

12-99-33

STATE OF FLORIDA

JOE GARCIA  
CHAIRMAN



CAPITAL CIRCLE OFFICE CENTER  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0854  
(850) 413-6042

**Public Service Commission**

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April 2, 1999

Federal Communications Commission  
Office of Secretary

DOCKET FILE COPY ORIGINAL

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th, SW - TW-A325  
Washington, DC 20554

CC DOCKET: 96-98

Dear Ms. Salas:

The Florida Public Service Commission (FPSC) hereby files the attached petition regarding the FPSC's request for permission to implement number conservation measures. The FPSC voted at the March 30 agenda to file this petition. In addition, due to these extenuating circumstances, we are proceeding with an expedited hearing on requiring code holders to issue telephone numbers consecutively, and we are continuing to conduct workshops on number conservation regarding this matter.

Enclosed are an original and 6 copies. Please date-stamp and return one copy in the enclosed self-addressed stamped envelope.

Sincerely,

Joe Garcia  
Chairman

JG:jmb  
Enclosure

- cc: Chairman Kennard
- Commissioner Ness
- Commissioner Tristani
- Commissioner Powell
- Commissioner Furchgott-Roth
- Yog R. Varma, Deputy Chief, Common Carrier Bureau
- Brad Ramsay, National Association of Regulatory Utility Commissioners
- International Transcription Service

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**PETITION TO FEDERAL COMMUNICATIONS COMMISSION  
FOR EXPEDITED DECISION FOR GRANT OF AUTHORITY  
TO IMPLEMENT NUMBER CONSERVATION MEASURES**

The Florida Public Service Commission (FPSC) hereby requests authority to fashion a Florida specific solution to our state's existing number crisis. Our efforts will be consistent with Federal Communications Commission (FCC) policy, by ensuring that number resources are made available in an equitable, efficient and timely basis to all carriers. Our efforts will not unduly favor or disfavor any particular segment or group of telecommunications consumers, nor will our efforts unduly favor one telecommunications technology over another.

The FCC has supported state conservation action, where the state has a history of involvement in numbering issues and shows that extenuating circumstances require immediate state specific action. Like in California, the Florida Commission has a history of sustained action on numbering issues that predates the enactment of the FCC rules and the Telecommunications Act of 1996. Since 1995, nine additional area codes have been implemented in Florida. Of these nine new area codes, up to six may be in jeopardy or extraordinary jeopardy. This jeopardy affects most metropolitan areas in Florida.

Florida's circumstances are comparable to those in California. We similarly are seeking a letter endorsing a grant of authority to fashion a Florida specific solution to the

existing number crisis. We are also looking to the industry to come up with solutions.

The facts substantiating our request are as follows:

1) On January 6, 1998, the FPSC issued Order PSC-98-0040-FOF-TL, which assigned 20 NXXs to the 305 area code in Monroe County (the Keys). These codes were calculated to last until the year 2012. Now, one year after the entry of this order, the North American Numbering Plan Administrator (NANPA) informs us that the 20 NXXs which were designated for the Keys have been exhausted. The accelerated assignment of NXXs, which far exceeded the usage rate contemplated in the order, has forced an extraordinary jeopardy situation in the Keys portion of the 305 area code.

2) The NANPA has declared extraordinary jeopardy in the 305, 561, 941 and the 954 area codes. These notices of extraordinary jeopardy were issued, even though there is information that the number blocks currently distributed in each area code have been underutilized. To illustrate, in the 305 area code, 39% of the available telephone numbers are utilized; in the 561 area code, 35% are utilized; in the 941 area code, 37% are utilized; and finally in the 954 area code, 50% are utilized. This situation is a natural consequence of the present system of issuing telephone numbers in blocks of ten-thousand, but is nonetheless very inefficient and troubling, causing new area

codes to be introduced at a faster rate than the growth in demand for telephone numbers.

3) The exhaust of additional area codes this year, coupled with conflicting information, leads the FPSC to believe that the entire state of Florida is in jeopardy. Florida must be permitted to act now. In fact, we are willing to volunteer to be the trial state for number pooling.

The FPSC has reviewed other measures which have been implemented around the country. We are requesting authority for the following conservation measures:

- institute thousand-block (and perhaps 100 block) number pooling;

Clearly, thousand-block pooling represents a possible vehicle for conserving numbering resources. However, development of mandatory national thousand-block pooling guidelines could take considerable time.

Therefore, the FPSC requests additional authority to implement its own thousand number block pooling requirements in advance of any federal rules.

- implement sharing of NXX codes in rate centers;
- revise rationing measures and institute NXX lotteries (prior to adoption of area code plans or establishment of an area code relief date) to prolong the life of existing area codes;

The authority to revise the rationing procedure will allow the FPSC more flexibility to extend the lives of the existing area codes while long-term numbering solutions are developed. The FPSC also requests the authority to institute a NXX lottery which would afford each applicant an equal opportunity.

- reclaim unused and reserved central office codes;  
Code conservation measures are essential in Florida in order to extend the lives of the current area codes. The FPSC would like additional authority to investigate whether any of these reserved central office codes can be reclaimed for future distribution, without causing disruption to carriers' network operations.
- maintain the current central office code rationing measures for at least six months after the implementation of all area code relief plans;  
Once an area code relief plan is announced, this accelerates the demand for the remaining NXXs in the old area code. By using code rationing as a supply constraint, this controls the artificial increase in demand.
- expand deployment of permanent number portability;
- implement unassigned number porting;

The FPSC requests additional authority to implement Unassigned Number Porting ("UNP"). The FPSC understands that UNP is already being used by certain carriers during a rationing period. The FPSC requests additional authority to implement UNP as an additional tool to conserve numbering resources; and

- implement rate center consolidation.

In addition, we request that the FPSC be granted express permission to use LINUS to run NXX reports quarterly.

We also request that the FCC direct the NANPA to do the following:

- update the Central Office Code Utilization Survey (COCUS) report quarterly, instead of annually; Quarterly data would provide a much more current basis for planning area code relief, which is very important since the data can change dramatically in a short space of time.
- establish code allocation standards to more efficiently manage numbering resources; This would include a requirement that NANPA consult with the FPSC prior to issuance of additional NXX codes.

In addition, we request that the FCC expressly grant the FPSC authority to require wireless carriers to provide the necessary

COCUS and other information needed to carry out our responsibilities. In order to investigate the feasibility of various pooling scenarios, the FPSC will need utilization data at the block level, for all code holders, wireline and wireless alike.

Accordingly, the FPSC hereby requests a Letter Order reflecting the following: The FPSC is hereby granted authority to fashion a Florida specific solution to its existing number crisis. Florida's efforts shall be consistent with FCC policy, by ensuring that number resources are made available in an equitable, efficient and timely basis to all carriers. Florida's efforts shall not unduly favor or disfavor any particular segment or group of telecommunications consumers, nor shall Florida's efforts unduly favor one telecommunications technology over another. The FPSC is also delegated authority to gather necessary information from wireless carriers.

Letter Order Regarding California's Situation

Pursuant to Section 251(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and the authority delegated in 52.19 of the FCC's rules, the FCC granted temporary authority to the California Commission to continue to conduct its measures implementing area code relief. We simply note that Florida's circumstances are comparable to those in

California. We similarly are seeking a letter order giving us an additional grant of authority.

### FPSC Actions

In addition to filing this request with the FCC, we are proceeding with an expedited hearing on requiring code holders to issue telephone numbers consecutively, beginning with the lowest available telephone number. This proceeding is in direct response to our concern that code holders do not typically issue telephone numbers in any particular order, which if left to continue, would hamper future number pooling efforts. In addition, we are continuing to conduct workshops on the full range of number conservation measures (Docket No. 981444-TP). We are also urging the industry to take voluntary measures.

### Request

Thus, the FPSC files this petition to request authority, and any necessary waiver of the FCC's rules in order to ease the extenuating circumstances we are facing. In addition, we ask that the FCC grant the FPSC additional authority to implement various area code measures. The FPSC requests this additional authority as part of its ongoing area code relief proceeding. This is intended to be used to minimize consumer confusion and expenses associated with imposing new area codes so quickly.

Clearly, Section 251(e)(1) gives the FCC authority over numbering administration. However, it states, "Nothing in this paragraph shall preclude the Commission from delegating to state commissions or other entities all or any portion of such jurisdiction." (Emphasis added). We urge that the FCC grant such authority to the FPSC.

#### Conclusion

In conclusion, we urge that the FCC act within 30 days to ease this situation. Accordingly, the FPSC hereby requests an Expedited Letter Order reflecting the following: The FPSC is hereby granted authority to fashion a Florida specific solution to its existing number crisis. Florida's efforts shall be consistent with previously approved policy, by ensuring that number resources are made available in an equitable, efficient and timely basis to all carriers. Florida's efforts shall not unduly favor or disfavor any particular segment or group of telecommunications consumers. Nor shall Florida's efforts, unduly favor one telecommunications technology over another. Florida, for this purpose, is also delegated the authority to gather necessary information from wireless carriers.

Respectfully submitted,



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CYNTHIA B. MILLER  
Senior Attorney

FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
(850) 413-6082



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
445 12TH STREET, S.W.  
WASHINGTON, D.C. 20554

News Media Information (202) 418-0500.  
Internet <http://www.fcc.gov>

DA 99-725  
Released: April 15, 1999

## COMMON CARRIER BUREAU SEEKS COMMENT ON THE FLORIDA PUBLIC SERVICE COMMISSION'S PETITION FOR AUTHORITY TO IMPLEMENT NUMBER CONSERVATION MEASURES

NSD File No. L-99-33

### Pleading Cycle Established

COMMENTS: May 14, 1999

REPLY COMMENTS: May 28, 1999

On September 28, 1998, the Federal Communications Commission ("Commission") released an order in the matter of a Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Memorandum Opinion and Order and Order on Reconsideration*, FCC 98-224, CC Docket No. 96-98, NSD File No. L-97-42 (rel. September 28, 1998) ("Pennsylvania Numbering Order"). The Pennsylvania Numbering Order delegated additional authority to state public utility commissions to order NXX code rationing in jeopardy situations and encouraged state commissions to seek further limited delegations of authority to implement other innovative number conservation methods.

On April 2, 1999, the Florida Public Service Commission ("Petitioner") ("FPSC") filed a petition requesting that the Commission delegate to the FPSC authority to implement various number conservation measures. Petitioner requests that the Commission grant it the authority to: (1) institute thousand-block (and perhaps 100 block) number pooling; (2) implement sharing of NXX codes in rate centers; (3) revise rationing measures and institute NXX lotteries (prior to adoption of area code plans or establishment of an area code relief date) to prolong the life of existing area codes; (4) reclaim unused and reserved central office codes; (5) maintain the current central office code rationing measures for at least six months after the implementation of all area code relief plans; (6) expand deployment of permanent number portability; (7) implement unassigned number porting; and, (8) implement rate center consolidation.

In addition, petitioner requests that it be granted express permission to use the Line Number Utilization Survey (LINUS) to run NXX reports quarterly. It also requests that the FCC direct NANPA to: (1) update the Central Office Code Utilization Survey (COCUS) report quarterly, instead of annually, to provide a much more current basis for planning area code relief; and (2) establish code allocation standards to more efficiently manage numbering resources. Finally, petitioner requests that the FCC expressly grant the FPSC authority to require wireless carriers to provide the COCUS and other information necessary for the FPSC to carry out its responsibilities.

Petitioner states it is requesting this authority as part of its ongoing area code relief proceeding. The authority is intended to be used to minimize consumer confusion and expenses associated with imposing new area codes.

We hereby seek comment on the issues raised in Petitioner's request for authority to implement various area code conservation measures. Interested parties may file comments concerning this matter on or before **May 14, 1999**, and reply comments on or before **May 28, 1999**. All filings must reference **File No. NSD-L-99-33**. Documents are available until April 23, 1999 for review and copying at the Network Services Division Reference Center, Room 220, 2000 M Street, N.W., Washington, D.C., Monday through Thursday, from 8:30 a.m. to 12:30 p.m. and 1:30 p.m. to 3:00 p.m., (202) 418-2325. The reference room will be closed from April 23 - April 30, 1999 for relocation to Portals II. After **May 3, 1999** the filing will be available for review and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, N.W., Suite CY-A257, Washington, D.C., 20554, (202) 418-0267.

Send original and four copies to the Commission Secretary, Magalie Roman Salas, Portals II, 445 12th Street, SW, Suite TW-A325, Washington, D.C. 20554 and two copies to Al McCloud, Network Services Division, Portals II, 445 12th Street, S.W., Room 6A-320. Washington, D.C. 20554.

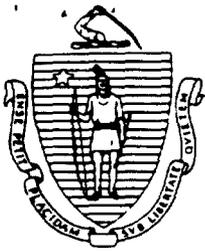
Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to **<<http://www.fcc.gov/e-file/ecfs.html>>**. If using this method, please reference CC Docket No. **96-98** in the Proceeding Block. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to **ecfs@fcc.gov**, including "get form <your e-mail address>" in the body of the message. A sample form and directions will be sent in reply. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

This is a "permit but disclose" proceeding for purposes of the Commission's *ex parte* rules. See generally 47 C.F.R. §§ 1.1200-1.1216. As a "permit but disclose" proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings. 47 C.F.R. § 1.1206.

Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b)(2). Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.

For further information contact Al McCloud of the Common Carrier Bureau, Network Services Division, at (202) 418-2320 or amcccloud@fcc.gov. The TTY number is (202) 418-0484.

**-FEDERAL COMMUNICATIONS COMMISSION-**



COMMONWEALTH OF MASSACHUSETTS  
 OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION  
**DEPARTMENT OF**  
**TELECOMMUNICATIONS & ENERGY**  
 100 CAMBRIDGE STREET, 12<sup>TH</sup> FLOOR  
 BOSTON, MA 02202

~~NSD-L-99-19~~  
 NSD-L-99-19

A. PAUL CELLUCCI  
 GOVERNOR

JANE SWIFT  
 LIEUTENANT GOVERNOR

DANIEL A. GRABAUSKAS  
 DIRECTOR OF CONSUMER AFFAIRS  
 AND BUSINESS REGULATION

JANET GAIL BESSER  
 CHAIR  
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 COMMISSIONER  
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 COMMISSIONER  
 PAUL B. VASINGTON  
 COMMISSIONER

CC DOCKET: 96-98

February 12, 1999

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Common Carrier Bureau  
 Network Service Division  
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FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary  
 Federal Communications Commission  
 Room 222  
 1919 M Street, N.W.  
 Washington, DC 20554

re: Massachusetts Department of Telecommunications and Energy's Petition for Waiver to  
 Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes

Dear Ms. Salas:

Enclosed for filing in the above matter please find one original and five copies of the  
 Massachusetts Department of Telecommunications and Energy's Petition for Waiver to  
 Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes. Kindly  
 stamp one copy and return it to us in the enclosed stamped, self-addressed envelope.

Sincerely,

Karlen J. Reed, Esq.

KJR/kr  
 Enc.

cc: Al McCloud, Common Carrier Bureau, Network Services (w/enc.)  
 Jared Carlson, Common Carrier Bureau, Network Services Division (w/enc.)  
 Attached Service List (w/enc.)

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

MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY'S  
PETITION FOR WAIVER TO IMPLEMENT A TECHNOLOGY-SPECIFIC OVERLAY  
IN THE 508, 617, 781, AND 978 AREA CODES

The Massachusetts Department of Telecommunications and Energy ("Department") respectfully requests that the Federal Communications Commission ("Commission" or "FCC") waive the provisions of 47 C.F.R. Section 52.19(c)(3) and permit the Department to implement a technology-specific or service-specific overlay in the 508, 617, 781, and 978 area codes in eastern Massachusetts. The Department requests this waiver as part of its ongoing area code relief plan investigation for these area codes, in light of the fact that this is the second time in two years that Massachusetts consumers are facing the confusion and expense associated with introducing new area codes.

I. BACKGROUND

On January 23, 1997, the Department ordered a geographic split of the 617 and 508 area codes to create two new area codes, 781 and 978, to be fully implemented beginning on May 1, 1998. On March 4, 1998, the North American Numbering Plan Area Code Administrator, Lockheed Martin IMS ("Lockheed"), notified the Department that, because of an unexpectedly high demand for new exchange codes, the 508 and 617 area codes were again in jeopardy of exhausting the available supply of exchange codes. On April 24, 1998, the Department filed

comments with the Commission supporting the Connecticut Department of Public Utility Control's petition for a technology-specific overlay to conserve exchange codes. Initial Comments of the Commonwealth of Massachusetts Department of Telecommunications & Energy, DA 98-743 (Comments dated April 24, 1998). Simultaneously, on April 24, 1998, the Department opened an investigation into code conservation measures to evaluate ways to delay the need to introduce new area codes in Massachusetts. Area Code Conservation, D.T.E. 98-38.

On May 12, 1998, Lockheed notified the Department that the new 781 and 978 area codes were also in a jeopardy condition. On May 18, 1998, Lockheed filed its relief plans for the 508 and 617 area codes. On September 28, 1998, the Commission issued a Memorandum Opinion and Order in which it outlined state commission authority to order the implementation of exchange code conservation methods. 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; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 98-224, NSD File No. L-97-42 (published November 16, 1998, Fed. Reg.) ("Pennsylvania Opinion"). On October 27, 1998, the Department filed a Petition for Reconsideration of the Pennsylvania Opinion.

On October 29, 1998, Lockheed filed its relief plans for the 781 and 978 area codes. On January 11, 1999, the Department opened an investigation, docketed as D.T.E. 99-11, to review alternative area code relief plans proposed by Lockheed for the 508, 617, 781, and 978 area codes in Eastern Massachusetts. On January 19, 1999, Lockheed filed revisions to the May 18,

1998, 508 and 617 relief plans. On January 26, 1999, the Department modified the on-going conservation docket, Area Code Conservation, D.T.E. 98-38, to allow for an adjudication on the issue of rate center consolidation. On February 2, 1999, Governor A. Paul Cellucci of the Commonwealth of Massachusetts sent a letter to FCC Chairman William E. Kennard formally requesting the Commission to grant the Department's waiver requests for additional authority, including a technology-specific waiver.<sup>1</sup>

## II. FEDERAL OVERLAY STANDARDS

Congress delegated to state commissions the authority to implement new area codes and to determine the appropriate forms of area code relief, i.e., by (1) geographic split,<sup>2</sup> (2) area code boundary realignment,<sup>3</sup> or (3) an area code overlay<sup>4</sup> (47 C.F.R. Section 52.19; Pennsylvania

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<sup>1</sup> Governor Cellucci asked the Commission to grant the Department authority to (1) order thousands-block number pooling in Massachusetts by the end of 1999, (2) set the standards for allocation of exchange codes for a more efficient use of the numbering resources, (3) maintain some central office code rationing measures even after implementation of area code relief, (4) require return of unused exchange codes, (5) hear and address claims of carriers seeking additional exchange codes outside of the rationing plan, and (6) allow Massachusetts to consider a technology-specific overlay. See Governor Cellucci's letter to Honorable William E. Kennard, dated February 2, 1999 (Attachment "A").

<sup>2</sup> A geographic split involves dividing a geographic area served by an existing area code into two or more geographic parts and one part maintains the old area code, with the remaining parts receiving new area codes.

<sup>3</sup> A boundary realignment involves a shift of the boundary lines between two adjacent area codes to allow the transfer of some NXX codes from an area code for which many NXX codes remain unassigned to an area code for which few NXX codes are left for assignment.

<sup>4</sup> An area code overlay occurs when a new area code is introduced to serve the same geographic area as an existing area code. Under current FCC rules, a consumer must dial

Opinion at 7-8). The Commission prohibits the use of technology-specific overlays as a means of area code relief because the Commission has determined that overlays that segregate certain types of telecommunication services or technologies are unreasonably discriminatory and unduly inhibit competition (Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, 11 FCC Record 19392 (1996) (Local Competition Second Report and Order), petitions for reconsideration pending, vacated in part, People of the State of California v. FCC, 124 F.3d 934 (8th Cir. August 22, 1997), cert. granted, sub nom. AT&T Corp. v. Iowa Util. Bd., 118 S.Ct. 879 (Jan. 26, 1998), reversed in part on other grounds and remanded. Nos. 97-826 (S.Ct. Jan. 25, 1999)).<sup>5</sup>

### III. DISCUSSION

The Department respectfully requests that the Commission grant it a waiver of the Commission's rule prohibiting technology-specific or service-specific area code overlays. Whether a technology-specific or service-specific overlay would unreasonably discriminate and

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10 digits, not 7 digits, for all calls whenever overlay area code plans are implemented, even if the dialed number is located within the same exchange service area.

<sup>5</sup> "An area code overlay [is] ... 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 identity 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" 47 C.F.R. 52.19(c)(3).

unduly inhibit competition in Massachusetts can be best explored by state regulators on the basis of their knowledge of local market conditions. Given the disruptions, inconvenience, and costs that consumers bear with the introduction of new area codes, state regulators should have the option of investigating and weighing the advantages of a technology-specific overlay in terms of avoiding customer confusion, disruptions and inconvenience against the possible competitive disadvantages of a technology-specific or service-specific overlay.

The Department notes that the circumstances in Massachusetts may be different from the circumstances in existence when the Commission originally prohibited technology-specific or service-specific area code overlays in 1995.<sup>6</sup> Massachusetts is an extremely competitive telecommunications marketplace with 88 registered competitive local exchange carriers. We believe it appropriate for state regulators to investigate whether a technology-specific or service-specific overlay would unduly inhibit competition based on local market conditions, rather than continue to rely on the assumption from 1995 that such overlays would be anticompetitive in each and every market.

#### IV. CONCLUSION

The Department has opened an investigation into area code relief for the 508, 617, 781, and 978 area codes in eastern Massachusetts, and the Department also opened an investigation into area code conservation (D.T.E. 98-38). The Department has not made any substantive

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<sup>6</sup> The Commission first prohibited a technology-specific overlay in connection with a 1995 Ameritech relief plan order. See Proposed 708 Relief Plan and 630 Numbering Plan Area Code, Declaratory Ruling and Order, IAD File No. 94-102, 10 FCC Record 4596 (1995).

findings on whether a technology-specific overlay is appropriate at this time. However, we would like to have a full range of options available to us in our area code docket, D.T.E. 99-11.

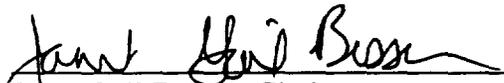
The Department is mindful of the potential competitive disadvantages that have been cited (primarily by wireless service providers) in opposition to technology-specific overlays, and we share the Commission's commitment to the development of competitive telecommunications markets in which all potential technologies will have an opportunity to succeed. To best serve the needs of Massachusetts consumers and the increasing demand of exchange codes, however, we seek a waiver from 47 C.F.R. Section 52.19(c)(3) to allow implementation of a technology-

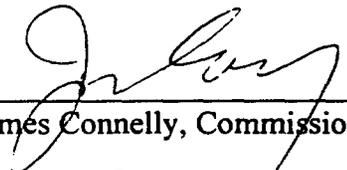
specific or service-specific overlay for the 508, 617, 781, and 978 area codes.

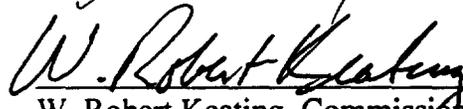
Respectfully submitted,

Commonwealth of Massachusetts  
Department of Telecommunications and Energy

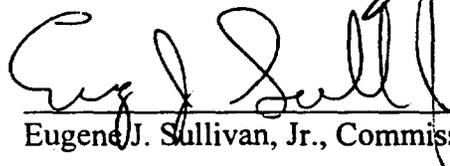
By:

  
Janet Gail Besser, Chair

  
James Connelly, Commissioner

  
W. Robert Keating, Commissioner

  
Paul B. Vasington, Commissioner

  
Eugene J. Sullivan, Jr., Commissioner

100 Cambridge Street, 12<sup>th</sup> Floor  
Boston, MA 02202



The Commonwealth of Massachusetts

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY RECEIVED

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MAY 21 1999

FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

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

CC DOCKET: 96-98

MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY'S PETITION FOR WAIVER OF SECTION 52.19 TO IMPLEMENT VARIOUS AREA CODE CONSERVATION METHODS IN THE 508, 617, 781, AND 978 AREA CODES

Commonwealth of Massachusetts Department of Telecommunications and Energy

Janet Gail Besser, Chair James Connelly, Commissioner W. Robert Keating, Commissioner Paul B. Vasington, Commissioner Eugene J. Sullivan, Jr., Commissioner

100 Cambridge Street, 12th Floor Boston, MA 02202 617-305-3500

Dated: February 17, 1999

NSD-L-99-17

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

MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY'S  
PETITION FOR WAIVER OF SECTION 52.19 TO IMPLEMENT VARIOUS AREA CODE  
CONSERVATION METHODS IN THE 508, 617, 781, AND 978 AREA CODES

The Massachusetts Department of Telecommunications and Energy ("Department") respectfully requests that the Federal Communications Commission ("Commission" or "FCC") waive the provisions of 47 C.F.R. Section 52.19(c)(3) and grant the Department additional authority to implement various area code conservation measures in the 508, 617, 781, and 978 area codes in eastern Massachusetts. The Department requests this additional authority as part of its ongoing area code relief plan investigation and area code conservation investigation for these area codes. The waiver is intended to be used to minimize consumer confusion and expense associated with introducing new area codes for the second time in two years in Massachusetts.

I. BACKGROUND

On January 23, 1997, the Department ordered a geographic split of the 617 and 508 area codes to create two new area codes, 781 and 978, to be fully implemented beginning May 1, 1998. On March 4, 1998, the North American Numbering Plan Area Code Administrator, Lockheed Martin IMS ("Lockheed"), notified the Department that, because of an unexpectedly high demand for new exchange codes, the 508 and 617 area codes were again in jeopardy of exhausting the available supply of exchange codes. On April 24, 1998, the Department opened

an investigation into code conservation measures to evaluate ways to delay the need to introduce new area codes in Massachusetts (Area Code Conservation, D.T.E. 98-38 ("D.T.E. 98-38")).

On May 12, 1998, Lockheed notified the Department that the new 781 and 978 area codes were also in a jeopardy condition. On May 18, 1998, Lockheed filed its relief plans for the 508 and 617 area codes. On September 28, 1998, the Commission issued a Memorandum Opinion and Order in which it outlined state commission authority to order the implementation of exchange code conservation methods. 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 312, 610, 215, and 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 98-224, NSD File No. L-97-42 (published November 16, 1998, Fed. Reg.) ("Pennsylvania Opinion"). On October 27, 1998, the Department filed a Petition for Reconsideration of the Pennsylvania Opinion. This petition is currently under consideration by the Commission.

On October 29, 1998, Lockheed filed its relief plans for the 781 and 978 area codes. On January 11, 1999, the Department opened an investigation, docketed as Area Code Relief, D.T.E. 99-11, to review alternative area code relief plans proposed by Lockheed for the 508, 617, 781, and 978 area codes in eastern Massachusetts. On January 19, 1999, Lockheed filed revisions to the May 18, 1998, 508 and 617 relief plans. On January 26, 1999, the Department modified the on-going conservation docket, D.T.E. 98-38, to allow for an adjudication on the issue of rate center consolidation. On February 2, 1999, Governor A. Paul Cellucci of the Commonwealth of

Massachusetts sent a letter to FCC Chairman William E. Kennard formally requesting the Commission to grant the Department's waiver requests for additional code conservation authority.<sup>1</sup> On February 12, 1999, the Department filed a petition with the Commission for a waiver of 47 C.F.R. Section 52.19(c)(3)(i) to allow consideration of a technology-specific overlay for the 508, 617, 781, and 978 area codes.

## II. FEDERAL AREA CODE CONSERVATION REQUIREMENTS

On September 28, 1998, the Commission issued its Pennsylvania Opinion in response to a petition for declaratory ruling from several wireless carriers<sup>2</sup> and request for expedited action on the July 15, 1997 order of the Pennsylvania Public Utility Commission regarding four Pennsylvania area codes ("July 15, 1997 Order"). In the Pennsylvania Opinion, the FCC concluded that:

- (1) state commissions have the authority to order NXX code rationing only in conjunction with area code relief decisions where the industry has not reached a consensus on a rationing plan;

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<sup>1</sup> Governor Cellucci asked the Commission to grant the Department authority to (1) order thousands-block number pooling in Massachusetts by the end of 1999, (2) set the standards for allocation of exchange codes for a more efficient use of the numbering resources, (3) maintain some central office code rationing measures even after implementation of area code relief, (4) require return of unused exchange codes, (5) hear and address claims of carriers seeking additional exchange codes outside of the rationing plan, and (6) allow Massachusetts to consider a technology-specific overlay. See Governor Cellucci's letter to Honorable William E. Kennard, dated February 2, 1999 (Attachment "A").

<sup>2</sup> The Petition for Declaratory Ruling was filed jointly by Nextel Communications, Inc., Sprint PCS, Vanguard Cellular Systems, Inc., 360 Communications Company and Bell Atlantic Mobile. Opinion at para. 55.

- (2) the Common Carrier Bureau ("CCB") of the FCC may delegate additional authority to state commissions to implement experimental number conservation efforts;
- (3) the Pennsylvania Commission exceeded its jurisdiction in its July 15, 1997 Order;
- (4) the July 15, 1997 Order disfavored wireless carriers because these carriers could not participate in required number conservation measures (number pooling); and
- (5) the North American Numbering Council ("NANC") must advise the FCC in 60 days whether the state commissions or Lockheed should decide whether a carrier subject to an NXX code rationing plan should receive NXXs outside of the rationing plan.

Pennsylvania Opinion at par. 54.

These rulings have severely restricted the Department's abilities to conserve exchange codes and extend the lives of the existing area codes.

### III. DISCUSSION

The Department respectfully requests that the Commission grant it the authority for the 508, 617, 781, and 978 area codes to:

1. reclaim unused and reserved exchange codes;
2. maintain the current central office code rationing measures for at least six months after implementation of all the area code relief plans;
3. revise rationing procedures;
4. hear and address claims of carriers seeking additional codes outside of the rationing plan;
5. set code allocation standards;
6. institute thousand number block pooling;
7. implement Extended Local Calling Areas;
8. implement Inconsistent Rate Centers; and
9. implement Unassigned Number Porting.

Exchange codes are being exhausted with increasing speed, and Massachusetts is faced with creating four new area codes within just two years of creating two area codes.

Massachusetts is an extremely competitive telecommunications marketplace, and carriers are

requesting, and under the current numbering allocation system, being granted, more exchange codes than the current area codes can accommodate. Allowing the Department to investigate and implement a full array of area code conservation measures will help mitigate the need for additional area codes. Whether a given area code conservation method would unreasonably discriminate and unduly inhibit competition in Massachusetts can be best explored by state regulators on the basis of their knowledge of local market conditions. Given the disruptions, inconvenience, and costs that consumers bear with the introduction of new area codes, state regulators should have the option of weighing the benefits of delaying the need for new area codes against the possible disadvantages of various area code conservation methods.

A. Reclaim unused and reserved exchange codes

1. Unused exchange codes

The Department requests the Commission to grant the Department the authority to require reclamation to the area code administrator of unused exchange codes or thousands number blocks from carriers with excess number resources. A recent survey by the Department revealed that carriers are holding over five million excess telephone numbers which could be used to extend the lives of the existing area codes.

On September 15, 1998, members of the telecommunications industry ("Industry members") asked the Department to calculate the number of free 1000s NXX-X code blocks currently held by the exchange code holders. The Industry members advised the Department that this information was to be used in negotiations with the Attorney General for the Commonwealth of Massachusetts ("Attorney General") concerning code conservation

measures. The Industry members and the Attorney General asked the Department to disclose (1) the total number of respondents, (2) the total number of free 1000s number blocks, and (3) the breakdown of those number blocks according to the 508, 671, 781, and 978 area codes. On September 17, 1998, the Department issued its Notice of Revised Procedural Schedule and its Second Set of Information Requests on the Industry Proposal ("Second Request") to all parties to Area Code Conservation, D.T.E. 98-38 ("D.T.E. 98-38") and to the exchange code holders requesting information on free 1000s number blocks.

The response was astounding. Over 5200 free thousands blocks (i.e., 5,200,000 telephone numbers) were being held by the 21 carriers who responded to the survey. The breakdown by area code was 1340 free thousands blocks in the 508 area code, 700 free thousands blocks in the 617 area code, 1476 free thousands blocks in the 781 area code, and 1684 free thousands blocks in the 978 area code. The Department noted that (1) this report represented an estimate of the available free thousands blocks because the number constantly changes due to customer demands and the existing lottery process, (2) the carriers provided this information with varying accumulation dates, and (3) these responses were submitted to the Department as of October 16, 1998. The Department notes that there may be many more unused numbers in "contaminated" thousands blocks.

During a question and answer period with Jim Deak, the regional director of the Number Planning Area relief planning for Lockheed, in a recorded, unsworn technical session conducted in the Department's offices on June 1, 1998 ("June 1, 1998 Tech Session"), in conjunction with the Department's conservation docket, Area Code Conservation, D.T.E. 98-38 ("D.T.E. 98-38").

Mr. Deak advised the Department that the area code administrator has the obligation to seek out the return of unused numbering resources under NANPA guidelines (June 1, 1998 Tech Session, Testimony of Jim Deak, pages 45-46 ("Attachment B")). Thus, the authority exists to be delegated to state commissions to reclaim unused numbering resources.

Shortly after the Department tallied the survey results, the Commission issued its September 28, 1998 Pennsylvania Opinion, thus negating the Department's ability to use this information on free thousands number blocks for conservation purposes. Given the need for numbers and the availability of unused numbers, the Department requests the authority from the Commission to reclaim unused thousands number blocks from code holders with excess reserves.

2. Reserved exchange codes

The Department requests the authority to reclaim reserved exchange codes from the incumbent local exchange carrier, Bell Atlantic-Massachusetts. Theoretically, there are 792 NXX codes available for assignment to carriers in an area code (every possible combination of three digits excluding numbers beginning with a 0 or 1 and numbers ending with 11). However, a meaningful percentage of exchange codes (sometimes 30 to 50) are set aside for the incumbent local exchange carrier for testing, special codes, and other purposes. The Department would like additional authority to investigate whether any of these reserved exchange codes can be placed in the carriers' pools for allocation, without causing disruption to Bell Atlantic's network operations.

B. Maintain the current central office code rationing measures

The Department requests the Commission to give the Department authority to maintain the current central office code rationing measures until six months after implementation of area

code relief in all four area codes (508, 617, 781, and 978), including the authority to determine all aspects of how central office codes shall be assigned pursuant to that rationing plan. A similar waiver was granted to California (NSD File No. L-98-136, DA 98-2463, Order December 1, 1998). This authority will be used to delay another declaration of jeopardy immediately following implementation of the relief plans, which is what happened in Massachusetts after the implementation of the 781 and 978 area codes.

C. Revise rationing procedures

The Department respectfully requests authority to revise the rationing procedures now in effect, if necessary, to prolong the life of existing area codes. Currently, exchange codes are being rationed according to the following procedures agreed to by the industry:

- 6 codes each month in the 508 area code
- 6 codes each month in the 617 area code
- 8 codes each month in the 781 area code
- 10 codes each month in the 978 area code

The authority to revise this rationing procedure will allow the Department more flexibility to extend the lives of the existing area codes while long-term numbering solutions are developed.

D. Hear and address claims of carriers seeking additional codes

The Department requests the Commission to give the Department the authority to hear and address claims of carriers seeking additional exchange codes and to work with the area code administrator to ensure that those carriers unable to serve their customers acquire additional exchange codes outside of the rationing plan, until area code relief is implemented in the 508, 617, 781, and 978 area codes. This would include the authority to request whatever information

617, 781, and 978 area codes. This would include the authority to request whatever information the M.D.T.E. deems necessary to review a carrier's request for additional exchange codes outside of the current rationing measures. A similar waiver was granted to Pennsylvania (NSD File No. L-97-42, DA 98-2465, Order September 28, 1998, FCC Clarification Letter dated December 2, 1998).

E. Set code allocation standards

The Department requests the Commission to grant the Department the authority to set the standards for allocation of exchange codes to manage numbering resources more efficiently. Included in this is the authority to address fill rate and inventory level requirements. The Department believes that, in a non-jeopardy situation, NANPA accepts a carrier's request for exchange codes on face value and makes no assessment of the actual need for additional exchange codes. Under questioning by Commissioner Vasington, Jim Deak brought this to the Department's attention during the June 1, 1998 Tech Session (June 1, 1998 Tech Session, Testimony of Jim Deak, page 21, lines 4-12 ("Attachment "C")).

F. Institute thousands number block pooling

The Department requests the Commission to grant the Department the authority to institute thousands number block pooling, including virtual pooling, in a non-discriminatory manner. Currently, Massachusetts carriers, by industry agreement, are voluntarily following virtual pooling procedures. However, there is no certainty that all carriers are following the procedures, nor has there been any independent determination that the procedures being

On October 21, 1998, the North American Numbering Council ("NANC") released its recommendations on national number pooling standards to the Chief of the Common Carrier Bureau ("Bureau") (Number Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Optimization Methods ("NRO-WG Report")).

In the NRO-WG Report, NANC stated :

The NANC believes thousands-block pooling can be implemented in 10 to 19 months from a regulatory order, and that thousands-block pooling is the pooling option that has the greatest potential to meet the timeframe requested by the Bureau. Therefore, we recommend that the FCC focus its initial efforts on thousands-block pooling.

NRO-WG Report at 1.

Clearly, thousands-block pooling represents a viable solution to conserving numbering resources. However, development of mandatory national thousands-block pooling guidelines could take considerable time. Therefore, the Department requests additional authority to implement its own thousands number block pooling requirements in advance of any federal rules.

G. Extended Local Calling Areas

The Department requests additional authority to implement Extended Local Calling areas ("ELCAs"). As stated in the NRO-WG Report:

ELCAs are technical arrangements that permit wireline callers from a pre-determined, fixed, geographic area, typically a LATA, to call CMRS end-users anywhere in that geographic calling area without a toll charge. The wireline provider differentiates and treats calls to ELCA end-users by unique ELCA NXXs. Thus, existing dialing, routing and operational systems' conventions remain intact. The CMRS carrier usually pays the wireline carrier a negotiated per minute rate for this services. LECs record this usage at the wireline calling party's end-offices. At the end of the billing period, usage for all end offices within the ELCA is aggregated and a bill is rendered to the CMRS provider.

NRO-WG Report at 25. ELCAs allow wireless carriers to assign numbers from a single NXX to

an entire geographic area, such as a LATA. Instead of needing NXXs for multiple rate centers, wireless carriers can serve an entire LATA with one NXX. According to the NRO-WG Report, ELCAs have been deployed in multiple jurisdictions since the 1980s. The Department requests the authority to implement ELCAs as a possible number conservation measure.

#### H. Inconsistent Rate Centers

The Department requests the authority to implement Inconsistent Rate Centers ("IRCs"). Under an IRCs approach, competitive local exchange carriers ("CLECs") would use different rate center boundaries than the incumbent local exchange carrier ("ILEC"). CLECs, which may have much larger switch serving areas than an ILEC, can choose to serve multiple ILEC rate areas or create one or more IRCs to match the CLEC switch serving area. In this way, IRCs allow a CLEC to use fewer NXX codes for its service areas. As noted in the NRO-WG Report at 33, "IRCs conserve NXX codes since [CLECs] using IRCs do not require a separate NXX per ILEC rate area in order to serve all customers." The Department requests the authority to implement IRCs as a possible number conservation measure.

#### I. Unassigned Number Porting

The Department requests additional authority to implement Unassigned Number Porting ("UNP"). As stated in the NRO-WG Report:

[UNP] is a telephone number (TN) sharing and/or optimization method where available TNs in one service provider's (SP) inventory are ported (using the Location Routing Number (LRN) method) to another SP. This is performed under the direction of a neutral third-party coordinator, for assignment by the second SP to a specific customer.

UNP differs from pooling in that TNs are not donated to a pool but are transferred

directly from one SP to another SP under the direction of a neutral third-party coordinator. The UNP neutral third party acts as a coordinator rather than an administrator, whereas there are additional administrative responsibilities involved under pooling.

UNP will be utilized to provide numbers to a service provider who has insufficient numbers available for assignment for a specific customer request for service within a given rate area basis.

NRO-WG Report at 119. The Department believes that UNP is already being used, with Lockheed approval, by certain carriers during the current rationing period. The Department requests additional authority to implement UNP as an additional tool to conserve numbering resources.

#### IV. CONCLUSION

The Department has opened an investigation into area code conservation focusing on rate center consolidation, and has opened an investigation into area code relief for the 508, 617, 781, and 978 area codes in eastern Massachusetts. We have not made any substantive findings on what code conservation methods are appropriate for each area code at this time. However, we would like to have a full range of options available to us as we consider ways to conserve exchange codes and delay the need for Massachusetts consumers to undergo the disruption and inconvenience that comes with introducing new area codes.

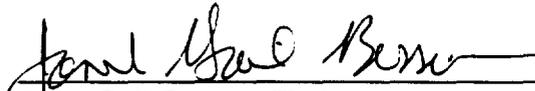
We share the Commission's commitment to the development of competitive telecommunications markets in which all potential technologies will have an opportunity to succeed. To best serve the needs of Massachusetts consumers and respond to the increasing demand for exchange codes, we seek a waiver from 47 C.F.R. Section 52.19(c)(3) and additional

authority to allow implementation of the nine code conservation methods for the 508, 617, 781, and 978 area codes described herein.

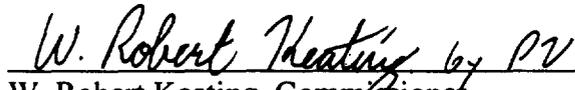
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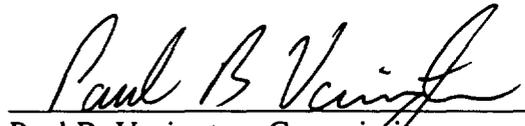
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Department of Telecommunications and Energy

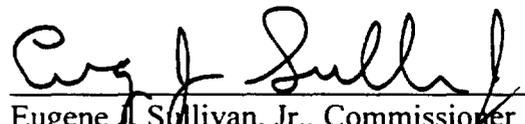
By:

  
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Janet Gail Besser, Chair

  
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James Connelly, Commissioner

  
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