

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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)	CC Docket No. 96-98
Competition Provisions of the)	
Telecommunications Act of 1996.)	

**PETITION OF THE VIRGINIA STATE CORPORATION
COMMISSION FOR EXPEDITED DECISION ON DELEGATION OF
AUTHORITY TO IMPLEMENT NUMBER CONSERVATION MEASURES**

The Virginia State Corporation Commission (“VSCC”) submits to the Federal Communications Commission (“FCC”) this petition for expedited decision on the delegation of authority to implement number conservation measures. Virginia’s large metropolitan areas have experienced explosive growth in the demand for numbers in recent years, leading to this request for number conservation relief. The VSCC requests authority to implement policies that are consistent with FCC efforts over the past year to ensure that the public interest is protected against repeated and unnecessary area code relief measures. The FCC is empowered to delegate such authority to the states by Section 251(e)(1) of the Telecommunications Act of 1996 and by paragraphs 30 and 31 of the FCC’s Memorandum Opinion and Order and Order on Reconsideration, FCC 98-228, released September 28, 1998, (“Pennsylvania Order”). Indeed, the FCC has granted

such authority to the California Public Utilities Commission, the Florida Public Service Commission, the Massachusetts Department of Telecommunications and Energy, the New York State Department of Public Service, and the Maine Public Utilities Commission. In light of these additional delegations of authority, the VSCC respectfully requests that the FCC grant it the authority to:

1. Enforce current standards for number allocation, or set and enforce new standards;
2. Order the submission of utilization and forecast data from all carriers, including wireless providers, and audit such reporting;
3. Order carriers to return unused, reserved or under-utilized portions of NXX codes;
4. Require sequential number assignments;
5. Maintain rationing procedures for six months following area code relief;
6. Institute thousand-block number pooling; and
7. Hear and address claims by individual carriers requesting numbering resources outside of rationing procedures.

BACKGROUND

The Commonwealth of Virginia has four area codes – 703, 540, 757, and 804 – and all four are in various stages of exhaust. On November 23, 1998, the VSCC issued an order directing the area code administrator and appropriate parties to implement an area code overlay for the 703 area code, finding that an overlay was the most reasonable method of accomplishing area code relief for this area code. The VSCC believes that its decision to implement this overlay 16 months before area code exhaust allows the

telecommunications industry and certain telephone customers, such as security alarm providers, an adequate period to reprogram equipment. Also, this timeframe allows the general public a period of permissive dialing using either seven or ten digits for local calls. Therefore, permissive dialing exists today, and mandatory ten-digit dialing will take effect on March 1, 2000. The central office codes will be assigned beginning in April 2000 using the new area code overlay 571.

The May 26, 1999, Central Office Code Utilization Survey ("COCUS") report indicated a second quarter 2002 exhaust date for the 540 area code. An industry meeting was held on September 23, 1999, to determine which method of area code relief the industry would recommend to the VSCC. Industry representatives were unable to reach a consensus on a recommended relief plan; therefore, the North American Numbering Plan Administrator ("NANPA"), Lockheed Martin IMS, by petition dated November 1, 1999, has formally requested that the VSCC decide the appropriate relief method.

The 1999 COCUS also forecasted a third quarter 2002 exhaust date for the 757 area code. There will be an industry meeting in February 2000 to determine which method of relief the industry will recommend to the VSCC.

Because the COCUS further indicates a first quarter 2001 exhaust date for the 804 area code, this area code has been declared in jeopardy. Industry representatives met in May 1999, and have recommended to the VSCC area code relief in the form of an overlay. The VSCC has reviewed the recommendation and is of the opinion that any proposed relief plan for the 804 area code should be further reviewed by the VSCC in a formally docketed proceeding. Therefore, the proposed implementation of the overlay

plan for the 804 area code, scheduled to begin October 1, 1999, is suspended pending further order of the VSCC.

DISCUSSION

1. Authority to enforce current standards for number allocation, or set and enforce new standards.

The VSCC seeks additional authority to establish several needs-based criteria for the assignment of codes to carriers. Specifically, the VSCC seeks authority to require that a carrier demonstrate it has, or will have within six months, the necessary facilities to serve a particular rate center before it is assigned an NXX code for use within that rate center. Also, the VSCC would require carriers to demonstrate that existing numbering inventory is inadequate to provide service to customers or that the carriers have to rely on costly measures to supply service. In addition, the VSCC seeks to establish fill rates that must be met, even if the area code is not in jeopardy, before a carrier may acquire a growth NXX code in a rate center where it already has a code. The VSCC proposes to implement such a provision by establishing a general fill rate and then permitting individual carriers to obtain a waiver of the standard based upon a showing of actual need. Thus, the VSCC requests that the FCC grant it authority to request that NANPA notify the VSCC of all code requests.

2. Authority to order the submission of utilization and forecast data from all carriers and audit such reporting.

The VSCC seeks authority to order mandatory number utilization and forecast reporting by all carriers so that it can monitor usage and enforce numbering standards. Current industry numbering assignment guidelines do not require that carriers provide

number utilization data with their applications for additional central office codes. Although some carriers do provide demand forecasts, this information does not reveal whether carriers are using existing numbering resources efficiently. It is important to ensure that previously assigned numbering resources are being used efficiently before additional resources are assigned. Also, the utilization data will help determine compliance with fill rates. Moreover, it is difficult to explain to consumers the need to introduce additional area codes when number use within existing area codes is often quite low. Accordingly, all carriers should be required to complete a utilization and forecast report before additional numbers are assigned.

Effective auditing is also necessary to ensure compliance with number assignment and utilization requirements. The current guidelines do not define the scope of audits that might be undertaken and it appears that auditing has not been conducted since the current standards have been in effect. Our goal is to increase industry accountability by conducting number utilization audits to ensure that numbering resources are being properly used. The purpose of the audits would be to determine that only applicants with bona fide needs for additional numbering resources receive them and to ensure that previously assigned numbering resources are being used efficiently. Additionally, for further planning and crisis prevention purposes, audits will establish a credible information base for evaluating needs-based number assignment standards.

3. Authority to order carriers to return unused, reserved or under-utilized portions of NXX codes

In the Pennsylvania Order, the FCC stated that state commissions ". . .do not have authority to order return of NXX codes or 1,000 number blocks to the code administrator." Pennsylvania Order, ¶ 27. However, the FCC did recognize that

circumstances vary from state to state, and therefore authorized the states to seek additional authority to conduct number pooling trials " . . . which fall outside of the guidelines we adopt in this Order." Id. at ¶ 31. The Order further states:

We therefore encourage such state commissions, prior to the release of any order implementing a number conservation plan or number pooling trial, to request from the Commission an additional, limited, delegation of authority to implement these proposed conservation methods, comparable to the authority we are granting to Illinois in this Order.

Id. at ¶ 31.

Accordingly, the VSCC requests that the FCC grant it authority to order carriers to return unused exchange codes, reserved exchange codes or thousand-number blocks from carriers with excess number resources. Recent studies conducted by many state commissions reveal that carriers may be holding excessive telephone numbers that could be used to extend the lives of existing area codes.

Under current industry guidelines, central office codes are to be returned to the Code Administrator if the NXX code is no longer needed or is not activated within six months of assignment. The guidelines also allow NXX codes to be reserved for up to 18 months, with possible extensions of up to another six months. Allowing unused codes to remain unused, while Virginia residents and businesses are forced to undergo repeated area code changes, is illogical and unreasonable. Therefore, we request express authority from the FCC to investigate whether code holders have activated NXXs assigned to them within the timeframes specified in the Central Office Code Assignment Guidelines, and to direct the NANPA to reclaim NXXs that the VSCC determines have not been activated in a timely and appropriate manner. We further request that the FCC extend the VSCC's authority to include the reclamation of NXX codes where a carrier has not been certified

as a facilities-based provider of local exchange service. Also, the VSCC requests authority to investigate test codes and determine whether the carrier's use of these codes for testing purposes is warranted. If use of the test code is not warranted, the VSCC requests that the NXX code be reclaimed by the NANPA for potential activation by another carrier.

If the FCC grants the request to implement mandatory number pooling, the VSCC would require the added authority to order carriers possessing unused, reserved or under-utilized blocks of numbers in NXX codes to return them to the code administrator. Number pooling cannot work effectively or efficiently if carriers are permitted to retain blocks of unused and reserved NXX codes and under-utilized numbers within NXX codes. Until national standards are adopted, we request authority to tighten and enforce these timeframes so that central office codes are used more judiciously.

4. Authority to require sequential number assignments.

Code holders do not typically issue telephone numbers in any particular order. If this practice continues, future number pooling efforts will be hampered. The VSCC requests that the FCC grant it authority to require carriers to assign numbers within an NXX or thousand-block sequentially. This will help preserve blocks of numbers for eventual pooling, whether under a Virginia pooling measure or a national pooling plan.

5. Authority to maintain rationing procedures for six months following area code relief.

The VSCC requests that the FCC grant it authority to maintain the current central office code rationing measures for at least six months after the implementation of all area code relief plans. This should include the authority needed to determine all aspects of how central office codes shall be assigned pursuant to that rationing plan. Once an area

code relief plan is announced, the demand for the remaining NXXs in the old area code accelerates. Using code rationing as a supply constraint controls the artificial increase in demand.

6. Authority to implement thousand-block number pooling

The VSCC seeks authority to implement thousand-block number pooling since long-term number conservation can be achieved most quickly through this practice. Thousand-block number pooling is possible in exchanges where local number portability has been deployed. These are also often the exchanges where competition has developed and increased the need for NXX assignments, and thus have the most urgent need for thousand-block number pooling.

The numbering crisis in Virginia, as in other states, has not occurred because we lack sufficient numbers, but rather because those numbers are allocated and assigned inefficiently. We welcome FCC guidelines on mandatory number pooling, but it appears those guidelines may still be many months away. Therefore, we ask that the FCC grant the VSCC interim authority to order the implementation of nondiscriminatory mandatory thousand-block number pooling. The VSCC will use the industry guidelines as a guide for a number pooling plan which will help ensure minimal differences between any Virginia pooling plan and a national pooling plan, should one be approved.

We recognize that pooling is not a substitute for area code relief in exhaust situations, but it can improve number use and enhance competition. Pooling is a valuable tool to remedy wasteful allocation and inefficient use of numbering resources, particularly when area code exhaust is the alternative. Mandatory pooling would provide

the flexibility needed to better manage existing number resources, and would therefore help decrease the frequency with which area code relief is required.

7. Authority to hear and address claims by individual carriers requesting numbering resources outside of rationing procedures.

In the Pennsylvania Order, the FCC directed the North American Numbering Council ("NANC") to provide a recommendation on the question of carrier access to NXX codes outside the rationing process. The FCC stated:

It is further ordered, that the NANC, within 60 days of the effective date of this Order, provide a recommendation as to whether, in the future, the state commission or the NANPA should perform the function of evaluating whether a carrier that is subject to an NXX code rationing plan should receive an NXX or multiple NXXs outside of the parameters of the rationing plan if it demonstrates that it has no number and cannot provide service to customers or is having to rely on extraordinary and costly measures in order to provide service.

Pennsylvania Order, ¶ 58.

The VSCC is not aware of any recommendation provided by NANC to the FCC. Nonetheless, in the near future, we may be confronted with requests from carriers for exemptions from the rules governing the NXX code rationing process. The VSCC urges the FCC to affirm that states do possess authority or, in the alternative, to grant the states such authority, to order the NANPA to allocate NXX codes to carriers outside of the code rationing process, if necessary. This authority should include any information the VSCC deems necessary to review a carrier's request for additional exchange codes outside of the current rationing measures.

CONCLUSION

The problems resulting from increases in requests for numbers and projected area code exhaust dates in Virginia are growing. It is essential that the VSCC has the ability and flexibility to implement number conservation measures and explore alternatives to

the current number assignment process in order to adopt more effective area code relief measures. Therefore, the VSCC respectfully requests that the FCC grant this petition for additional delegated authority to implement the measures discussed herein. This will ensure more efficient and effective number resource utilization thereby protecting Virginia telecommunications consumers and companies from the needless hassle of repeated area code relief measures.

Respectfully submitted,

VIRGINIA STATE
CORPORATION COMMISSION

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November 29, 1999