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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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In the matter of:

Petition for Declaratory Ruling and  
Request for Expedited Action on the  
July 15, 1997 Order of the Pennsylvania  
Public Utility Commission Regarding  
Area Codes 412, 610, 215, and 717.

NSD File No. L-97-42

Implementation of the Local  
Competition Provisions of the  
Telecommunications Act of 1996

CC Docket No.96-98

**PETITION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION  
AND OF THE PEOPLE OF THE STATE OF CALIFORNIA  
FOR WAIVER TO IMPLEMENT A TECHNOLOGY-  
SPECIFIC OR SERVICE-SPECIFIC AREA CODE**

The California Public Utilities Commission and the People of the State of California (California or CPUC) submit to the Federal Communications Commission (FCC or Commission) this Petition for Waiver to Implement a Technology-Specific Area Code. Specifically, the CPUC requests that the Commission grant a waiver of 47 C.F.R. § 52.19(c)(3) so as to authorize California discretion to implement a technology-specific or service-specific area code. This request is not intended to prejudice whether the CPUC would order a technology-specific or service-specific area code. Rather, California is making this request so that we can maximize the options available to gain control of the ongoing number crisis we face. We are filing a companion Petition for Delegation of

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Additional Authority, in which we request jurisdiction to pursue several NXX code conservation measures and efficient number use practices.

## **I. BACKGROUND**

Under § 1.3 of the Commission's rules, the Commission may exercise its discretion to waive a rule where there is "good cause" to do so. The CPUC asserts that the critical numbering situation in California, coupled with the extremely limited jurisdiction the FCC has delegated to the states to respond to the current situation, constitute "good cause" for the Commission to waive Rule 47 C.F.R. § 52.19(c)(3). The facts underlying California's waiver request follow.

Later this year, California will open its 26th area code. Our best projections are that to meet the demand for numbers, without implementing any conservation measures, we will be required to open 15 more NPAs by the end of 2002, bringing the total number of area codes in this state to 41 by the end of that same year.

As of the date of this filing, 190 competitive local exchange carriers (CLECs) are certified to provide service in California. Of that number, roughly half are carriers providing facilities-based local service, or offer a local service which is provided through a combination of CLEC facilities and resale of incumbent LEC facilities. In addition, we have approximately 45 facilities-based cellular carriers and 11 PCS providers, all of which also need NXX codes so they can assign numbers to their customers. California has roughly 800 rate centers. Pursuant to current number allocation protocols, a carrier seeking to provide service statewide in California would need 8,000,000 numbers to

begin offering service.

Finally, public ire about the increasing number of area codes is mounting. Articles appear in the press, and stories run on broadcast media on a weekly if not daily basis. It is now public knowledge that numbers are being allocated inefficiently, with every carrier receiving a block of 10,000 numbers, regardless of how many customers the carrier has or projects it will have in the foreseeable future. A member of the California Legislature proposed a bill that, if enacted, would have triggered a moratorium on implementation of new area codes. Fortunately, for the sake of the CPUC, the industry, and the public, the moratorium provision is not in the most recent version of the bill.

We also are exploring rate center consolidation. Until recently, the two largest incumbent local exchange carriers (ILECs) had informed us that they could identify no rate centers which could easily be consolidated. Recently, however, those two ILECs have indicated their willingness to further explore rate center consolidation, and we will be pursuing that option. Nonetheless, rate center consolidation poses the prospect of imposing the greatest direct costs on end users, which will be controversial. In addition, the very process of consolidating rate centers will require a considerable expenditure of resources by the CPUC and by the industry to reach consensus on how to do so. Finally, we have been informed that rate center consolidation in some other states has produced some problems in the handling of 911 calls, which we understand the industry is attempting to resolve. For these reasons, we do not perceive rate center consolidation as a panacea to our numbering crisis.

Simply put, the CPUC is working diligently to find one or more solutions to the numbering crisis we face. But, we cannot keep pace with the demand for numbers. In addition to the constant pressure of the NPA relief planning process, we must hear and resolve complaints from the public. Recently, the Cities of Glendale and Burbank filed a protest of the proposed relief plan for the 818 NPA. Addressing the protest will necessarily delay approval of a relief implementation date. Our staff daily field hundreds of communications via e-mail, telephone, and letter from members of the public complaining bitterly about the number and pace of area code changes taking place in California. Without additional authority from the FCC, we cannot develop a broad slate of solutions to address the problem. We ask the Commission to grant the waiver we seek.

## **II. WAIVER REQUEST**

47 C.F.R. § 52.19(c) reads in relevant part as follows:

(c) New area codes may be introduced through the use of:

(3) an area code overlay, which occurs when a new area code is introduced to serve the same geographic area as an existing area code, subject to the following conditions:

(i) No area code overlay may be implemented unless all central office codes in the new overlay area code are assigned to those entities requesting assignment on a first-come, first-serve basis, regardless of the identify of, technology used by, or type of service provided by that entity. No group of telecommunications carriers shall be excluded from assignment of central office codes in the existing area code, or be assigned such codes only from the overlay area code, based solely on that group's provision of a specific type of telecommunications service or use of a particular technology.

The CPUC has, to date, taken no position on the use of service-specific or technology-specific overlays. At the moment, a bill pending in the California State

Legislature when introduced, would have required the CPUC to seek just such a waiver from the FCC. That provision has been removed from the current version of the bill. Nonetheless, at public meetings the CPUC and the North American Numbering Plan Administrator (NANPA) conduct in California in connection with area code relief planning, one or more public speakers invariably ask why we have not created an area code for specific uses, such as faxes or wireless providers. The answer is that we cannot do so because of 47 C.F.R. § 52.19(c)(3). For the past several years, the CPUC's inability even to consider creating an NPA dedicated to a particular service or technology was not of particular concern. But, as noted in the previous section of this Petition, the landscape has changed dramatically.

In particular, we note in 1998, as of December 1, 1998, cellular phone companies were assigned 325 additional NXX codes, paging companies received 195, ILECs were issued 218 codes, and CLECs received 1,094. In addition, we note that the FCC recently granted wireless carriers a two-year extension of the deadline for their implementation of local number portability (LNP). Carriers which are not LNP-capable are not truly able to participate in number pooling, a fact that wireless carriers have been quick to tell the CPUC as well as the FCC. Wireless carriers have stated emphatically that neither states nor the FCC should implement number pooling because wireless providers cannot participate because they lack of LNP capability.

Thus we find ourselves confronting a dilemma. The number allocation system we continue to employ, because the FCC will not permit us to mandate otherwise, is

inefficient because it requires that numbers be dispensed in blocks of 10,000, and is causing an indefensible drain on public numbering resources. A reasonable solution to this problem is to create a more efficient allocation mechanism, such as number pooling, which would allow for numbers to be distributed in blocks smaller than 10,000. One group of carriers has removed itself from participation in that solution by virtue of the extension of time the FCC granted wireless providers to implement LNP. The FCC hopefully will establish national guidelines for the states to implement number pooling before that two-year extension of time expires, or, in the alternative, the FCC may grant the CPUC's companion to implement mandatory number pooling.<sup>1</sup> In either event, should the CPUC decide to implement number pooling, it would do so as soon as possible following its determination, regardless of whether all carriers could participate.

Once number pooling is in effect, and any particular group of carriers is unable to participate because it is not LNP-capable, that group of carriers will still need to obtain NXX codes in order to provide service to their customers. The CPUC has no desire to impede the ability of any carrier to obtain NXX codes in a timely manner. At the same time, if most carriers are participating in pooling in a given NPA, and one group of carriers is not participating, the majority of carriers will be obtaining numbers in blocks

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<sup>1</sup> See Petition of the CPUC and of the People of the State of California for Delegation of Additional Authority, filed April 26, 1999.

smaller than 10,000, while the carriers who are not LNP-capable will continue to draw NXX codes in blocks of 10,000. In that situation, it seems reasonable to the CPUC that it may wish to consider the reasonableness of creating a separate NPA for non-LNP-capable carriers.

We emphasize that we do not wish to prejudge the issue of whether California should implement a technology-specific or service-specific area code. The CPUC may ultimately decide that implementing such an area code is technically infeasible or simply will not contribute significantly to easing pressure on the numbering system.

Nonetheless, the CPUC cannot even consider the option so long as we have no express waiver from Rule 47 C.F.R. § 52.19(c)(3).

#### **IV. CONCLUSION**

For the reasons stated, the CPUC believes that circumstances in California, as well as the limited jurisdiction the FCC has delegated to state commissions, justify “good cause” for the Commission to grant the CPUC a waiver of Rule 47 C.F.R. § 52.19(c)(3).

Good cause is also demonstrated by the FCC’s own action granting wireless providers an

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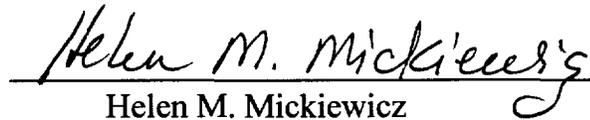
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extension of time to implement LNP, and as well as the fact that states are still unable to order mandatory number pooling at this time. We urge the FCC to grant the CPUC the requested waiver to implement a technology-specific or service-specific area code.

Respectfully submitted,

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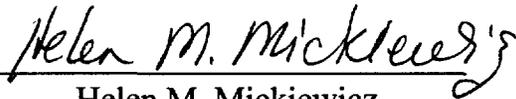
Attorneys for the  
Public Utilities Commission  
State Of California

April 23, 1999

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document entitled **“PETITION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND OF THE PEOPLE OF THE STATE OF CALIFORNIA FOR WAIVER TO IMPLEMENT A TECHNOLOGY-SPECIFIC OR SERVICE-SPECIFIC AREA CODE ”** upon all known parties of record by mailing, by first-class mail a copy thereof properly addressed to each party.

Dated at San Francisco, California, this 23rd day of April, 1999.

  
Helen M. Mickiewicz