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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE CLERK

May 12, 2000

**Subject: California Public Utilities Commission use of code rationing in lieu of area code relief
CC Docket Nos. 92-237, 96-98.**

Dear Mr. Strickling:

The undersigned California carriers (the Carriers)¹ request that the Federal Communications Commission (the Commission) direct the California Public Utilities Commission (CPUC) to implement area code relief in the following NPAs: 310, 323, 408, 415, 510, 530, 619, 650, 714, 805, 818 and 909. We also respectfully request that the Commission further direct the North American Numbering Plan Administrator (NANPA) to revert back to the NXX codes allocated to monthly lotteries in effect on November 1, 1999. Without these actions, California carriers are effectively denied the equitable access to numbers guaranteed to them by the Telecommunications Act.

The Carriers understand all too well that there is a numbering crisis in California and elsewhere in the country. Indeed, the undersigned have been working diligently at both the state and federal levels to ease the crisis by, among other things, implementing number optimization policies and procedures. The time and effort spent have been extensive particularly due to differing state policies and guidelines that have to be followed. The Carriers therefore welcome and truly appreciate the Commission's substantial efforts to establish federal numbering policies and guidelines. The Carriers hope that the adoption of federal numbering guidelines will eliminate many of the current problems regarding the implementation of number optimization and area code relief. In

¹Included in this group of carriers is the Allied Personal Communications Industries Association of California which represents the following wireless providers: Access Paging/Autophone, Advanced Paging, Airtouch, Applied Technology Group, Inc., Arch Communications, Benbow PCS, Cook Paging, Dern Valley Dispatch, DSI Technology, Hendrix Radio Communications, Kern Communications, Inc., Kern Valley Dispatch, Madera Radio Dispatch, Metrocall, Nationwide Paging, Network Services, PageNet, Paging Dimensions, Paging Systems, Inc., Starpage, The Telephone Connection of Los Angeles, Tortoise Paging, TSR Wireless, Weblink Wireless.

the meantime, however, the CPUC continues to suspend area code relief in NPAs that require such relief, ignoring the Commission's numbering Orders.

The Commission granted the CPUC authority to conduct lotteries based upon California's unique state-law imposed procedural obligations for the planning and implementation of area code relief.² The Commission, however, cautioned,³ then reiterated,⁴ that code rationing should not be used as a substitute for area code relief. We believe that the recent series of CPUC actions (a list of which is provided in Attachment A) demonstrate that the CPUC is ignoring its conditional authority and is using code rationing to avoid the implementation of needed area code relief. In fact, these CPUC actions demonstrate that in lieu of adopting NPA relief as required by the Commission order the CPUC has unilaterally turned to code rationing to artificially extend the life of the NPA codes in California.⁵ As discussed below, the CPUC has recently drastically reduced the number of codes available to carriers in the monthly lottery without due process or any input from the industry whatsoever.

The Carriers provide wireline and wireless services in California. We are incumbent carriers and competitive carriers. Each of us shares the CPUC's concerns about the effect of area code relief on the public, our customers. The Commission must also recognize that it is our industry that is driving the electronic revolution across the nation and especially in California. Unemployment is at historic lows and the economy is strong because of, and not in spite of, the sweeping changes in communications. The same public that disapproves of area code splits and overlays also demands more advanced services. The pace of technology changes makes speed to market a critical factor in a corporate decision on where to allocate capital dollars. It is sadly ironic that the customers in the state with the greatest number of advanced technology service developers must wait longer than the customers in other states for delivery of advanced services because carriers face increasing delays to obtain an adequate supply of telephone numbers.

The CPUC's actions in the 310 NPA illustrate the pattern by which the CPUC is using rationing in place of area code relief. First, the CPUC suspended the approved 310/424 overlay area code relief plan just two weeks before implementation. The plan had gone through the entire planning process, meeting all legislative requirements and

² See, *In the Matter of California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures*, Order, CC Docket No. 96-98, NSD File No. L-98-136, FCC 99-248 (September 1999) (*CA Delegation Order*) at ¶ 39. See also, Letter from Mr. Yog Varma, Deputy Chief, Common Carrier Bureau, to Helen M. Michiewicz, CPUC, dated December 1, 1998 (DA 98-2463) (*1998 Letter*)

³ Id.

⁴ See, *In the Matter of Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 00-104, (March 2000) at ¶ 9. (*NRO Order*)

⁵ *NRO Order* at ¶ 123 ("We nevertheless re-emphasize that the adoption of a national thousand-block pooling framework is not a substitute for timely area code relief once additional numbering resources are needed.....") and ¶ 171 ("It is our policy that no carriers should be denied numbering resources simply because needed area code relief has not been implemented..... We are troubled by allegations [that some states may not be developing and implementing area code relief places in a timely manner] and we will closely monitor these situations to ensure that federal numbering policies are followed.")

customer education orders. Second, the CPUC decreased the monthly lottery allotment from six codes to two codes to artificially delay complete exhaust. Third, the CPUC again reduced the lottery by holding it every other month (bi-monthly) instead of monthly. This was done after NANPA had warned that 310 exhaust would occur within nine months even with number pooling.

Other NPAs in California requiring area code relief have followed this pattern. On December 16, 1999, a CPUC decision suspended the implementation of six overlay area code relief plans. These were plans that had been adopted and met California's procedural requirements. Subsequently, the lottery allotments were unilaterally reduced. Statements made in CPUC decisions, such as "In order to extend the duration of each NPA, the Telecommunications Division (TD) Director has ordered the monthly allotment of NXX codes assigned from the lottery for each affected NPA to be reduced by approximately 50% with our concurrence," are evidence of the CPUC's intent to use code rationing as a substitute for area code relief. Because the CPUC refuses to implement area code relief, it continues to reduce the allotment of codes in lotteries. In all instances where the lottery allotments were reduced, the CPUC has done no analysis of demand for those codes.⁶ The California Commission apparently believes that it can indefinitely extend the life of NPAs by continuing to reduce the supply of codes available to carriers that need them to serve their customers.

The Commission clearly states in its *CA Delegation Order* that:

"The grants of authority herein are not intended to allow the California Commission to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief. While we are giving the California Commission tools that may prolong the lives of existing area codes, the California Commission continues to bear the obligation of implementing area code relief when necessary, and we expect the California Commission to fulfill this obligation in a timely manner. Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources. For consumers to benefit from the competition envisioned by the Telecommunications Act of 1996, it is imperative that competitors in the telecommunications marketplace face as few barriers to entry as possible."⁷

Moreover, the CPUC's obligations were reaffirmed in the *NRO Order*. Specifically, the Commission emphasized that optimization measures are not a substitute for area code relief.⁸ The Commission further directs that "... that no carriers should be denied numbering resources simply because needed area code relief has not been implemented. A number of carriers have raised concerns in this proceeding that some states may not be developing and implementing area code relief in a timely manner. We are troubled by these allegations, and we will closely monitor these situations to ensure

⁶ See, California Lottery and Applications for the year 2000, summarized by the industry via NANPA monthly lottery report. (Attachment B)

⁷ *CA Delegation Order* at ¶9.

⁸ *NRO Order* at ¶9.

federal numbering policies are implemented.”⁹ Clearly California is not implementing area code relief in a timely manner in compliance with Commission policy.

The most recent and dramatic demonstration of the CPUC’s intent to substitute rationing for area code relief is contained in the attached April 10, 2000, letter from the TD Director to NANPA. Predicated only on the unsubstantiated claim that some unspecified area code lotteries have experienced a decrease in demand, the TD Director ordered NANPA to implement a blanket lottery allocation reduction for NPAs across the State. The Commission clearly contemplated industry participation in the development of rationing plans.¹⁰ Nevertheless, the CPUC did not seek industry consensus nor request comments on this dramatic lottery revision. Industry input would have provided more insight into the claimed decrease in demand. For example, a decrease in lottery participation may indicate a company’s unwillingness to continue participating in an unpredictable and often futile gamble for vital numbering resources.

The TD Director refers to *1998 Letter* as authority for the ordered action. That letter, and the underlying CPUC Petition for additional authority place CPUC code rationing authority within the context of California’s “extenuating circumstances,” which the letter describes as various “meeting requirements and notice requirements of state statutes, and industry recommendation on a relief plan.”¹¹ Those facts upon which the *1998 Letter* was founded do not exist in California today. For most of the area codes subject to the TD Director’s blanket order to NANPA, all state area code planning requirements were met, and in some cases, final plans approved – only to be rescinded.

California has ordered pooling trials in four NPAs to be implemented in the year 2000. While the industry supports pooling, where technically feasible, it is inappropriate for the CPUC to attempt to make an area code a candidate for pooling by artificially extending the life of the area code. This CPUC action creates not only a barrier to entry for telecommunication providers but also denies consumers a choice for want of number resources. If carriers are not able to obtain numbers in the lottery, they cannot provide service to potential customers. Even if they have numbers, carriers will not implement major marketing plans or sale promotions if they lack confidence in their ability to obtain numbers when they are needed. Carriers are reluctant to enter markets if they are not assured of numbers. Credibility is destroyed when a carrier offers service in a media campaign and then is unable to deliver service due to a lack of numbering resources. Without an expectation that area code relief will be implemented on a timely basis, carriers cannot confidently develop a business plan to provide service.

⁹ Id at ¶171.

¹⁰See, *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 Provisions of the Telecommunication Act of 1996*, FCC 98-224, CC Docket No. 96-98, NSD Files No. L-97-42, Memorandum Opinion and Order and Order on Reconsideration, (September 28, 1998) ¶24. There, the Commission delegated authority to state commissions to order NXX code rationing “only in conjunction with area code relief decisions, if the industry has been unable to reach consensus on a rationing plan to extend the life of an area code until implementation of relief.”

¹¹ *1998 Letter* at 1.

For the above stated reasons, we request that the Commission direct the CPUC to implement relief of exhausting NPAs in accordance with its delegated authority, rather than continually constricting the allotment of central office codes to artificially forestall exhaust of the NPA. In addition, we ask that the Commission instruct NANPA to revert back to lotteries with the allocated NXXs code amounts in effect on November 1, 1999.

Please contact Mary De Luca of MCIWorldCom with any questions you may have. Ms. De Luca will be the point of contact for this issue and will coordinate with the California Carriers for the Commission's convenience. Ms. De Luca may be reached at (202) 887-3045 or mary.deluca@wcom.com.

Regards,

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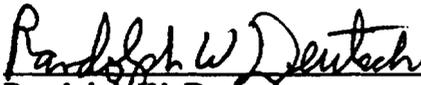
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Page 6
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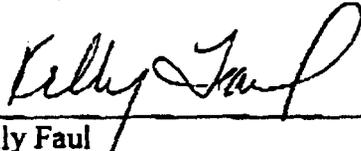
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Page 7
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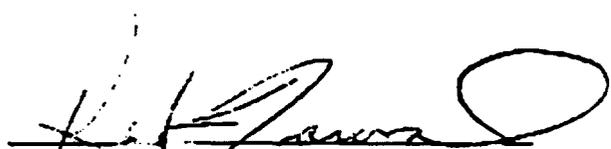


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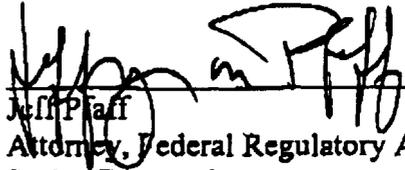
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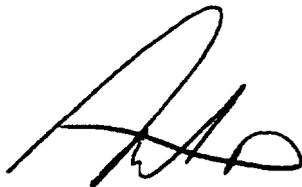

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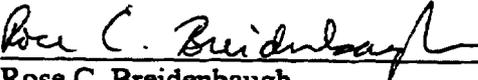
Cc: Yog, Varma, Deputy Chief, Common Carrier Bureau, FCC
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John Leutza, Director, Telecom Division, California Public Utility Commission
Helen Mickiewicz, Staff Counsel, California Public Utility Commission
Ron Conners, NANPA
John Manning, Neustar

Attachments

Attachment A: Recent CPUC Numbering Decisions

- Attachment 1: Letter from Mr. Jack Leutza, Director of Telecommunications Division (TD) of the CPUC to Mr. Bruce Bennett, Regional Director Neustar, dated November 12, 1999.
- Attachment 2: Letter from to Ms. Kimberly Wheeler, Counsel for NeuStar, Inc, North American Numbering Plan Administrator to the CPUC dated January 18, 2000.
- Attachment 3: Letter from Mr. Jack Leutza, Director of TD of the CPUC to the North American Numbering Plan Administration (NANPA) Central Office Code Administrator, dated January 28, 2000.
- Attachment 4: Letter from Mr. Jack Leutza, Director TD of the CPUC to Mr. Bruce Bennett, Regional Director Neustar, dated February 28, 2000.
- Attachment 5: Letter from Mr. Jack Leutza, Director TD of the CPUC to Mr. Bruce Bennett, Regional Director Neustar, dated April 10, 2000.

Attachment B: California Lottery Allotments and Applications for Year 2000

Attachment A
Recent CPUC Numbering Decisions

- **June 24, 1999**, in D.99-06-091, the CPUC ordered the temporary suspension of the 310/424 overlay two weeks before implementation. 63 codes had already been assigned to carriers in the 424. For several of these carriers this would have been an initial code.
- **September 16, 1999**, in D.99-09-067, the CPUC indefinitely suspended relief in 310 NPA and reduced the monthly lottery allotment from six codes to two codes.
- **October 7, 1999**, in D.99-10-022, the CPUC approved a two-way split as the back-up relief plan for the 818 NPA. An implementation date was not ordered.
- **November 12, 1999**, a letter was sent from Jack Leutza, Director of Telecommunications Division (TD) of the CPUC to Bruce Bennett, Regional Director NeuStar directing the North American Numbering Plan Administrator (NANPA) to reduce the lottery allocated code amounts for the 408, 415, 510, 650, 714 and 909. (Attachment 1)
- **December 16, 1999**, in D.99-12-051, the CPUC suspended six previously approved overlay relief plan decisions for 408, 415, 510, 650, 714 and 909 NPAs. Back-up relief plans for these NPAs have not been ordered.
- **January 18, 2000**, NeuStar sent a letter to CPUC warning that the 310 NPA could reach exhaust in 9 months or less even with the implementation of 1,000 block pooling. The letter also noted that a back- up split relief plan would require 14 months to implement. To date, a back- up relief plan for the 310 NPA has not been ordered even though pooling was implemented on March 18, 2000. (Attachment 2)
- **January 28, 2000**, a letter from Jack Leutza, Director of TD was sent to NANPA CO Code Administration directing that the 310 monthly lottery allocation of 2 codes be changed to every other month for Non-LNP capable carriers. LNP-capable carriers will receive numbers in 1,000 blocks from the pooling trial. (Attachment 3)
- **February 28, 2000**, a letter from Jack Leutza, Director of TD was sent to Bruce Bennett, Regional Director NeuStar further reducing the 909 NPA monthly code allocation (Attachment 4)
- **April 10, 2000**, a letter was sent from Jack Leutza, Director of the TD directing the NANPA to reduce the industry recommended allocated amounts for eighteen NPAs in lottery. Of these eighteen NPAs only two NPAs, the 707 and 760, have approved relief plans. (Attachment 5)

Attachment B

CALIFORNIA LOTTERY ALLOTMENTS AND APPLICATIONS FOR YEAR 2000

NPA	April Lottery Allotment	March Lottery Allotment	April 2000 <u>Applications</u>	March 2000 <u>Applications</u>	February 2000 Applications	January 2000 Applications
310 ¹²	2	No Lotto	4	No Lotto	4	42
323	5	7	25	26	28	27
408	3	4	38	37	33	30
415	3	5	16	21	11	6
510	4	5	35	43	28	32
530	4	5	17	14	8	9
619	5	11	34	45	41	80
650 ¹³	5	6	15	19	10	5
714	3	5	46	64	61	62
805	5	7	24	32	38	33
818	3	4	51	51	45	43
909	2	2	35	41	50	52

Notes:

- A. In the April 2000 Lottery Allotment column, the allocations were reduced by the April 10, 2000 Jack Leutza letter (Attachment A5), with the exception of the 310 and 909 NPAs. These were reduced in January and February 2000 respectively.
- B. The Applications columns do not reflect all demand for codes. Carriers file applications only for the number of codes allocated in the lottery, even if the carrier has a need for additional codes.

¹² The 310 lottery allotment in January 2000 was five (5) NXX codes. January was the last month in which LNP capable carriers were allowed to participate in the 310 lottery. As of February 2000, the 310 lottery is held every other month. Accordingly, there was no 310 lottery held for March 2000.

¹³ In the 650 NPA, four (4) codes carried over to the January 2000 lottery, 5 codes carried over to February 2000 lottery and 1 code carried over to March 2000 lottery.

STATE OF CALIFORNIA
Governor

GRAY DAVIS,

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

November 12, 1999

Bruce Bennett, Regional Director
Lockheed Martin IMS – NANPA
1800 Sutter St., Suite 370
Concord, CA 94520-2561

Dear Mr. Bennett:

The CPUC has received several recent petitions to modify decisions that had approved area code overlays for the 408, 415, 510, 650, 714, and 909 area codes. These petitions have created uncertainty about how quickly area code relief can be brought about in these NPAs. In addition, the Telecommunications Division staff projections for the remaining supply of central office codes in the 818 area also indicate that the current rates of code issuance in these seven NPAs may not be sustainable. It is prudent to take steps now to extend the lives of these area codes.

By letter dated December 1, 1998, the FCC granted

...temporary authority to the California Commission to continue to conduct its current central office code rationing measures prior to the implementation of area code relief – including the authority to determine all aspects of how central office codes shall be assigned pursuant to that rationing request.

Further, in its order of September 15, 1999, the FCC extended the CPUC's interim grant of authority regarding the lottery until the FCC issues an order on its pending Notice of Proposed Rulemaking (CC 99-200). Therefore, pursuant to the FCC's grant of authority, I direct the NANPA, beginning with the lottery on November 17, 1999, to reduce the allocation of codes in these NPAs to the rates indicated in the following table.

Mr. Bruce Bennett
November 12, 1999
Page 2

NPA	Previous Monthly Code Allocation	Monthly Code Allocation beginning Nov. 17, 1999
408	6	4
415	10	5
510	9	5
650	11	6
714	9	5
818	8	4
909/951	7	3

The CPUC understands that this action will create a temporary disparity between the number of NXX code requests carriers have already made to NANPA and the number of NXX codes available to be rationed. For the purposes of the November 1999 lottery, we will not change the number of code requests carriers have submitted to correspond to the new number of available codes. Beginning with the December 1999 lottery, however, carrier code requests must be aligned with the new allocation.

Should you have further questions with respect to the above changes in NXX code allocations, please feel free to contact Risa Hernandez in the Telecommunications Division at (415) 703-5331.

Very truly yours,

Jack Leutza, Director
Telecommunications Division