

Decision 98-08-037 August 6, 1998

**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.	Rulemaking 95-04-043 (Filed April 26, 1995)
Order Instituting Investigation on the Commission's Own Motion Into Competition for Local Exchange Service.	Investigation 95-04-044 (Filed April 26, 1995)

**O P I N I O N****Introduction**

By this decision, we continue the development of a statewide policy for the administration of scarce numbering resources, and institute additional measures to promote the conservation and efficient utilization of NXX codes. Such measures are imperative given the continuing critical shortage of NXX codes throughout California. The shortage of number resources for all carriers poses hardships on customers and is a significant impediment to the development of a competitive local exchange market.

The Commission has previously acknowledged the need for the development of code conservation measures in this proceeding. The need for the development of a statewide policy regarding numbering resource administration was first raised in the 310/562 complaint proceeding surrounding the numbering plan area (NPA) relief plan. In Decision (D.) 95-08-052, we adopted a 310/562 NPA geographic split to provide relief for the impending number exhaustion of the 310 NPA. Recognizing the broader policy implications of the numbering resource issues raised in the 310 NPA relief proceeding, we directed that a

statewide policy for NPA relief planning be developed in the Local Exchange Competition Rulemaking (R.) 95-04-043. In D.96-06-062, the Commission established code conservation measures to be applied to avoid the potential for premature code exhaustion before the 310/562 area code split could be implemented. Parties also filed comments regarding the applicability of those conservation measures to other area code relief plans. In D.96-09-087, the Commission instituted a lottery procedure for assigning NXX codes to carriers in those area codes subject to a jeopardy status of code exhaustion before a relief plan could be implemented.

Since the lottery procedure has been instituted, the availability of an adequate supply of NXX codes has continued to worsen. At the time the lottery was first instituted in September 1996, only three area codes were in a jeopardy condition, and thus subject to the lottery. Today, the lottery procedure is in effect for the majority of area codes within California due to pervasive NXX code shortages. Various carriers have been denied or delayed assignment of NXX codes they have requested due to code shortages.

On December 15, 1997, the co-chair of the California Local Number Portability (LNP) Task Force sent a letter to the attention of the Director of the Commission's Telecommunications Division requesting guidance from the Commission concerning how the industry's study of code conservation issues should proceed.

On January 13, 1998, an administrative law judge (ALJ) ruling was issued, soliciting comments on the following code conservation issues:

1. What further formal procedural measures should this Commission institute to facilitate the review and development of appropriate code conservation measures to promote the efficient utilization of NXX codes and to mitigate the problem of code shortages and premature code exhaustion.

2. Should this Commission designate a particular industry group to be responsible for reviewing and developing code conservation measures? If so, which industry group should be charged with this responsibility? (For example, the LNP Task Force, the Industry Area Code Relief Committee, etc.)
3. What actions toward the development of code conservation standards are being taken at the national level, and how can industry planning efforts at the state level be best coordinated with national efforts to optimize the overall results?
4. What specific issues related to number conservation should be identified for study and potential implementation? (For example, number pooling, rate area consolidation, local calling area expansion, etc.)

Comments in response to the ALJ ruling were filed on February 25, 1998, by Pacific Bell (Pacific), GTE California Incorporated (GTEC), the California Telecommunications Coalition (Coalition),<sup>1</sup> and AirTouch Communications jointly with Paging Network, Inc., hereafter AirTouch/PageNet. Reply comments were filed on March 13, 1998, by each of the above parties in addition to the Office of Ratepayer Advocates (ORA). We have reviewed parties' filed comments as a basis for the measures adopted in this decision.

### **Overview of Parties' Positions**

The Coalition argues that the shortage of numbering resources within California has reached crisis proportions and demands immediate action from

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<sup>1</sup> The members of the Coalition joining in the comments are: AT&T Communications of California, Inc.; AT&T Wireless Services, Inc.; California Cable Television Association; ICG Access Services, Inc.; MCI Telecommunications Corporation; NEXTLINK California, LLC; Sprint Communications Company, L.P.; Teleport Communications Group, Inc.; Time Warner AxS of California, L.P.; and WorldCom Technologies Inc.

the Commission. The Coalition claims that the rationing of NXX codes is a particular impediment to new competitive local carriers (CLCs) seeking to enter the local exchange market, and that incumbent local exchange carriers (ILECs) are the least affected by the number shortage. The Coalition argues that the ILECs and wireless providers thus have an incentive to retain the status quo and support a slower approach to solving the number shortage problem.

The Coalition offered specific code conservation measures which it believes should be given priority. The Coalition recommends the Commission expeditiously consider four specific issues:

- A. Rate center consolidation,
- B. Number pooling and NPA/NXX utilization audits,
- C. NPA exhaustion forecasting, and
- D. Lottery management.

Pacific agrees that much work needs to be done on conservation options, and supports the establishment of an independent group to begin work on conservation options as soon as possible. Pacific claims it is harmed by the current lack of numbers at least as much, if not more, than other carriers. Pacific denies the Coalition's claim that it is the ILECs who have "contributed enormously" to the shortages of codes in this state. Pacific claims that, if the cause of the shortage lies with any industry segment, it lies with the members of the Coalition and other CLCs. Pacific reports that in 1997 the California-Nevada Code Administrator (CNCA) assigned 568 NXXs to CLCs in California and Nevada, and it assigned an additional 677 codes to wireless carriers. Together, CLCs and wireless carriers received over 85% of the 1,498 codes assigned in California and Nevada in 1997. All ILECs (including Pacific, Nevada Bell and GTEC, as well as smaller ILECs) received less than 15% of all codes in 1997, and ILECs received a similar percentage of codes in the first two months of 1998.

Pacific declined to propose specific code conservation measures at this time, stating that it would constrain the investigation of the industry if the Commission limited the range of potential options to be examined. Pacific instead proposed that the Commission convene a generic workshop to permit industry members to investigate and recommend a comprehensive program for code conservation measures.

Pacific recommended that, as a basis for discussion at the workshop, the Commission should require all carriers to report data concerning their current and projected utilization of NXX codes by rate center, as well as identification of codes which are not currently available, and descriptions of code conservation measures used by each carrier. Pacific patterned its proposed data collection after similar efforts which had been initiated in other states such as Texas, Illinois, and Colorado. Pacific attached copies of the data requests issued by these other states as a reference to its comments. Pacific's proposal to collect such data was opposed by ORA and the Coalition. On March 26, 1998, Pacific filed a motion for leave to file a third round of supplemental reply comments. On April 10, 1998, the Coalition and ORA each filed a response in opposition to Pacific's motion, arguing that Pacific presents no legal authority or factual support for its motion to file a third round of comments on this issue.

GTEC supports the establishment of a new task force, to address number conservation issues, but recommends that a representative from the task force participate in national code conservation forums sponsored by the North American Numbering Council (NANC) and Industry Numbering Committee (INC) to assure proper coordination. GTEC does not offer any specific code conservation measures for study, arguing that the task force should be free to discuss all forms of code conservation.

AirTouch/PageNet believe the Commission should establish a separate docket to review and analyze NXX code conservation issues with a primary goal of having parties share information about national efforts to develop code conservation measures. AirTouch/PageNet narrowly interprets the scope of this Commission's jurisdiction to unilaterally implement code conservation measures independently of national programs, noting that the FCC has delegated NXX code administration issues to a national administrator. AirTouch/PageNet view the role of any Commission-sponsored effort as being to determine where, if at all, state actions can be coordinated and made complimentary with the FCC's code conservation initiatives.

AirTouch/PageNet believe a new task force should be formed to study code conservation measures, separate from the LNP Task Force, with membership assigned "by nomination." Although these parties do not elaborate on how such a "nomination" process would work, the intent is apparently to formalize the assignment of task force members in some manner to minimize turnover of membership and to enhance the stability and expertise of the task force.

### ***Discussion***

We recognize the importance of pursuing all feasible means to conserve numbering resources, and seek to encourage efforts among industry participants to identify and work toward the implementation of appropriate measures in coordination with similar nationwide programs.

In order to promote the development of a competitive telecommunications market, it is important to provide for the availability of numbering resources in sufficient quantities to meet the demand of all carriers. The establishment of new area codes has been the traditional means to meet such demand when numbering resources are running low in a given region. In recent years,

however, new area codes cannot be established quickly enough to keep pace with growing demand for new numbers. The Code Administrator has routinely had to declare a jeopardy condition for area codes subject to pending relief plans. The combined effects of CLC entry into the market, coupled with the increased usage of telephone numbers for wireless communications, fax machines, and Internet access have led to an unprecedented growth in the demand for number resources. The number shortage has become chronic throughout much of California. Moreover, the proliferation of new area codes has, itself, become a major problem, fostering litigious proceedings and creating disruption for both customers and for the carriers which serve them.

We believe that a number of coordinated conservation strategies are necessary for achieving the goal of number resource sufficiency. While certain procedures are already in use which provide some degree of number conservation, more needs to be done. The Commission needs to implement a proactive program to facilitate timely development of additional number conservation measures. Rate center consolidation and number pooling are particularly valuable potential tools of high priority through which number conservation can be enhanced. The rationing of NXX codes through the lottery process has also helped to conserve codes, but has likewise frustrated the ability of many carriers to obtain sufficient numbering resources to meet their demand. It is appropriate to provide a formal ongoing vehicle for parties to explore potential ways to make the utilization of numbering resources more efficient and more conducive to the growth of competition. We prescribe a plan for addressing number conservation measures as discussed below, utilizing a series of workshops and filed comments to develop improved tools for conserving and efficiently allocating numbering resources. For the present time, we shall not open a separate docket to address number conservation issues, but retain the

option to consider doing so at a later date. We shall not limit the scope of potential code conservation measures that may be considered in the workshop series, but we shall set as a priority to be addressed the issues of rate center consolidation, number pooling, and lottery reform. We discuss these issues in further detail below.

We shall deny the motion of Pacific for acceptance of a third-round of comments. Pacific claims that unless it is allowed to supplement its previous reply comments it will be harmed by statements made in ORA's reply comments. Because ORA did not file opening comments, Pacific argues, there was no opportunity to respond to ORA.

Pacific has not justified the need to file an additional round of comments. ORA's reply comments were limited to responding to issues raised in other parties' opening comments. ORA was entitled to file reply comments as long as it did not raise new issues, but merely responded to comments already made. Thus, it would be unfair to other parties to permit only Pacific to submit an additional round of comments. We appreciate that Pacific disagrees with ORA's claims. Likewise, ORA and the Coalition disagree with the claims made in Pacific's reply comments. Disagreement among parties, however, is not a basis to warrant a continual proliferation of filings. The two rounds of pleadings filed by parties are sufficient for purposes of this decision. Accordingly, we deny Pacific's motion for a third-round reply.

### **Rate Center Consolidation**

Under current technology, most new wireline entrants into the local exchange market need to establish an NXX code in every rate center where they provide service. The large number of rate centers in California, therefore, exacerbates service providers' needs for NXX codes. The Coalition proposes that the Commission *immediately* undertake plans for implementing rate center

consolidation as a way to reduce the demand for NXX codes. By reducing the number of rate centers covering a given geographic area, the quantity of NXX codes required to serve that area is correspondingly reduced. Carriers are thereby enabled to use a reduced number of NXX codes more efficiently. The Coalition suggests that rate center consolidation may be undertaken in stages, as smaller degrees of consolidation may be accomplished more quickly, while larger areas of consolidation will likely have more significant impacts and take more time. Since Rate Center Consolidation can also impact the routing and delivery of E-911 calls, any consolidation plan must also consider circumstances that might impact the operation of the emergency response system or might conflict with the needs of Public Safety Answering Points (PSAPs).

The Coalition suggests that the Commission could broaden the scope of Investigation (I.) 97-03-025, established to address the generic issues of rate center consistency and routing raised by the Pac-West Case (C.) 96-10-018, to encompass all rate center issues including consolidation. Although it may be more efficient to open a new docket expressly to develop plans for rate center consolidation, the Coalition believes the complexity of this issue, with which the Commission and industry have struggled before, means that the Commission cannot wait to begin work. At some stage, a separate task force on consolidation with specific directives and schedules may be the most direct route to the goal.

Pacific disagrees that rate center consolidation issues should be addressed in I.97-03-025. Pacific argues that consolidation of rate centers will require substantial industry study of impacts to emergency and other operational support systems. Pacific also believes the potential cost and rate impacts on carriers and their customers need to be examined before the Commission determines whether the potential NXX code savings from rate center consolidation are worth the costs involved.

### ***Discussion***

We agree that rate center consolidation warrants further study as a tool to help conserve NXX codes. As a first step toward the consolidation of rate centers, we shall direct Pacific and GTEC each to identify all rate centers in their service territories which they believe can be consolidated with adjacent rate centers without serious impact. This data shall be filed and served on parties by September 13, 1998. Following receipt of this data, we shall solicit parties' comments concerning the establishment of an agenda for workshops on rate center consolidation. We shall address rate center consolidation in two phases. In the first phase, we shall convene a workshop to focus on reaching consensus on a plan for the consolidation of those rate centers which will result in minimal significant impact.

We shall convene a separate workshop phase to address the consolidation of those rate centers where NXX demand is high, and where the impacts of consolidation are likely to be more numerous and complex. We believe a workshop will prove useful to facilitate consensus and to delineate more precisely the problems and disagreements which must be addressed in determining the feasibility of further rate center consolidation in those regions subject to high NXX demand. The workshop should be used to identify the impacts of rate center consolidation on emergency and other operational support systems, as well as the impacts on carriers' costs and rates. Following the conclusion of each of the workshops, Telecommunications Division shall prepare a report summarizing areas of agreement and disputes requiring further proceedings.

### **Number Pooling**

Number pooling offers the potential for reducing the demand for NXX codes by enabling multiple service providers to share a single NXX code through

the technology associated with permanent local number portability (LNP). By permitting carriers to share numbers from a single NXX code, number pooling promotes the use of numbers more efficiently than the typical method of assigning a single NXX code per carrier (which represents a 10,000-number block). Since carriers must have the advanced network platform required for LNP, however, number pooling cannot be used by carriers until they have implemented LNP. Number pooling can thus facilitate a more competitively neutral access to numbering resources by making the limited supply of numbering resources available to a greater number of carriers.

The Coalition proposes the Commission should take steps now to implement number pooling by ensuring that an implementation plan is developed by a specific date. The full implementation of number pooling would enable carriers to share individual numbers within an NXX code. As a first step toward number pooling implementation, carriers would share an NXX code in increments of 1,000-number blocks. The Coalition believes October 1, 1998 is an achievable target for implementation of 1,000-number-block pooling.

Pacific believes any implementation deadline set at this point would be artificial and of little value. Pacific argues that number pooling solutions (including administrative guidelines) will take 2-3 years to develop, and even when the solutions are developed, very few "free" 1,000-number blocks are likely to be available from existing codes. Pacific also suggests an industry workshop might consider whether number pooling could be implemented first for CLCs which, due to their lower utilization rates, will likely have the lion's share of "free" 1,000-number blocks and which would likely find it easier to implement pooling than incumbent LECs. Pacific argues that, before any industry group is convened to analyze number pooling alternatives, the

Commission needs to request the data regarding current and projected 1,000-number block usage from carriers.

Since number pooling depends upon LNP technology, the Coalition argues that the logical group to guide California toward developing and resolving implementation issues for number pooling is the California LNP Task Force, which represents a cross-section of the entire telecommunications industry. The Coalition believes the LNP Task Force is best suited to this task because it best understands the aspects of LNP technology that support number pooling, and the functions that must be developed in order to make number pooling work. Pacific, GTEC and AirTouch/PageNet recommend that the Commission establish a new task force, separate and distinct from the existing LNP Task Force and Industry Area Code Relief Planning Team, to address number pooling as well as all other NXX code conservation issues on a comprehensive basis.

While acknowledging the volume of work confronting industry members and Commission staff assigned to these issues, ORA agrees with the Coalition, arguing that creating yet another separate task force would not facilitate development of NXX code conservation measures or implementation of number pooling. Further, ORA sees nothing to be gained by appointing a new group of people to “re-invent the wheel,” except delaying development and implementation of number pooling and code conservation. ORA believes that these measures are urgently needed, and should be addressed expeditiously by the industry and the Commission. Because number pooling is dependent upon the LNP architecture, ORA believes it is both logical and efficient to build upon the expertise of the LNP Task Force by assigning it responsibility for development and implementation of number pooling.

The Coalition believes that number pooling will require a careful third-party audit of code utilization within the industry to ascertain the maximum

number of NXXs or 1,000-number blocks that can be recovered from pooling participants for sharing. Some degree of NXX utilization does not automatically disqualify an NXX from being shared. The INC has recommended that the percentage of “contamination” (prior usage) that should be allowed for a 1,000-number block to be considered for the pool is 0% to 10%. However, some service providers urge a much higher level of contamination in order to achieve a greater degree of number efficiency. The Coalition also proposes that the Task Force should also address sequential number assignment guidelines which will minimize the contamination levels of 1,000 number blocks.

AirTouch/PageNet do not oppose number pooling *per se* as a means of addressing number shortages, so long as wireless carriers have the same access to numbering resources as other carriers. AirTouch/PageNet believe, however, that the Task Force should delay any discussion of number pooling until the NANC and the FCC have ruled on the use of these measures, arguing that a national forum is the only proper vehicle to address number pooling issues since the FCC specifically declined to delegate authority to perform NXX assignment functions to the states.

AirTouch/PageNet submitted to the ALJ on April 2, 1998, a copy of a FCC *Public Notice* and an attached letter which reports that, on March 24, 1998, the NANC created a Numbering Resource Optimization Working Group (NRO-WG) to address issues of number availability and conservation. The Common Carrier Bureau (Bureau) has requested that NANC report on national number pooling standards no later than September 23, 1998, in sufficient detail to support, both technically and operationally, a uniform, nationwide system for pooling by December 1999.

Additionally, the Bureau urged the NANC to work cooperatively with state commissions on these issues and further requested that the NANC give

number conservation solutions, other than pooling, a high priority.

Consequently, the NRO-WG will also direct its efforts to other issues involving the availability and optimization of number resources.

AirTouch/PageNet argue that, since number pooling functions are to be performed by a national number administrator pursuant to national guidelines, any arrangement whereby a state requires carriers to return NXX codes, assigns NXX codes to a “pool,” or administers the assignment of numbers from the “pool” to telecommunications carriers would be unauthorized and unlawful.

AirTouch/PageNet further posit that, even assuming jurisdiction exists for states to administer NXX codes, these legal guidelines restrict the use of “number pooling,” at least insofar as it is implemented without additional measures to preserve equity for wireless carriers. Broadband wireless carriers are not required to implement LNP until June 30, 1999, although implementation by that date is not necessarily a foregone conclusion. Paging carriers are not required to implement LNP at all. Where wireless carriers have not implemented LNP, they will be unable to have access to pooled numbers. Given the requirement in the Communications Act that numbers be made available on an “equitable basis,” AirTouch/PageNet argue that number pooling cannot be implemented even by the FCC or the NANPA without effective safeguards to assure wireless carriers access to numbers on a non-discriminatory basis.

AirTouch/PageNet also question whether Commission involvement in number pooling as part of its role in overseeing area code relief does not cross over into code administration functions the FCC reserved for itself. The Coalition does not dispute that number pooling is a complex issue with many highly technical and administrative problems to be addressed, but does reject the idea that nothing can be done until national standards work is complete.

As noted by the Coalition, the INC has issued a report on number pooling under the direction of the NANC. Also under the direction of NANC, the NRO-WG is addressing the requirements for, and selection of, a number pooling administrator. The INC and NRO-WG meeting records and periodic reports to the NANC as well as many state documents are posted on the Internet and are generally accessible. Many in the California industry participate at INC, an open forum, or have colleagues at INC and the NANC who share information and experience.

The Coalition acknowledges that number pooling would only apply to LNP-capable providers, that LNP implementation is scheduled later for wireless, and that wireless providers would continue to require access to numbering resources in a non-discriminatory manner. The Coalition agrees it will clearly be necessary to assure that wireline number pooling be structured so that wireless providers have non-discriminatory access to numbering resources. The Coalition also believes that when pooling enables wireline providers to share NXX codes, wireless providers should have better access to NXX codes than at present.

### ***Discussion***

We recognize the importance of number pooling as a useful tool in promoting the more efficient utilization of number resources and in alleviating number shortages among carriers. We have already taken a first step in this regard in connection with our approval of California's first overlay for the 310 area code. In D.98-05-021, we directed Pacific and GTEC to identify the percentage utilization of blocks of 1,000 numbers within the NXX codes assigned to them in the 310 NPA, and to report the information to the director of the Telecommunications Division within 30 days of that order. We also required that number assignments made by the ILECs to their customers shall be made first from NXX codes that have more than 25% utilization, before any

assignments are made from other NXX codes. This measure was intended to preserve 1,000-number blocks with 25% utilization or less for number pooling once it is implemented. We adopted the 25% utilization rate as a precautionary safeguard.

We shall direct that a workshop be convened to consider issues relating to the implementation of number pooling including the sharing of individual numbers within an NXX code. We anticipate that the workshop will be a first step toward the ongoing examination and development of number pooling implementation. The workshop will also provide a forum for parties to seek consensus on the initial establishment of an ongoing Task Force to address number pooling issues.

We consider it premature at this point to require carriers to respond to comprehensive data requests concerning NXX code utilization.<sup>2</sup> A better record first needs to be developed regarding an overall plan for addressing number pooling issues, including a determination of how such a data collection effort would fit into the overall plan. Before imposing comprehensive data collection requirements on carriers, we shall direct that the workshop be used as a forum to seek consensus on the purposes for which such data would be used, the data elements which would be most relevant to compile, and the point in time when it would be most advantageous to proceed with such a data collection exercise in relation to other tasks. The workshop will also provide a forum to further deal with the concern raised by AirTouch/PageNet that any number

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<sup>2</sup> In D.98-05-021, however, Pacific and GTEC were required to report within 30 days on their percentage utilization for all blocks of 1,000 numbers within the NXX codes assigned to them in the 310 NPA.

pooling solution which excludes wireless carriers would not be technology neutral.

We shall not designate the existing LNP task force as the body responsible for addressing number pooling issues. The LNP Task Force already is fully occupied with the implementation of LNP within California and its work must remain on schedule. We believe, however, that the implementation of number pooling capabilities also is a high priority, and that an ongoing industry forum is needed to address this issue.

We shall direct that a separate task force be established by the industry to address pertinent number pooling issues. While the number pooling task force will be separate from the LNP Task Force, we recognize that the expertise among the members of the LNP Task Force is relevant in the examination of number pooling issues. We shall expect that there will be coordination between the LNP Task Force and the Number Pooling Task Force in order to draw upon this existing expertise, as appropriate. It is not our intention to require parties to “reinvent the wheel” in implementing this new task force, but rather, to encourage the use of existing structural and organizational protocols already developed for the LNP Task Force to the maximum extent feasible. We shall direct the industry to develop a proposal on the membership of the Number Pooling Task Force. We expect this issue to be addressed as part of the initial industry workshop which we shall schedule. We shall require that a status report be submitted by the Telecommunications Division to the assigned ALJ by October 1, 1998 on progress toward the establishment of the Task Force to address number pooling issues.

We are mindful of the need to coordinate carefully with the national program being conducted by the NRO-WG to develop national number pooling standards by the end of 1999. We note that some industry coordination with

national programs is already occurring, and we encourage these efforts to continue. Many in the California industry participate at the INC, a national open forum, or have colleagues at INC and the NANC who share information and experience. California needs to be proactive in providing input to the development of national standards to reflect the particular needs and characteristics of the California market. We shall set a deadline of March 31, 1999 for the Number Pooling Task Force to submit to the assigned ALJ an implementation schedule for number pooling within California.

We shall direct parties to propose an agenda for the number pooling workshop. As a preliminary goal, the Number Pooling Task Force should identify the current status of the number pooling efforts underway at the national level, and should identify the most important number pooling issues in which California can provide input in shaping the policy of the national group. The Task Force should then seek to reach consensus on those issues. For example, one of the outstanding issues involves what percentage of “contamination” (i.e., prior usage) should be allowed for a block of 1,000 numbers to be considered eligible for number pooling. The Task Force should also consider whether to recommend that similar code-assignment restrictions as adopted for the 310 NPA for the ILECs’ 1,000-number blocks should be extended to other NPAs, and how should sequential number assignment guidelines be developed to minimize the contamination levels of 1000-number blocks.

#### **Modifications to the NXX Code Lottery**

The Coalition argues the lottery procedures should be revisited to determine how they could be fine-tuned to achieve a more equitable allocation of scarce resources. The Coalition believes the current procedures are subject to gaming. The more codes a provider applies for, the greater its chances of

receiving a code assignment. Meanwhile, some applicants have complained of repeated denial of codes.

The need for a fresh review of the lottery procedures was highlighted by the recent filing of the motion of MediaOne for a special exemption from the lottery process to permit it to obtain NXX codes in designated NPAs so that it could begin offering service. Other carriers stated their intention to seek an exemption from the lottery as a means of obtaining needed codes as well. In its response to the MediaOne motion, CCTA alleged that the lottery had become corrupted in that incumbent carriers are able to draw from the “initial” category of codes in cases where a wire center is split. CCTA also alleged that incumbent wireless carriers can draw from the “initial” category by placing codes at the end office rather than at the tandem, leaving fewer codes available from the lottery for new CLC entrants. The Coalition recommends that the Telecommunications Division issue a report on the lottery with the Division’s recommendations on how the process could be improved, subject to comment and reply in this docket.

Pacific believes that consideration of reforms to the lottery should be first addressed by an industry workshop to reach consensus on changes. Pacific suggests that a carrier seeking to change the lottery system beyond any consensus measures which can be reached may do so by filing a motion to modify the lottery decision (D.96-09-087). Pacific disputes the Coalition’s claim that the ILECs are least affected by the rationing of codes through the lottery. Pacific argues that any changes to the lottery should provide for an increase, rather than decrease, of the ILECs’ access to telephone numbers in view of the customer demand. Pacific claims the code assignments under the current lottery system gives CLCs an unfair anticompetitive advantage in the marketplace.

Pacific claims that while CLCs are not using a substantial portion of the numbers they have today, the overwhelming percentage of the codes Pacific receives are in use serving actual demand from customers.

***Discussion***

We agree that review of the lottery process is warranted to determine if there may be ways to make the distribution of NXX codes among carriers more equitable, and more conducive to the development of competition. The lottery was never intended to be a final solution to the numbering shortage problem, but was only developed as an interim measure to provide some rational means of assuring a fair distribution of NXX codes in an environment where demand for codes exceeds supply. No lottery can be designed which will ensure that all carriers get the codes they want. By its intrinsic nature, the lottery produces both winners and losers, so that not all carriers in need of codes will necessarily obtain them. We do not expect the lottery to solve the numbering problem, but we do expect it to promote a distribution of codes which is fair and nondiscriminatory, and which does not further impede the development of a competitive market. We also recognize there is a fundamental disagreement among parties as to whether the ILECs or the CLCs should be allocated a greater share of codes. We shall not resolve this dispute in this decision, but shall pursue a further inquiry into this issue.

In D.98-07-096, we also acknowledged the need to revisit our lottery procedures. In that decision, we denied the motion of MediaOne Telecommunications of California, Inc. (MediaOne) for an immediate allocation of NXX codes and for a special exemption from the lottery procedure. While we denied MediaOne's motion, we set as a high priority the review of existing NXX lottery procedures with a view toward promoting opportunities for new entrants

to obtain needed codes enabling them to compete and to develop more aggressive code conservation measures.

We provided parties with notice required under § 1708 of the Public Utilities (PU) Code that we may modify D.96-09-087 by considering ways of increasing the availability of NXX codes for new entrants poised to begin offering service that are unable to obtain requisite codes through the random draw of the lottery. For example, we will explore increasing the percentage of initial codes assigned from the lottery from the current 60% to a higher amount. In particular, we directed the assigned ALJ to consider whether facilities-based carriers seeking to offer residential service should be given priority in the lottery.

We also noted the statement of CCTA regarding the lottery process becoming “corrupted” as unfounded. Since they already hold NXX codes in the rate centers in their service territories, ILECs are not eligible for initial codes in their service territory per our lottery rules. Hence, the only instance in which an ILEC can apply in the initial category for NXX codes within its service territory from an area code subject to the lottery is in the infrequent case of the opening of a new rate center. Although we found no “corruption” of the current lottery procedures, we stated our intention to investigate the limited issue of whether an ILEC should be eligible to apply for NXX codes in the initial category when a new rate center is opened.

As a first step toward addressing potential reform of the lottery, we shall convene a workshop to provide parties an opportunity to identify potential shortcomings and to suggest ways to revise the lottery process to promote a more competitive market including potential revisions in the allocation between initial and growth codes. We find it to be more practical to solicit input from the industry first, rather than to order the Telecommunications Division to produce a

report. We direct the assigned ALJ to schedule the workshop to discuss lottery reform.

### **NXX Code Exhaustion Forecasting Improvements**

Lockheed/Martin, the new North American Numbering Plan Administrator (NANPA) assumed responsibility for area code relief planning during 1998, and is expected to introduce a different forecasting tool for estimating NXX demand and relief durability, possibly involving other adjustments to the Central Office Code Utilization Survey (COCUS) results. The Coalition recommends that the Commission urge NANPA to introduce its forecasting tool at the earliest opportunity, hopefully within 1998. If an alternative forecasting tool becomes available in 1998, the Coalition recommends a one-day workshop to present it to the industry and Commission.

### ***Discussion***

We shall request the NANPA to promptly advise the assigned ALJ by letter in the event that the NANPA does introduce a new forecasting tool for estimating NXX code demand. We shall then direct the ALJ to schedule a one-day workshop in which the NANPA will present the revised forecasting tool to the industry for discussion. The Telecommunications Division shall prepare a report to the ALJ summarizing the results of the workshop. We believe such a workshop will be useful in critiquing any new forecasting tool and in making it as responsive as possible to the needs of the industry and the Commission for accurate and timely forecasts of code exhaustion.

### **Findings of Fact**

1. The lack of numbering resources sufficient to meet all carriers projected needs is a significant impediment to the development of a competitive local exchange market.

2. The large number of rate centers in California exacerbates the NXX code demand since most new wireline entrants need an NXX code in every rate center where they provide service.

3. Rate center consolidation represents a useful tool to help conserve NXX codes.

4. For the present time at least, the instant docket should be used to address rate-center-consolidation issues.

5. The workshop forum would facilitate consensus-building and delineate more precisely the problems and disagreements to be addressed in determining the feasibility of rate center consolidation.

6. Number pooling is a useful tool in promoting the more efficient utilization of number resources and in alleviating number shortages among carriers.

7. A first step toward number pooling was taken in D.98-05-021 in connection with the approval of an overlay for the 310 area code, where Pacific and GTEC were ordered to identify and report on the percentage utilization of blocks of 1,000 numbers within the NXX codes assigned to them in the 310 NPA.

8. D.98-05-021 prescribed that number assignments made by the ILECs to 310 NPA customers were to be made first from NXX codes with more than 25% utilization in order to preserve number blocks with 25%-or-less utilization for number pooling once it is implemented.

9. Number pooling at the 1,000-block level requires carriers to have the advanced network platform required for local number portability.

10. While the LNP Task Force already is occupied with the implementation of LNP, the implementation of number pooling is also a high priority.

11. The LNP Task Force has the most experience related to the consideration of number pooling.

12. There is a need to coordinate carefully with the national program being conducted to develop nationwide number pooling standards by the end of 1999.

13. A review of the lottery process would be useful to determine if there may be ways to make the distribution of NXX codes through the lottery more equitable and conducive to the development of competition.

14. A workshop will be useful in critiquing the expected new NXX code forecasting tool to be introduced by Lockheed/Martin, the new NANPA, in making this tool as responsive as possible to the needs of the industry and the Commission for accurate and timely forecasts of code exhaustion.

15. In D.98-07-096, the Commission denied the motion of MediaOne for a special exemption from the lottery, but acknowledged the need to revisit the lottery decision to consider ways to promote opportunities for new entrants to obtain needed NXX codes enabling them to compete.

### **Conclusions of Law**

1. A series of Commission-sponsored workshops should be convened to facilitate the development of improved tools for conserving NXX codes and promoting the efficient use of numbering resources in a manner which is conducive to the development of competition.

2. The workshop series should give priority to addressing number pooling, rate center consolidation, and improved lottery procedures

3. As a first step to prepare for workshops on the consolidation of rate centers, Pacific and GTEC should each identify all rate centers in their service territories which they believe can be consolidated with adjacent rate centers without serious impact, and serve this information on parties.

4. Following receipt of the filed data on rate center consolidation, the ALJ shall schedule a workshop to focus on reaching consensus on a plan for the

consolidation of those rate centers which will result in minimal significant impact.

5. A separate workshop phase should be convened to address the consolidation of rate centers where NXX demand is high, and where the impacts of consolidation are likely to be more numerous and complex.

6. The workshops on rate center consolidation should identify the potential impacts on emergency and other operational support systems, as well as on carriers' costs and rates.

7. A separate task force should be designated as responsible for addressing number pooling issues.

8. It is premature at this point to set a particular deadline for the implementation of number pooling within California.

9. Although the LNP Task Force should not be charged with direct responsibility for the development of number pooling, it must coordinate, as appropriate, with the Number Pooling Task Force.

10. A workshop should be convened to scope out the preliminary work to be done to implement number pooling in California, including the establishment of an ongoing Number Pooling Task Force, with particular attention toward coordination with efforts underway at the national level.

11. As a preliminary goal, the Number Pooling Task Force should identify the most important number pooling issues in which California can provide input in shaping the policy of the national group, including the question of what percentage of "contamination" (i.e., prior usage) should be allowed for a block of 1,000 numbers to be considered eligible for number pooling and the issue of sharing individual numbers within an NXX code.

12. The Number Pooling Task Force shall provide a preliminary report to the assigned ALJ on the status of the study of number pooling. In the report, the

Task Force should consider whether to recommend that similar code assignment restrictions as adopted for the 310 NPA should be extended to other NPAs.

13. In the event that the NANPA does introduce a new forecasting tool for estimating NXX code demand, the NANPA should promptly advise the assigned ALJ by letter. Upon receipt of such letter, the ALJ should schedule a one-day workshop in which the NANPA will present the revised forecasting tool to the industry for discussion.

14. A workshop should be convened to provide parties the opportunity to identify suggested ways to improve the lottery process to promote a more competitive market in accordance with Ordering Paragraphs 2 and 3 of D.98-07-096 denying the motion of MediaOne for a special exemption from the lottery.

## **O R D E R**

### **IT IS ORDERED** that:

1. The Administrative Law Judge is directed to issue a procedural ruling establishing a schedule for the convening of a series of industry workshops to address NXX code conservation and efficient utilization of numbering resources pursuant to the conclusions of law above.

2. By September 13, 1998, Pacific Bell (Pacific) and GTE California Incorporated shall file and serve on parties a report identifying all rate centers in their service territories which they believe can be consolidated with adjacent rate centers without serious impact.

3. A status report shall be submitted by the Telecommunications Division to the assigned ALJ by October 1, 1998 on progress toward the establishment of the Task Force to address number pooling issues.

4. A deadline of March 31, 1999 shall be set for the Numbering Pooling Task Force to submit to the assigned ALJ an implementation schedule for number pooling within California.

5. The motion of Pacific for acceptance of a third-round pleading is denied.

This order is effective today.

Dated August 6, 1998, at San Francisco, California.

RICHARD A. BILAS

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners