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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of:	)	
	)	
Petition of the California Public Utilities Commission and of the People of the State of California For Delegation of Additional Authority	)	File No. NSD-L-98-136
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98

COMMENT OF BURBANK AND GLENDALE, CALIFORNIA IN SUPPORT OF THE PETITION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION FOR DELEGATION OF AUTHORITY TO IMPLEMENT AREA CODE RELIEF

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In accordance with the Public Notice issued by the Common Carrier Bureau of the Federal Communications Commission ("FCC" or "Commission") on May 14, 1999, the Cities of Burbank and Glendale, California ("Cities") hereby comment in support of the Petition of the California Public Utilities Commission and of the People of the State of California For Delegation of Additional Authority ("Petition"), filed on April 26, 1999 by the California Public Utilities Commission ("CPUC") in the captioned proceeding. The Cities urge the FCC to promptly approve the CPUC's request for a delegation of authority to allow the CPUC to adopt number pooling arrangement. This would permit the CUPC to remedy the current grossly inefficient allocation of telephone numbers in California and to avoid continued needless splits or overlays of Numbering Plan Areas ("NPAs").

Specifically, the CPUC requests a delegation of authority to permit the CPUC (1) to order one or more mandatory number pooling trials, which would include 1,000 block pooling and individual telephone number ("ITN") pooling, (2) to order efficient number use practices within NXX[1] codes, such as threshold fill rates before additional numbering resources could be allocated to a carrier, (3) to address requests by individual carriers seeking assignment of codes outside the NXX code rationing process, (4) to order carriers to return to the code administrator unused NXX codes, and (5) to order carriers to return unused or under-utilized portions of NXX codes to a pooling administrator, when one is selected.[2]

Relief must be prompt. As the CPUC explains in its Petition, California faces a numbering crisis unparalleled in North America. The Cities are directly affected by this crisis. Burbank and Glendale are located in the 818 Numbering Plan Area ("NPA"), which currently covers the entire San Fernando Valley. The 818 NPA is facing exhaust just four years after relief was last obtained. Implementation of a new area code for the 818 NPA is scheduled to begin on August 20, 2000.[3] The burden of implementing either a split or overlay for the 818 NPA can only be avoided if the FCC grants the relief requested in the Petition.

The Cities realize that a nation-wide reform of the FCC's currently effective number allocation regulations may occur upon completion of the rulemaking proceeding initiated by the FCC Notice of Proposed Rulemaking ("NOPR"), FCC 99-122 (June 2, 1999). However, it is

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1 NXX codes (or Central Office codes) - the first three digits of a seven-digit local telephone number. Usually, a whole NXX code that includes 10,000 line numbers is assigned to an entity at a switch point of interconnection that the entity owns or controls, and the entity assigns the line numbers to its individual customers.

2 Petition of the California Public Utilities Commission and of the People of the State of California For Delegation of Additional Authority, CC Docket No. 96-98, Filed on April 26, 1999.

3 818 NPA EXHAUST RELIEF PLAN, Re: R.95-04-043 / I.95.04-044, Filed on February 12, 1999.

highly unlikely that the FCC will act in its rulemaking proceeding in time to address the immediate plight of California and the Cities. By contrast, if the FCC grants the CPUC's Petition, the CPUC would be able to mitigate the area code emergency in California and, particularly, would be able to avoid imposing either a split or overlay on the 818 NPA. As an added benefit, California's implementation of number pooling could provide an empirical basis for evaluating the pooling approach for use elsewhere in North America.

I. THE CRISIS IN CALIFORNIA

California is often singled out as a stark example of the area code crisis. The FCC itself has noted that ". . . the current system for allocation of numbers relies on voluntary compliance with industry guidelines and, therefore, imposes only limited control over acquisition of numbers by carriers. As a result, . . . it was projected that, between 1992 and 2002, the number of area codes in California will increase from 13 to 41."[4] In its Petition, the CPUC explained: "We are implementing area code relief as fast as is humanly and operationally possible, but the demand for numbers has nonetheless escalated, not slowed. We have area codes going into jeopardy within days or weeks after relief implementation has just concluded."[5] The CPUC gave specific examples of the unparalleled pace of exhaustion. "The 323 NPA relief plan was completed on April 13, 1999. Two days later, on April 15, 1999, the code administrator put a freeze on NXX code assignments in the 323 because it is facing exhaust."[6] Additionally: "In the 650 area code,

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4 FCC Considers Strategies to Address United States Telephone Numbering Exhaust, *supra* note 7.

5 Petition of the California Public Utilities Commission and of the People of the State of California For Delegation of Additional Authority, CC Docket No. 96-98, Filed on April 26, 1999.

6 *Id.*

February 1998 was the end of the six month transition period to the new area code. By July [of 1998], the 650 area code was already in 'jeopardy.'"[7]

The area code crisis is the direct result of number hoarding by telephone companies, as permitted by the current wasteful and inefficient method for allocating telephone numbers among carriers. "[T]here are over 180 million phone numbers that have been assigned in California, yet there are only 35 million numbers in use and 30 million people in the state's population."[8] Numbers are available, but they are utilized inefficiently.

The application of the FCC's current 10,000 block distribution rule to Half Moon Bay, California, provides a demonstration of the inefficiency of the current allocation system, which does not permit pooling. As explained by the California League of Cities:

> At the present time, there are six carriers who are registered to offer service in Half Moon Bay. Each of these six carriers has a number block of at least 10,000 numbers. Since we all know that there are less than 60,000 people living in Half Moon Bay, it is highly unlikely that these phone numbers will ever be used. Even so, as new players come into the market, additional sets of 10,000 numbers will be issued to Half Moon Bay . . .[9]

California is particularly affected by the inefficiency of the current system because its booming economy, high per capita use of telephones (35 million lines for 30 million people), and telecommunications-oriented lifestyle make it a magnet for competitors.

Californians have grown increasingly irritated and angered at the mismanagement of telephone number resources. The Los Angeles Times recently stated: "The FCC's . . . mismanagement of phone number allocations . . . has resulted in an endless splitting and

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7 Telephone Area Code Splits, League of California Cities, Telecommunications Subcommittee Hearing, November 23, 1998, Hayward City Hall.

8 Telephone Area Code Splits, League of California Cities, Telecommunications Subcommittee Hearing, November 23, 1998, Hayward City Hall.

9 Telephone Area Code Splits, League of California Cities, Telecommunications Subcommittee Hearing, November 23, 1998, Hayward City Hall.

overlaying of area codes throughout the country at considerable expense and inconvenience to consumers . . . . [T]he FCC needs to renew its commitment to do its public monitoring job."[10]

II. THE INADEQUACY OF THE FCC'S ACTIONS

In September of 1998, concerns similar to those of California were substantially ignored in the Memorandum Opinion and Order and Order on Reconsideration, FCC 98-224, CC Docket No. 96-98 (the "Pennsylvania Order").[11] Despite the tremendous inefficiencies of the current number allocation system, the Order ruled:

> State commissioners do not have authority to order return of NXX codes or 1,000 number blocks to the code administrator. . . . [W]e decline to grant states the authority to order mandatory number pooling. Thus, states do not have the authority to order a return of a partial or entire NXX as part of a numbering pooling trial. Further, a state commission may not order the return of an NXX code or a 1,000 block pursuant to a number rationing scheme implemented as part of a state-ordered area code relief plan. Such actions fall outside of the authority granted the states to initiate traditional area code relief . . . [12]

The Pennsylvania Order was supposed to provide guidance to state commission that are implementing area code relief. However, it crippled the ability of state commissions to prevent companies from hoarding phone numbers and to correct the currently wasteful number allocation methodology.

The FCC's June 2, 1999 Notice of Proposed Rulemaking was a good start toward redressing the errors of the Pennsylvania Order.[13] However, as stated above, California needs an immediate waiver of currently effective FCC regulations so that California can mitigate the

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10 "Special Interests Push Out Public Interest," Robert Scheer, Los Angeles Times, June 1, 1999.

11 Memorandum Opinion and Order [] on Reconsideration, FCC 98-224, CC Docket No. 96-98, Released September 28, 1998.

12 *Id.*

13 See earlier discussion.

current crisis. California cannot wait for a ponderous Federal rulemaking process to run its course.

III. POOLING CAN BE THE SOLUTION TO THE CURRENT CRISIS

Number pooling is a desirable means of immediate relief because it can be relatively easily and quickly implemented. Guided by statements and conclusions contained in the FCC's June 2, 1999 NOPR, specific issues and problems can be addressed as they arise. For example, the shared industry costs and the carrier-specific costs of 1000 block pooling could be allocated in accordance with the proposals contained in the NOPR.[14]

A Number Pooling Subcommittee has stressed the main argument against pooling. The subcommittee claims that number pooling would initially be limited to wireline carriers whose networks are LNP-capable,[15] which means that wireless carriers would still need whole NXXs[16] to ensure that numbering resources are available to all carriers in an equitable manner.[17] Simply stated: "[C]arriers which are not LNP-capable are not truly able to participate in number pooling . . . ."[18] A possible short term solution to this problem would be to exempt non-LNP capable carriers, i.e., wireless carriers, from participating in number pooling until November 24,

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14 *Id.*

15 LNP - Local Number Portability. Number portability is the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment to quality, reliability, or convenience when switching from one telecommunications carrier to another.

16 NXX codes - (or Central Office codes (CO codes)) - the second three digits of a phone number.

17 Memorandum Opinion and Order [] on Reconsideration, FCC 98-224, CC Docket No. 96-98, Released September 28, 1998.

18 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, NSD File No. L-97-42, CC Docket No. 96-98, Filed on April 26, 1999.

2002, which is the date listed in the *CMRS LNP Forbearance Order* by which a significant group of wireless providers will be LNP capable. This is the approach proposed by the Illinois Commission.[19]

The Illinois approach would give the wireless carriers more access to NXX codes relative to wireline providers. Any inequity would be only temporary. When comparing the gains to be realized from pooling to the downside of giving wireless carriers *temporary* access to larger NXX code blocks, the balance clearly leans in favor of utilizing 1000 block pooling as a number conservation measure.

Another approach would be to assign area codes to wireless carriers on a technology-specific basis. This is currently prohibited by the FCC's regulations, 47 C.F.R. § 52.19(c). However, the CPUC filed a companion petition on April 26, 1999 to request a waiver of 47 C.F.R. § 52.19(c) to permit the CPUC to assign area codes on a technology-specific or service-specific basis. See File No. NSD-L-99-36, CC Docket 96-98. By companion comment filed today with the instant comment, the Citties support the CPUC's request for a waiver.

IV. ADDITIONAL MEASURES SHOULD ALSO BE ALLOWED

Aside from authority to implement number pooling trials, the Cities also support the CPUC's petition for a delegation of additional authority (1) to order efficient number use practices within NXX codes, such as, for example, in-fill or sequential number allocation, (2) to assign codes outside the NXX code rationing process, (3) to order carriers to return to the code administrator unused NXX codes, and (4) to order carriers to return unused or under-utilized portions of NXX codes to the pooling administrator, when one is selected. This last measure

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[19] Petition by Citizens Utility Board to Implement a Form of Telephone Number Conservation Known as Number Pooling Within the 312, 773, 847, 630 and 708 Area Codes and Petition by Illinois Bell Telephone Company for Approval of an NPA Relief Plan for the 847 NPA, Docket Nos. 97-0192 and 97-0211 (Consol.), *Order* (May 11, 1998) (Illinois Order) at 21.

would be particularly effective insofar as it would serve as a means of remedying the past and future mismanagement of number distributions.

V. CONCLUSION

Granting the CPUC's petition will allow the CPUC to immediately address what has become a California-wide emergency, and it will allow the 818 NPA to avoid the cost and disruption of area code relief. The Cities strongly urge the FCC to grant the Petition.

Respectfully submitted,

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