

guidelines. *First Report and Order* at par. 189. In addition, the FCC rules, like Illinois', require carriers to donate all thousand-blocks that have a less than 10% percent contamination level to the number pool for the rate center from which the numbering resources are assigned. *Id.* at 191. However, carriers participating in number pooling are permitted to retain at least one thousand-block per rate center, even if the thousand-block is less than 10% contaminated, as an initial block or "footprint" block in order that carriers can provide service to its customers in that rate center.

2. Wireless Carriers' Future Participation

In its *First Report and Order*, the FCC concluded that covered CMRS (wireless) service providers must participate in thousand-block number pooling once they acquire LNP capability. Currently, wireless carriers must be LNP-capable by November 24, 2002. In its *Second Report and Order*, the FCC specifically rejected wireless carriers suggestions that after that date, an additional transition period should be permitted before wireless carriers are required to participate in pooling. *Second Report and Order* at par. 50.

While wireless carriers are not yet required to participate in number pooling, it is important to note that the same sequential number utilization and growth code conservation requirements that apply to wireline carriers likewise apply to wireless carriers.

III. The Pending ICC Request For An FCC Waiver of Mandatory 11-Digit Dialing

Last month, the Commission filed a petition with the FCC seeking an extension of the temporary waiver of the 10-digit dialing requirement codified in 47 C.F.R.

§52.19(c)(3)(ii). Under federal rules, 10-digit dialing is required in both the relieved and the new NPA when an all-service overlay is implemented as area code relief. *Second Report and Order* at par. 100. The Commission's first request for a 10-digit dialing waiver was filed on August 10, 1999. The FCC issued an Order granting the temporary waiver on March 2, 2000 -- nearly seven months later. Acknowledging "the need of the Illinois Commission to conduct an efficient, one-time customer education campaign for as many of the customers in the five affected area codes as possible," the FCC concluded that 10-digit dialing should begin in the Chicago area in all areas where overlay area codes have been activated "at the time the fourth planned area code overlay is activated, but in no event later than April 1, 2001."⁸

Given the length of time it took for the FCC to rule on the Commission's first request for a 10-digit dialing waiver, it is unlikely that the Commission could expect a ruling from the FCC on the ICC's second waiver request before Friday, February 16, 2001, the date the first 224 NXX code is assigned and the date upon which customer education is scheduled to begin. This dilemma leaves carriers in the position of not knowing whether to instruct customers that 10-digit dialing for all intra-NPA calls shall begin on May 17, 2001, the effective date of the new 224 area code.

⁸ *In re Illinois Commerce Commission -- Petition for Expedited Waiver of 47 CFR Section 52.19 (c)(3)(ii)*, NXD File No. L-99-65, CC Docket No. 96-98, Order of March 2, 2001 ("FCC Waiver Order"), par. 14.

In order to extend the time available for the FCC to issue its decision regarding Illinois' request for a 10-digit dialing waiver prior to the assignment of the first 224 code, GCI urges the Commission to release several NXX codes that are currently labeled "unassignable," as discussed below.

IV. Activation of "Unassignable" Codes

On February 1, 2001, the NANPA and industry members met via telephone conference call to discuss whether 29 NXX codes in the 847 NPA designated as "unassignable" could be released for assignment to carriers. At a previous meeting with NANPA in January, carriers agreed to forward information to Seamus Glynn of CUB, Harvey Nelson of the Commission Staff and a NANPA representative, detailing whether technical impediments prevented the activation of any of these codes.

The information provided by Ameritech Illinois, Focal Communications, AT&T and WorldCom revealed that two previously designated "test codes," the 340 and 770 NXXs, are assignable and no longer required for testing. The industry reached consensus at the February 1, 2001 meeting to release these codes for assignment in the 847 NPA. The industry also reached consensus to notify the Commission that 17 of the investigated codes cannot be assigned. The 200, 211, 300, 311, 411, 500, 511, 555, 611, 711, 811, 900, 911, 950, 958, 959 and 976 NXX codes remain unassignable because they are: 1) N11 codes reserved for special uses such as local directory assistance and emergency services; 2) reserved for interexchange access service; 3) reserved for information services; 4) reserved for testing purposes; or 5) service access codes that cannot technically be translated into NXX codes.⁹

⁹ See February 5, 2001 Comments of NANPA, ICC Docket No. 01-0066, p. 4.

The industry further decided to notify the Commission that the assignment of the five “adjacent NPA” NXXs (219, 312, 630, 708 and 815), and the “home”-NPA NXXs (847, 224 and 668) NXXs – is technically possible, but not recommended. The industry pointed to possible customer confusion as a basis for advising against activation of these codes in its report to the Commission.¹⁰ However, NANPA reported that “in the event that the Commission orders the assignment of these NXXs prior to the implementation of 11-digit dialing in the 847 NPA, the Industry will comply with the Commission’s directive.”¹¹

GCI urges the Commission to order the NANPA to release these codes for assignment. First, GCI believes that the alleged customer confusion related to using these codes, if any, would be significantly less than the inevitable confusion that surrounds the implementation of a new overlay area code. Unless a customer inadvertently dials a “1” before the seven digit phone number beginning with any of these prefixes, the use of these codes will unlikely lead to misdialed numbers. Second, the only technical glitch that accompanies the use of these NXX codes in the 847 NPA is a “post-dial” delay of three to four seconds. This should not dissuade the Commission from releasing these codes. In fact, Ameritech customers already occasionally experience post-dial delays on calls not involving adjacent or home NPA prefixes. Moreover, Ameritech Illinois reported that technical workarounds could be easily accomplished over a few hours during an off-peak period in the middle of a Sunday night, for example. Finally, the INC Central Office Code (NXX) Assignment Guidelines lists delaying NPA exhaust and the need for NPA relief “for as long as possible” as an objective of

¹⁰ Id. at 5.

¹¹ Id.

numbering resource assignment, requires the use of NXX codes for purposes other than assignment (e.g., test codes) to be minimized, and specifically permits the use of home NPA and adjacent NPA codes. INC Central Office Code (NXX) Assignment Guidelines, Section 9.0, 9.2.2, 9.2.3.

Most importantly, release of these 8 codes, along with the 340 and 770 codes, will buy a few months' time for the FCC to act on Illinois' request for an extension of the 10-digit dialing waiver. It also would permit CUB and the Commission Staff additional time to analyze the most recent filing of carrier number utilization data on February 1, 2001, which can be obtained from the NANPA in early March. Comparison of this data with the September 15, 2000 data now in CUB's and Staff's possession will permit a more detailed picture to emerge of carrier number utilization behavior since the establishment of the FCC-ordered conservation rules, and possibly lead to the reclamation of unused NXX codes, a number optimization method discussed below.

V. Remediating Carrier Noncompliance With Conservation Mandates

A. The FCC's Delegation of Reclamation Authority to State Commissions

Under FCC and industry rules, carriers are required to activate an NXX code within six months of receiving the code. The FCC ruled that the definition of placing an NXX code in service should be clarified to mean that the carrier has begun to activate and assign to customers numbers within the code. Carrier confirmation with the NANPA that codes have been placed in service through the filing of a "Part 4" form is mandatory. In addition, the industry's own guidelines for assigning numbering resources make clear that

it is the responsibility of the carrier to seek an extension from the state commission if they hope to retain a code beyond the six-month deadline.¹²

As noted above, the FCC granted specific authority to state commissions to investigate carrier utilization of numbering resources, and direct the NANPA to reclaim unactivated codes or unused thousand-blocks. *First Report and Order* at par. 237, 238. In doing so, the FCC concluded, “Reclamation and reuse of unused NXX blocks is a numbering optimization measure that may be one of the quickest and easiest measures to implement. *Id.* at par. 237. The FCC concluded that reclaiming NXX codes that are not in use can prolong the life of an area code because these codes are added to the total inventory of assignable NXX codes in the area code.

The Industry Numbering Committee’s (“INC”) Central Office (NXX) Assignment Guidelines, which incorporate the FCC’s rulings on number conservation and reclamation, make clear that the state commission is in charge when it comes to determining whether NXX codes need to be reclaimed. Section 8.0, for example, states:

A state commission may request proof from all code holders that NXX codes have been activated and assignment of the numbers has commenced. *NANPA will abide by the state commission’s determination.*

INC CO Assignment Guidelines, Section 8.0. Moreover, the INC Guidelines make clear that it is the carrier’s responsibility to seek an extension *from the state commission* of the six-month deadline for activation. *Id.* at Section 8.1. No carrier possessing unused codes or thousand-blocks has made such a request to the Commission to GCI’s knowledge.

As noted above, further investigation of the September 15, 2000 utilization data, along with the upcoming February 1, 2001 data, may reveal codes that are subject to reclamation due to a carrier’s failure to activate the code within six months of assignment. The data now in the possession of CUB and the Staff reveal the existence of

¹² See Industry Numbering Committee Central Office (NXX) Code Assignment Guidelines, Section 8.0, 8.1.

between 35 and 51 full NXX codes in the 847 NPA without a single working phone number. Anywhere from 83 to 105 NXX codes have a utilization rate of one percent or less. Other codes may be eligible for reclamation given the fact that the carriers did not file utilization data for 39 NXX codes.

A couple of the larger carriers stand out as candidates for having codes reclaimed. AT&T, for example, has 75 NXX codes from the 847 NPA in their possession, but a paltry 8% NPA-wide fill rate. Sixty-three of these NXX codes were activated before April, 1998. While AT&T has donated 182 thousand-blocks to the number pool, it has taken 17 back, leaving it with 585 thousand-blocks. The 539,000 unused numbers AT&T has represents 28% of all the unused wireline numbers.

MCI WorldCom has 42 NXX codes from the 847 NPA in its possession, but a meager 22% NPA-wide fill rate. In 10 of these NXX codes, WorldCom had no assigned numbers when they filed their NANPA data last September. Unfortunately, WorldCom has donated one or more thousand-blocks from each of these NXXs to the number pool, thereby complicating reclamation. Those portions of these codes that WorldCom retained nevertheless show a 0% fill rate. WorldCom's unused numbers totaled about 165,000, or 9% of all unused wireline numbers.

The remedies outlined in the industry's own code assignment guidelines for carrier violations of the guidelines support the use of Commission reclamation of codes held by offending carriers who contaminated unused NXX codes by returning only portions of what were otherwise unused codes to the Pooling Administrator. For example, Section 8.2.1 of the INC Code Assignment Guidelines require the reclamation of assigned codes that are "not used in conformance with these assignment guidelines." The guidelines also state that the code administrator (NANPA) shall contact the Pooling Administrator for inquiries about return of NXXs that are in a thousand-block number pool. INC CO Code Assignment Guidelines, Section 8.2.1.

In recent days, representatives from the Commission Staff and CUB met with carriers AT&T and WorldCom. The AT&T representative stated that the company is investigating the status of many of the NXXs brought to their attention by the Commission Staff. However, AT&T also stated that the company would not return a single NXX. WorldCom is reviewing the situation. However, it also continued to donate portions of otherwise unused NXX codes to the number pool in January of 2001.

The Commission should direct the NANPA to reclaim empty NXX codes held by carriers longer than six months from assignment. A review of the number utilization data filed with the NANPA on February 1, 2001 will assist the Commission in determining whether additional NXX codes can be reclaimed. In addition, the Commission should advise the Number Pooling Administrator that designated thousand-blocks returned by carriers who should have returned the full NXX code may be reclaimed to re-assemble what is actually an unused NXX for purposes of reclamation.

Accordingly, reclamation of unused codes remains a viable option for the Commission to extend the life of the 847 NPA, and should be pursued now and upon receipt of the next round of number utilization data.

B. Requests for “For Cause” Audits

In its *Second Report and Order*, the FCC recognized that the ability to monitor numbering resource use and accurately predict NPA exhaust is dependent on the quality of the data submitted by the carriers. The FCC noted,

The mere possibility of an audit, we believe, will prevent behavior that is contrary to numbering resource optimization goals, such as stockpiling of unneeded resources.

Second Report and Order at par. 83. With that in mind, the FCC created a comprehensive audit program, consisting of “for cause” and random audits. “For cause” audits can be conducted if there is a reason to believe that the information a carrier provided is inaccurate or misleading, or that a carrier has violated the Commission’s rules or orders or applicable industry guidelines. Id. at par. 84. Among the entities listed as sources for initiating “for cause” audits are state commissions that have reasons to believe that a carrier may have violated the FCC’s rules or orders, or applicable industry guidelines. Id. at par. 86.

To request such an audit, the commission must make a written request to the Audits Branch of the Accounting Safeguards Division in the Common Carrier Bureau of the FCC. Id. at par. 90. The request must state the reason for which a “for cause” audit is being requested and shall include documentation of the alleged anomaly, inconsistency, or violation of the FCC rules, orders or applicable guidelines. It is within the Auditor’s discretion to grant the audit and conduct follow-up audits of carriers that previously were subject to “for cause” audits. Id. at par. 87.

The initial review of the number utilization data filed with the NANPA on September 15, 2000, and released to the Staff and GCI suggests that carriers have hoarded numbering resources by failing to (1) follow sequential numbering assignment and other conservation rules, and (2) turn in unused NXX codes within six months of assignment, and points to the need for an FCC audit of certain carriers’ number utilization practices.

Given AT&T’s large reservoir of unassigned telephone numbers and its paltry 8% NPA-wide fill rate, the Commission should request an FCC audit of the company’s

number utilization practices. The FCC permits state commission representatives to participate on FCC audit teams if they wish to do so. *Second Report and Order* at par. 92. GCI urges the Commission to request an FCC audit of AT&T's numbering assignment practices.

VI. Conclusion

CUB's review of the number utilization data not only sheds light on the number hoarding practices of these carriers, but also points to possible violations of both this Commission's and the FCC's number conservation rules, including (1) the FCC's sequential numbering assignment rule provision that requires all carriers to assign available telephone numbers within an opened thousand-block before assigning telephone numbers from an uncontaminated thousand-block, (2) a rule in effect since May of 1998 as a result of this Commission's Number Pooling and Conservation Order that requires carriers to refrain from requesting an additional NXX code or blocks of 1000 numbers until its existing numbering resources are at least 75% utilized per rate center, (3) the FCC rule that codes not activated within six months of assignment must be returned to the NANPA, and (4) the FCC rule that all carriers submit number utilization and forecast data.

The Commission can take action today to extend the life of the 847 area code long enough to obtain the anticipated FCC extension of the 10-digit dialing waiver for the 847 and new 224 NPAs and further investigate the reclamation of unused codes, (2) prevent rogue carriers from obtaining additional numbering resources, and (3) send a clear signal to carriers operating in Illinois that violations of state and federal number conservation

rules will not be tolerated, thereby dissuading carriers from similarly polluting NXX codes in other Illinois NPAs.

Specifically, the Commission should:

1. Reject the letter filed by the NANPA advising it of the exhaust of the 847 NPA and order the NANPA to release the protected and adjacent-NPA NXX codes listed in this report. This action may delay the assignment of the last 847 NXX code long enough for the FCC to act on Illinois' request to extend the 10-digit dialing waiver. In addition, such action would give the Commission the time it needs to obtain the next set of carrier utilization data filed with the NANPA on February 1, 2001. Review of this data, along with the September 15, 2000 filing, will give the Commission additional information to determine whether additional unused codes referenced above can be reclaimed.
2. The Commission should order the NANPA to reclaim all unused NXX codes and advise the Number Pooling Administrator that designated thousand-blocks returned by carriers who should have returned the full NXX code may be reclaimed to re-assemble what is actually an unused NXX for purposes of reclamation.
3. The Commission should file a request with the Common Carrier Bureau of the FCC for a "for cause" audit of the number utilization practices of AT&T, whose number utilization data and follow-up interviews reveal a pattern of hoarding unused telephone numbers, and possible violations of the number conservation rules enacted by this Commission and the FCC.

4. The Commission should notify the NANPA to withhold additional numbering resources from carriers that failed to provide utilization and forecast data with the NANPA, as required by the FCC. Notification of the NANPA regarding the release of the previously unassignable codes must occur prior to February 16, the date currently scheduled for the assignment of the first 224 NPA. Only then can the life of the 847 NPA be extended long enough for the Commission to obtain a 10-digit dialing waiver from the FCC and initiate possible reclamation of additional codes.

5. Voluntary action by the offending carriers could have an immediate impact that would significantly extend the life of the NPA. The Commission should call upon all carriers serving the 847 NPA to review their number holdings to determine whether full NXXs can be returned to the NANPA.

EXHIBIT 1

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Citizens Utility Board)	
Petition for Expedited Permanent Waiver of)	NSD File No.
47 CFR Section 52.19(c)(3)(ii))	CC Docket No.

**ERRATA OF THE CITIZENS UTILITY BOARD TO THE
MOTION FOR STAY OF 47 CFR § 52.19(c)(3)(ii) AND
PETITION FOR EXPEDITED PERMANENT WAIVER OF 47 CFR § 52.19(c)(3)(ii)**

The Illinois Citizens Utility Board (“CUB”), by its attorney, respectfully submits this Errata to its Motion for Stay of 47 CFR § 52.19(c)(3)(ii) and Petition for Expedited Permanent Waiver of 47 CFR § 52.19(c)(3)(ii), requesting a stay and waiver of the Federal Communications Commission’s ten-digit dialing rule for the 847 and 224 area codes in suburban Chicago. The following changes should be made to the Motion for Stay of 47 CFR § 52.19(c)(3)(ii) and Petition for Expedited Permanent Waiver of 47 CFR § 52.19(c)(3)(ii), respectfully, which were filed on September 27, 2001. A complete corrected version of the original and four copies of both documents has been included.

Several dates were inadvertently mistyped:

1. In the Motion for Stay, at Paragraph 4, second sentence, the date January 7, 2001 should read January 7, 2002 and the date “January 5, 2001” should read “January 5, 2002.” At Paragraph 11, the date “January 5, 2001” should read “January 5, 2002.”

2. In the Petition for Expedited Permanent Waiver, several dates are in error on page

4. Beginning at the ninth line:

a. “January 7, 2001” should read “January 7, 2002”;

- b. "September 5, 2001" should read "January 5, 2002";
 - c. "January 5, 2001" should read "January 5, 2002".
3. In the Petition for Expedited Permanent Waiver, refer to page 7 -- the citation to the first sentence in the last paragraph, "(Sept. 6, 1998)" should read "(Sept. 6, 1996)."

Dated: October 1, 2001

Respectfully submitted,

Citizens Utility Board

By: _____

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Citizens Utility Board)
Petition for Expedited Permanent Waiver of) NSD File No.
47 CFR Section 52.19(c)(3)(ii)) CC Docket No.

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**Before the
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In the Matter of)	
)	
Citizens Utility Board)	
Petition for Expedited Permanent Waiver of)	NSD File No.
47 CFR Section 52.19(c)(3)(ii))	CC Docket No.

**AMENDED CITIZENS UTILITY BOARD
MOTION FOR STAY OF 47 CFR § 52.19(c)(3)(ii)**

The Illinois Citizens Utility Board (“CUB”), by its attorney, respectfully requests that the Federal Communication Commission (“Commission”) issue a stay of 47 C.F.R. §52.19(c)(3)(ii), with respect to the 847 and 224 Number Planning Areas (“NPAs”) until the Commission rules on CUB’s Petition for Expedited Permanent Waiver of 47 C.F.R. §52.19(c)(3)(ii).

In support of its Motion, CUB states as follows:

1. On September 6, 1996, the Commission issued its Second Report and Order and Memorandum Opinion and Order, F.C.C. 96-333 61 Fed. Reg. 47283, codified at 47 C.F.R. §52.19(c)(3)(ii). The Commission’s ruling requires that, in every case where an overlay is the selected form of area code relief, consumers must dial the area code for every telephone call in the geographic area covered by the overlay. 47 C.F.R. §52.19(c)(3)(ii)
2. On May 11, 1998, the Illinois Commerce Commission (“ICC”) ordered relief in the form of an all-services overlay in the 847 Numbering Plan Area (“NPA” or area code).
3. On August 10, 1999, the ICC filed a petition for temporary waiver of 47 C.F.R. §52.19(c)(3)(ii), which was granted by the Commission on March 2, 2000. The waiver expired on April 1, 2001.

4. The ICC filed a second petition for temporary waiver on January 31, 2001. The Commission granted the ICC's second request for waiver, which extended the waiver for the 847 NPA until January 7, 2002 (the industry has subsequently set an implementation date of January 5, 2002 to better accommodate the transition).

5. On September 17, 2001, NANPA sent a letter to the ICC notifying it that the first Central Office code in the 224 NPA was assigned on September 14, 2001. Therefore, the first numbers in the 224 NPA will be effective on December 13, 2001.

6. On September 27, 2001, CUB filed its Petition for Expedited Permanent Waiver of 47 C.F.R. §52.19(c)(3)(ii), requesting the Commission to grant it a waiver from the requirement that ten-digits be dialed for every telephone call within and between all area codes in the geographic area covered by the 847 and 224 area codes in suburban Chicago, Illinois.

7. Failure to grant such relief would severely prejudice the citizens of Illinois. Telephone customers in the 847 and new 224 area codes will suffer a significant burden of being forced to dial eleven digits for each phone call, both within and between area codes. This burden is neither technologically required, nor is it necessary to prevent any anti-competitive impacts of the new area code.

8. Granting the requested relief is in the public interest. Not only do consumers find the needless exercise of dialing one-plus-ten-digits confusing, inefficient and burdensome, but the elderly, the disabled and school-age children often face confusion and frustration when faced with such a requirement. Granting CUB's Motion for Stay will provide customers of the 847 and 224 NPA relief from this onerous requirement.

9. The harm, if any, to the carriers serving the 847 and 224 NPAs is slight. As described in more detail in CUB's Petition for Expedited Permanent Waiver of 47 C.F.R.

§52.19(c)(3)(ii), the theoretical harm of “dialing disparity,” which is the main driving force behind the Commission’s ten-digit dialing policy, does not and will not exist any time soon in the 847 and 224 area codes. As a result of the successful implementation of number pooling and conservation measures in Illinois, all carriers will therefore have equal and plentiful access to blocks of numbers in the 847 NPA, which maintains large stores of numbers available for assignment. Therefore, no competitive harm will be felt by any carrier if the Commission were to grant CUB’s requested relief. The public interest considerations and potential prejudice to customers of the 847 NPA outweigh any potential future harm to competitors.

10. CUB is also requesting an expedited permanent waiver of the ten-digit dialing requirement from the Commission pursuant to section 1.3 of the Commission's rules, which states that the Commission may grant a waiver of a provision of its rules upon a showing of "good cause." 47 CFR § 1.3.

11. Time is of the essence. Ten-digit dialing in the 847 and 224 NPAs will go into effect on January 5, 2002 (the implementation date selected by the industry), unless the Commission grants CUB’s Motion for Stay or, in the alternative, the Commission rules on CUB’s Petition for Expedited Permanent Waiver before January 5, 2002.

12. Accordingly, CUB respectfully requests that the Commission stay its rule regarding ten-digit dialing for the 847 NPA until the Commission rules on CUB’s Petition for Expedited Permanent Waiver of 47 C.F.R. §52.19(c)(3)(ii).

Dated: October 1, 2001

Respectfully submitted,

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