

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

In the matter of

Numbering Resource Optimization

CC Docket No. 99-200

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

RM No. 9258

Petition of the California Public  
Utilities Commission and the People  
of the State of California Petition for  
Waiver to Implement a Technology-  
Specific or Service-Specific Area  
Code

NSD File No. L-98-136

**COMMENTS OF THE CALIFORNIA  
CABLE TELEVISION ASSOCIATION  
TO THE PETITION OF THE CALIFORNIA PUBLIC UTILITIES  
COMMISSION AND THE PEOPLE OF THE STATE OF CALIFORNIA  
FOR DELEGATION OF ADDITIONAL AUTHORITY**

In accordance with the Request for Comment issued by the Federal Communications Commission's Common Carrier Bureau on May 14, 1999,<sup>1</sup> the California Cable Television Association ("CCTA") respectfully submits its comments in response to the petition of the California Public Utilities Commission and the People of the State of California ("CPUC" or "California") for an additional

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<sup>1</sup> FCC 99-122, CC Docket No. 99-200, RM No. 9258, NSD File No. L-99-17, NSD File No. L-99-36 (Jun. 2, 1999).

delegation of authority to conduct NXX code rationing. Specifically, the CPUC seeks authority to: (1) implement a single line or thousand-block pooling trial, (2) order efficient number use practices within NXX codes, (3) hear and address requests by individual carriers for assignment of codes outside the NXX code rationing process,<sup>2</sup> (4) order carriers to return to the code administrator unused NXX codes, and 5) order carriers to return unused or under-utilized portions of NXX codes to the pooling administrator, when one is selected.

In its comments, the CPUC accurately describes the immense pressures upon the public, the telecommunications industry, and state regulators consequent to continued inefficient numbering practices in California and asks that California be granted the authority to act to mitigate California's area code crisis. CCTA has also described the dire circumstances existing in California in its previous filing before the FCC. As the CPUC noted its petition, at the end of 1992, California had 13 area codes in use.<sup>3</sup> The CPUC now projects that by the end of 2002, it will have 41 area codes.<sup>4</sup> And yet, the CPUC has estimated that of the 206 million numbers that will be available in California this year, only 35 to 40 million of the numbers are actually in use.<sup>5</sup>

### **I. The Commission Should Not Dismiss Consideration Of Unassigned Number Porting.**

In light of the growing numbering crisis in California, no reasonable

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<sup>2</sup> See Petition of the California Public Utilities Commission and the People of the State of California for an Additional Delegation of Authority to Conduct NXX Code Rationing, NSD File No. L-98-136.

<sup>3</sup> See Briefing On Numbering Issues, California Public Utilities Commission, April 26, 1999.

<sup>4</sup> *Id.*

potential number resource optimization measure should be ignored – particularly a solution that may be quickly implementable, makes use of currently deployed LNP technology, unlocks access to the mother-lode of stranded numbers currently held by some carriers, and helps make the consumer-desired pre-overlay area codes like the 213, 415 and 310 area codes accessible to the customers of new entrants as well as customers of the incumbent ILECs. Unassigned number porting (UNP)<sup>6</sup> has that potential. CCTA has described the benefits of UNP to the CPUC through several pleadings and the CPUC-instituted number pooling task force. The CPUC’s request to the FCC, however, is silent on UNP. UNP should not be abandoned as a solution before it is closely examined. By far the largest cache of NXX codes in California is under the control of ILECs. UNP is a potential tool for utilizing a portion of any unused cache. CCTA urges that any authority that the FCC decides to extend to the CPUC should include clarification that a UNP trial can also be considered and that the Commission will direct the development of national UNP standards.

## **II. Either The Commission Or The State Must Weigh Whether Individual Exceptions To Rationing Measures Are Necessary To Further Pro-Competitive Mandates**

CCTA supports the concept of a government entity having authority to hear and address requests by individual carriers for assignment of codes outside the

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<sup>5</sup> See Petition of the California Public Utilities Commission and the People of the State of California for Delegation of Additional Authority, April 23, 1999, p.13.

<sup>6</sup> UNP has also been referred to as a “virtual pool.” Two years ago, Dr. Francis Collins, on behalf of CCTA and Cox Communications Inc., presented the virtual pool in the form of a contribution to the Industry Numbering Committee (INC). INC chose not to pursue discussion of the potential solution at that time. However, on May 20, 1999 INC reached consensus to put UNP on the workshop work plan. INC reported to NANC that there was no consensus on its priority within the workplan. Thus it

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NXX code rationing process. New entrant facilities-based carriers have been constrained in offering service due to the lack of NXX codes despite their enormous investment in telephony-ready facilities. With incumbents possessing a huge embedded base of unassigned telephone numbers, the only way to assure fair competition and free entry is for the Commission, or the states should the Commission be unwilling, to grant facilities-based CLECs serving residential customers a preference in the allocation of NXX codes. Such a preference would not constitute undue discrimination in favor of such CLECs and against incumbents because the *status quo* impedes entry. Thus, the Commission should clarify that it will, or states may, on an adequate record, fashion reasonable NXX code conservation and rationing measures which reasonably favor facilities-based CLECs serving residential markets. Without such a rule, there are not adequate assurances that those carriers would have access to numbering resources.

### **III. The Commission Must Act Without Further Delay To Implement Code Optimization Measures**

In the time since CCTA first urged the Commission to take action on numbering issues, circumstances have deteriorated markedly with respect to number exhaustion. As the crisis surrounding number exhaustion builds, public anger towards the CPUC and the telecommunications industry also builds. The public wants neither splits nor overlays. While necessary in the short term, these are ultimately poor solutions that are disruptive and costly. Furthermore, CCTA reminds the Commission

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is unclear when INC will actually work the issue.

that overlays, albeit the appropriate plan for certain circumstances, remain anticompetitive, even with the implementation of mandatory ten-digit dialing and local number portability. Overlays allow incumbents the marketing advantage of telling the public that their customers will be able to obtain telephone numbers with the original, familiar and highly preferred area code, rather than the new area code. The public continues to express its perception that the old, familiar area code is more valuable and prestigious than the less-recognizable overlay area code.<sup>7</sup> With an overlay, the “prestigious” area code will be largely under the control of the incumbent. In contrast, the less-valued overlay code will be the stock in trade of new entrants. CCTA is concerned that rather than choosing a local service provider based on features, service and price, consumers will instead choose a provider based on area code. Reducing the need for area code relief through code-optimization, potentially including UNP, is the best remedy to the overlay’s anti-competitive feature.

### **Conclusion**

The numbering crisis has reached such proportions that a joint effort by the FCC and state Commissions is now necessary. It is CCTA’s hope that the Commission will proceed with prompt consideration of its NPRM, including a proper consideration of UNP, so states will have the direction necessary to stop the hemorrhaging of the public’s vital numbering resources.

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<sup>7</sup> See Statement of the CCTA regarding the proposed 415 NPA relief plan (Dec. 1998). See also Petition of the California Public Utilities Commission and the People of the State of California for an Additional Delegation of Authority to Conduct NXX Code Rationing, NSD File No. L-98-136.

Dated: June 14, 1999

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Mark Fogelman, hereby certify that I have today caused a true and correct copy of the foregoing COMMENTS OF THE CALIFORNIA CABLE TELEVISION ASSOCIATION TO THE PETITION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE PEOPLE OF THE STATE OF CALIFORNIA FOR DELEGATION OF ADDITIONAL AUTHORITY to be served on all known parties of record by serving a copy on each party on the attached list in the manner indicated thereon.

Executed at San Francisco, California, this 14th day of June 1999.

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Mark Fogelman

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