

September 14, 1999

Magalie Roman Salas
Commission Secretary
Federal Communications Commission
Portals II
445 12th Street S.W.
Suite TW-A325
Washington, D.C. 20554

RE: Petition from the Nebraska Public Service Commission Requesting Delegation of
Additional Authority to Implement Area Code Conservation Methods for the 402
Area Code

Dear Ms. Salas:

Enclosed please find one original and six copies of the Public Service Commission of the
State of Nebraska Petition for Additional Authority to Implement Area Code Conservation
Methods for the 402 area code.

If you have any questions, they may be directed to: Gene Hand, Director of Communica-
tions, at (402) 471-0244, or Michael T. Loeffler, Commission Counsel, at (402) 471-0255.

Sincerely,

Lowell C. Johnson
Chairman

Enc.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

NEBRASKA PUBLIC SERVICE COMMISSION PETITION
FOR DELEGATION OF ADDITIONAL AUTHORITY
TO IMPLEMENT AREA CODE CONSERVATION METHODS
IN THE 402 AREA CODE

The Nebraska Public Service Commission (hereinafter, NPSC or the Commission) requests that the Federal Communications Commission (FCC) waive the provisions of 47 C.F.R. Section 52.19(c)(3) in order to grant to the NPSC the authority to implement any of several area code conservation measures for the area code 402 in Nebraska. The NPSC petition for waiver and authority is made in conjunction with its investigation into the potential exhaust of assignable numbers within the 402 area code pursuant to Nebraska Public Service Commission Docket No. C-2057 (June 8, 1999).

Specifically, the Commission petitions the FCC for authority to: 1) institute number pooling in thousand-blocks; 2) reclaim unused and reserved central office codes or portions thereof currently assigned; 3) audit number assignment; and, 4) institute any other measures and to use any other authority granted by the FCC to the states to address the pressing problem of number exhaust and depletion. Finally, the Commission requests that expedited treatment be given this petition.

I. Background

On May 26, 1999, the NPSC received information from a representative of Lockheed Martin which operates the North American Number Plan Administration (NANPA) that the number of assignable prefixes available for the 402 area code was in danger of being depleted within the next

two years.¹ In fact, according to information gathered from the industry in the annual Central Office Code Utilization Survey (COCUS), the 402 area code has a forecasted exhaust date of the fourth quarter in the year 2000.² On August 4, 1999, NANPA convened a meeting of all interested parties to discuss proposed alternative relief plans, and to attempt to reach a consensus on a proposed plan and to submit the details of implementation. The industry decided by consensus vote to submit four alternative relief proposals to the Commission, three split alternatives and one overlay alternative.

The Commission also opened Docket No. C-2057 to determine the degree of depletion, develop a plan to maximize public input into possible solutions, make recommendation based on input received, and to implement necessary solutions. Public comment was solicited and accepted from the public. The Commission only received comments from representatives of the telecommunications industry.³ These industry officials generally supported either some form of area code split or an area code overlay as solutions to the prefix depletion problem in the 402 area code. A final report on

¹The State of Nebraska is divided into two area codes; area code 402 generally encompasses the eastern third of the state and includes its most populous counties and the city of Omaha, the state=s largest, and the capital of Lincoln, the state=s second largest city. The western, largely rural, two-thirds of the state comprise area code 308.

²The same data suggest that the 308 area code has an exhaust date of 2031.

³Comments were received from US West Communications, GTE Service Corporation, and Aliant Communications.

these alternative solutions will be filed with the Commission on September 15, 1999. The Commission has scheduled a workshop for October 4, 1999, to review all submitted proposals. It is the intention of the Commission to hold public hearings on selected proposals subsequent to the scheduled workshop.

However, the Commission believes that the consequential effects upon telephone subscribers and consumers of either of the two types of proposals have not been addressed. This is in part because industry-sponsored proposals have neglected to take these consequential costs to subscribers into account and also because the subscribers affected, particularly business subscribers, remain largely uninformed about the potential effects of the implementation of these proposals. It should be noted that the industry comments fail to even discuss other number conservation possibilities including thousand-block number pooling and exchange number reclamation for redistribution. Other states, however, have recognized that these number conservation measures offer more permanent long-term relief and remedy the problem of number depletion in a manner that is the least intrusive to residential and business subscribers.⁴

II . Discussion - History and Argument

The state of Nebraska faces pressing and serious problems in the utilization, conservation, and distribution of prefixes in the 402 area code. In just over a year, the number of prefixes available in

⁴See generally the petitions before the Commission from the states of Connecticut, Massachusetts, Florida, California et al., CC Docket No. 99-200, and comments filed in that docket by other state commissions.

the 402 area code is expected to exhaust. For this reason, we request an expedited response from the FCC to the petition filed.

Subscribers, especially business subscribers, will have precious little time to adapt to a proposal that requires either a new phone number assignment or ten-digit dialing. These consumers will bear the brunt of the costs and the inconvenience of implementing overlay or area code split alternatives. Notably, the problem of number depletion is not necessarily a consequence of over-utilization by subscribers. While the conventional wisdom has been that prefixes within area codes are being exhausted through the explosion of number utilization (pagers, faxes, second residential lines, etc.), the data does not support that conclusion. NANPA, for example, has estimated that the Afill rate[≡], i.e., the actual assignment to subscribers of telephone numbers allotted to carriers, falls between 5.7 percent and 52.6 percent depending on the industry segment. This data suggests that the problem does not lie in actual usage of numbers but rather in who controls and has access to the remaining numbers. This problem is most likely exacerbated in an area code, such as the 402 area code, that mixes urban and a large number of rural exchanges requiring blocks of numbers. This is because a company that represents a largely rural area is assigned the same block of 10,000 numbers that are afforded companies servicing urban populations within the same area code. For example, a review of the list of 39 code holders in the 402 area code reveals a total distribution of 634 codes, each representing 10,000 assigned numbers. This total translates into 6,340,000 available numbers for distribution, or four numbers for every man, woman, and child in the entire state including the 308 area code.

In essence, since the problem primarily stems from distribution of available numbers and not subscriber usage, it is unfair to burden subscribers with unnecessary costs to remedy the number

depletion problem. The problem mainly stems from inefficient use and distribution among number code holders. The cost burden of allowing thousand-block pooling and number recapture, most appropriately, should be allocated fairly among number users. It is not refuted that number conservation measures will cost money. But the burden can be isolated among those parties from which the problem stems, and the cost can be isolated with minimal harm to the public at large. The means to do this is with number conservation. Nebraska merely seeks the ability to use the tools to affect this type of number conservation.

Furthermore, the introduction of area code overlays and/or area code splits do not provide for the optimum use of prefixes. Both of these alternatives result in ways that consumers will have to change their dialing patterns. This will result in consumer frustration, confusion, and unnecessary costs as subscribers have to reorder everything from business cards to stationery. More important, such drastic steps may be unnecessary if Nebraska has the option of implementing a number conservation alternative.

Often overlooked is the fact, especially in Nebraska, that the time lines in which these burdensome alternatives would be implemented is not long enough to allow for necessary and sufficient consumer education. Nor can we say that the NPSC (or for that matter, any other Commission) has the necessary resources to undertake such an effort to educate consumers. Moreover, for commissions to neglect to undertake the duties of consumer education, especially in the transition phases of overlay or split, would amount to reckless public policy.

III.

The NPSC petitions, first, for the authority to institute thousand-number block pooling. Distribution of available numbers in blocks of thousands rather than in a block of ten thousand would

produce a more efficient means of allocating scarce number resources. The current system of number distribution is wasteful. Small carriers who compete in the rural areas of the 402 area code have virtually no chance of requiring anywhere close to 10,000 numbers. Further, allocating numbers in a block of one thousand numbers does not unduly disadvantage large carriers who require greater numbers. Thousand-number pooling is more flexible because it can meet the needs of both large and small carriers. Number users have complained that changing to thousand-number pooling would be expensive. Yet, no information has been presented to this Commission detailing the cost to the carriers. In any event, any cost must be weighed against the cost, confusion, and frustration that would be passed onto the consumer if area code overlays or splits become preferred over number conservation methods such as thousand-number pooling.

Second, the Commission petitions for authority to reclaim unused exchange codes that have already been distributed. There is no doubt that the Commission would have to develop guidelines to ensure that such reclamation was done in a manner that was orderly, fair, and caused no competitive advantage or disadvantage. Carriers would be protected from decisions creating competitive advantage by the Telecommunications Act of 1996. The authority to reclaim distributed, but unused, numbers would extend the lives of existing number codes. The reclaimed codes could be used for distribution to other carriers as needed. The authority to reclaim codes should be granted to the state in the broadest terms, allowing the Commission to investigate the alternatives so that the most efficient and fair method of redistribution could occur.

In addition, the Commission petitions for authority to develop and establish a system to audit number assignment, their distribution and their use. An auditing function would give the Commission broad authority to monitor number usage and provide an invaluable tool to predict and

meet numbering needs. The Commission would be able to require from carriers information about numbers retained, used and reserved. Auditing would ensure that the Commission could measure compliance, prepare responsive planning and forecast the need for additional remedial measures.

III. Conclusion

The Nebraska Public Service Commission petitions the FCC for authority to implement number conservation measures because of its belief that number conservation offers subscribers the most efficient, responsible and fair remedy to the problem of number exhaust. It is the least intrusive and disruptive alternative remedy when viewed from the public perspective. Without this authority, the NPSC must choose either some type of area code split or an area code overlay as the only means to meet the expected future demand for numbers in the 402 area code. The Commission believes that number conservation is a superior policy option and better serves the public interest.

Respectfully submitted,

Nebraska Public Service Commission

Lowell C. Johnson
Chairman