNIA CABLE TELEVISION ASSOCIATION IN SUPPORT OF MEDIAONE'S MOTION FOR IMMEDIATE ALLOCATION OF NXX CODES

Pursuant to Rule 45(f) of the Commission's Rules of Practice and Procedure, the California Cable Television Association (CCTA) hereby responds in support of MediaOne Telecommunications of California, Inc.'s (MediaOne) Motion dated May 6, 1998. MediaOne seeks the NXX codes necessary to begin providing facilities-based local exchange service to residential customers in its cable franchise area in greater Los Angeles.

While MediaOne is a member of CCTA, CCTA supports this motion not only in the interest of MediaOne, but in the interests of other member cable companies which, like MediaOne, have committed substantial resources to the provision of residential telephony, only to have those efforts thwarted by the lack of NXX codes. Indeed, more than a year ago CCTA,

Cox Communications, Inc., and Time Warner AxS of California L.P. urged the Commission to adopt a case-by-case exemption from the Lottery under circumstances where a service provider had made a new or additional significant investment to provide new or expanded service and was prepared to provide such service within six months. Though declining the request at that time, the Commission promised that it would “keep [its] options open for dealing with this potential problem as conditions warrant”.¹ Preclusion from markets due solely to denial of NXX codes is no longer a “potential problem.” MediaOne plainly demonstrates it is an actual problem. MediaOne has facilities and services in place, not only to offer residential customers a choice in dial-tone provider, but to offer broad-band features such as high-speed Internet access. But due to its inability to get numbers, MediaOne waits on the market side-lines and hopes that their name is pulled from the Commission’s lottery coffee can.

MediaOne Sufficiently Demonstrates That Its Request is Necessary and Appropriate

The lottery was intended as a “last resort” measure after all other feasible means had failed to avert a shortage of numbers.² However, what was contemplated as a “last resort” measure is now the status quo, and will likely remain so into the next century.

For a new entrant like MediaOne who cannot otherwise obtain a base-level amount of codes, the lottery seems more akin to reserving life-boats for use on the return voyage of a sinking Titanic. The need is now.

MediaOne asks for an up-front allocation of NXX codes in order to begin service in its

¹ D.96-09-087, mimeo at 24

² D.96-09-087, mimeo at 14.

territory. In exchange, MediaOne would agree to forego participation in future lotteries. In effect, MediaOne would use the Code Administrator's cache of currently unused NXX codes as a bank, drawing from the resource now and effectively replenishing the source by foregoing participation in the future. This "use now, lose later" approach to the lottery would preserve the function of the lottery as a mechanism for assuring future availability of NXX codes, while providing MediaOne the codes necessary to begin service to its territory.

Some may fear that the granting of MediaOne's motion would effectively gut the lottery process, leaving no codes for those who may need them later. CCTA does not believe that is an inevitable result. MediaOne would get the NXX codes it would eventually receive anyway, but would receive them now instead of staggered over the life of the rationing process. Furthermore, the Commission has begun to recognize the need for code conservation measures in the 310 NPA as evidenced in D.98-05-021. The impact of code conservation will only act to increase Code Administration's cache of codes in the future, so that other providers will not be edged out of codes by MediaOne's participation now.

Finally, while similarly situated entrants could also petition the Commission for the type of relief sought by MediaOne, such relief would be the "exception" - not the rule- of code allocation. The Commission, on a case-by-case basis would decide if an exception is warranted, and would therefore have ultimate control in assuring that the lottery pool is not completely drained. The immediate ability to offer service but for the lack of NXX codes should be the Commission's primary criterion for granting such exception. In any event, given the choice between MediaOne's entry into the residential market today versus the numbering request of some undefined provider at some unspecified point in the future, CCTA believes that a "bird in

the hand” approach is appropriate, particularly in the case of facilities-based providers who have committed billions of dollars in investment to residential telephony.

The Case-By-Case Exception MediaOne Seeks Is Consistent With Federal And State Policy And Law

MediaOne’s proposal allows the Commission to fulfill the promise made by the Congress and the State of California that residential customers, in addition to business customers, would benefit from competition.

The legislative history of the Telecommunications Act of 1996 consistently contemplated local residential competition.³ In fact, in its explanatory statement to the competitive checklist provision of the House Bill(H.R.1555, 104 Cong., Section 245(1995), the House Commerce Committee stated:

[T]he Commission must determine that there is a facilities-based competitor that is providing service to residential and business subscribers. This is the integral requirement of the checklist, in that it is the tangible affirmation that the local exchange is indeed open to competition...The Committee required that the service be made available to both residential and business subscribers, so that the service is, in fact, local telephone exchange service. It is not sufficient for a competitor to offer exchange access service to business customers only, as presently offered by competition access providers (CAPS) in the business community....

³ “The [House] Commerce Committee Report...pointed out that meaningful facilities-based competition is possible, given that cable services are available to more than 95 percent of United States homes. Some of the initial forays of cable companies into the field of local telephony therefore hold the promise of providing the sort of *local residential competition that has consistently been contemplated*.” H.R. Conf. Rep.,104-458, 148. (Jan.31 1996)(emphasis added)

Congress' view that residential phone competition must exist is captured in FCC action as well. When SBC attempted to enter the long distance market in Oklahoma the FCC said:

In order to satisfy section 271(c)(1)(A), a BOC must demonstrate that it "is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service...to residential and business subscribers....Consequently in determining whether SBC has demonstrated compliance...we focus our discussion on whether Brooks is a competing provider of telephone exchange service to residential subscribers."⁴

The fact that the FCC, under the direction of Congress, has made the availability of residential telephony competition a precondition to a BOC's entry into long-distance, underscores the federal government's resolve to see residential competition become a reality.

Likewise, the CPUC has shared the federal government's objective to see residential competition take root, but the CPUC has recognized that it faces a greater challenge in promoting residential competition versus business. In formulating its Universal Service policies, for example, the Commission observed:

Generally speaking, business customers tend to be more attractive to carriers than residential customers because businesses tend to make more toll and long distance calls. This attractiveness should lead multiple carriers to compete for business customers before similar competition reaches residential customers, resulting in lower prices for business customers.⁵

The Commission must make the extra effort to see that competition in residential telephony is not throttled at birth. Granting MediaOne's Motion is a necessary component of that effort.

⁴ Application by SBC Communications Inc. Pursuant to Section 271 of the Communications Act of 1934, as amended, Memorandum Opinion and Order, 12 FCC Rcd 8685 (released June 26, 1997)

⁵ D.96-10-066, 1996 Cal. PUC LEXIS 1046, *143, citing D.94-09-065.

Competing Providers Will Not be Unduly Harmed By MediaOne's Request

As MediaOne notes, the Telecommunications Act of 1996 mandates that "no...State may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."⁶ The rationing of NXX's has harmed MediaOne by impeding their full market entry. In contrast, incumbents Pacific Bell and GTEC are firmly entrenched in the market and by definition cannot be similarly harmed since they have their own cache of numbers. While facilities-based competitors' investment remain stagnating in a lottery line, there is little to suggest that the status quo of number rationing has made incumbents the least bit uncomfortable or inconvenienced. The California Telecommunications Coalition recently noted that Pacific Bell added more than 800,000 access lines in 1997,⁷ amounting to the equivalent of at least 160 complete NXX codes over the course of 1996 and 1997.⁸ During that same period of time, the Commission has seen the incumbents fuel number usage by discounting second lines to customers as well as assigning entire blocks of numbers to customers, asking only that the numbers be 70% utilized over the course of three years. Wireless incumbents, too, have grown dramatically.

In large measure, incumbents' ability to weather code rationing stems from the fact that they have most of the available codes. In the 213 NPA, for example, according to the LERG as of April 23, 1998, Pacific Bell has 81% of all NXX codes assigned to wireline providers. That

⁶ 47 U.S.C. Section 253

⁷ See Initial Comments of the California Telecommunications Coalition Concerning NXX Code Conservation Measures date February 25, 1998, footnote 2.

⁸ Id.

amounts to almost four million numbers controlled by Pacific in the 213 NPA. There are 11 other wireline code holders in that NPA who hold 19% combined. In the 310 NPA, incumbent wireline providers hold 85% of all codes assigned to wireline providers (Pacific holds 54%, GTEC holds 31%). The remaining nine competing wireline providers combined hold the remaining 15% of codes assigned to wireline providers.

Wireline and wireless incumbent providers will likely claim that the granting of MediaOne's Motion is anti-competitive, alleging that it could deny NXX codes to incumbents. Such a claim must be viewed from the perspective that the incumbents already control most of the numbers and that incumbents appear to be thriving as potential competitors languish from the lack of numbers. Furthermore, as previously described, MediaOne's Motion, if granted, may very well not result in denial of any numbers incumbents would otherwise receive. Thus incumbent claims of anti-competitive effects cannot be supported and must be discounted.

As previously discussed, it is not true that future entrants will be significantly harmed by the granting of MediaOne's request. MediaOne's requested front-load allocation of numbers should not significantly change availability of numbers to others. Furthermore, others can seek a similar waiver to obtain numbers when their services must be rolled out.

A regrettable consequence of the lottery or any rationing scheme is that it pits new entrants against each other in fighting for remaining number resources designated as "initial codes" for the lottery. The fact is, remaining NXX codes are merely the crumbs from the incumbents' pie of NXX codes in an exhausting NPA.

There are additional measures the Commission must take to assure other new entrants can obtain codes. For example, the Commission's 60/40 lottery preference was predicated on the

assumption that codes from the "initial" category would go to new entrants and growth codes would go to incumbents. That has not proved to be the case. Pacific Bell apparently can draw from the "initial" category of the lottery where a wire center is split, such as Compton/Compton in the 310 NPA. Incumbent wireless providers may also draw from the initial category. Historically, wireless companies have placed NXX codes in tandems. Discussions at the Industry's May 13 area code relief planning meeting indicate that those wireless incumbents will now place codes in the end office rather than in the tandem. Wireless providers apparently intend to apply for end office codes from the "initial" code category rather than from the "growth" code category. This corruption of the lottery undermines the intent behind the lottery process by heavily impacting those new entrants which depend solely upon the "initial" category for numbers while incumbents can draw from "initial" and "growth" category. The Commission should enforce its understanding that the "initial" numbers category are for new entrants, not incumbents.

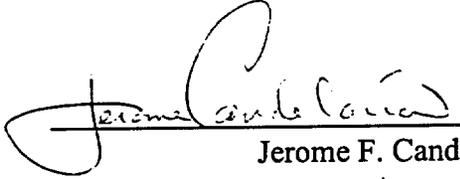
Finally, MediaOne's crisis reminds us of the urgent need for meaningful code conservation and the fact that the lottery process is not a substitute for efficient allocation of numbering resources. The predicament in which CCTA members find themselves underscores the urgent need for the Commission to act swiftly and affirmatively to institute effective code conservation measures now as well as to provide immediate numbering relief where it is warranted, such as the relief MediaOne seeks in its Motion. To that end, CCTA supports the Commission first step in implementing number pooling in its 310 decision (D.98-05-021). Furthermore, CCTA urges the Commission to act upon the requests set forth in the California Telecommunications Coalition in Comments filed on February 25, 1998 in response to an ALJ

Ruling on Code Conservation measures and to move now to implement efficient number utilization measures. Of all measures, single line pooling is needed most, so that all providers have equal, nondiscriminatory access to numbers.

CONCLUSION

CCTA urges the Commission to expeditiously grant MediaOne's Motion for the reasons stated above.

Dated: May 21, 1998



Jerome F. Candelaria
Attorney for
California Cable
Television Association
4341 Piedmont Avenue
Oakland CA 94611
Tel: 510.428.2225