

The Commission Should Deny the California TSO Petition

- **Background:** Historically, the Commission has prohibited *technology specific overlays* (“TSOs” or “SOs”) finding them to be “unreasonably discriminatory” and “unduly inhibit[ing] competition.” Given an increased demand for numbers in the late 1990s, the Commission lifted its ban and permitted states to petition for authority to implement TSOs. However, in light of the Commission’s continuing concern over the discriminatory and anti-competitive effects of TSOs, the Commission required states to demonstrate that the benefits of implementing a TSO will outweigh the costs; and that a TSO will be superior to an *all-services overlay*.
- **California Petition:** On September 27, 2002, the California Public Utilities Commission (“CPUC”) filed a petition requesting authority to implement two TSOs that would overlay the 310 and 909 number planning areas (“NPAs”) in Southern California. (comments due Nov. 25, 2002; replies due Dec. 10, 2002).
- The numbering exhaust situation in the 310 and 909 NPAs has reached a critical juncture. AT&T Wireless (“AWS”) recognizes that the remaining supply of numbers in these NPAs is at dangerously low levels, and fully supports the immediate implementation of area code relief in these areas. However, AWS cannot support the CPUC petition because it fails to meet the Commission’s substantive and procedural requirements for a TSO and would impose unfair and discriminatory burdens on wireless customers and carriers.
- The CPUC proposal contains at least 3 elements that are inconsistent with the guidelines set forth in the Commission’s *Third NRO Order*.
 - (i) *The CPUC proposes to “take-back” wireless numbers.* Because take-backs impose substantial costs on and disruption for consumers, the Commission stated that it would likely oppose TSOs that include take-backs.
 - (ii) *The CPUC requests a permanent waiver of the 10-digit dialing requirement.* The Commission has considered and rejected numerous prior state requests for permanent waiver of the 10-digit dialing requirement and successfully defended a court challenge by New York state to its 10-digit dialing authority. For these reasons, the Commission found that it is not likely that requests for permanent waiver of the 10-digit dialing requirement will be granted.
 - (iii) *The CPUC proposes to implement TSOs in area codes that will exhaust within less than one year.* The Commission stated that TSOs should not be implemented in area codes that are less than one year to exhaust because the benefits from implementing the TSOs at this stage are minimal.
- **Discrimination/Costs:** The TSOs are unreasonably discriminatory and anti-competitive, and will impose unreasonable costs and burdens on wireless customers and carriers.

- TSOs unfairly discriminate against wireless customers by forcing them solely to bear the burden of area code relief and unfairly segregating them into an undesirable area code.
 - Once wireless carriers participate in pooling (which is on Nov. 24, 2002), there is no number optimization reason or technical basis for segregating wireless customers into a separate overlay. Once wireless carriers become LNP-capable (Nov. 24, 2003), the “technology-specific” nature of the overlay is also destroyed because wireline customers can port their numbers to a wireless carrier and *vice versa*.
- TSOs place wireless carriers at a competitive disadvantage. Wireless is increasingly being viewed as a substitute for wireline services. If wireless carriers are relegated to a less desirable area code, they will not be able to compete on an equal footing with wireline carriers.
- The proposed take-backs would require approximately *2 million wireless customers* to relinquish their phone numbers so that those numbers can be assigned to new wireline customers. Wireless customers will have to endure the inconvenience of having their handsets reprogrammed with new phone numbers; informing friends, business associates, and family of the new telephone number; and reprinting stationery and business cards.
 - Contrary to the Commission’s explicit guidelines, the CPUC has failed to demonstrate that wireless customers support take-backs, and has also failed to provide evidence that it will provide incentives for customers to return their telephone numbers.
- Finally, without mandatory 10-digit dialing in the underlying and TSO area codes, wireless customers will be required to dial 10 digits for a majority of their calls, while wireline customers need only dial 7 digits.
- **Benefits:** The CPUC has not demonstrated that these costs are outweighed by the benefits of the proposed TSOs. All that the TSOs would do is extend the lives of the underlying area codes for a few short years. Additional steps will be necessary within the next couple of years to transition the TSO to an all-services overlay.
- **All-services overlays:** Similarly, the CPUC has failed to demonstrate that the TSOs are preferable to an all-services overlay. In fact, the more efficient and preferable alternative to the CPUC proposal is an all-services overlay. All-services overlays would not discriminate against any customer, nor require *any* telephone customer to change a telephone number. They have been successfully implemented in 41 other metropolitan areas in 15 states.
- **Conclusion:** The CPUC petition unfortunately offers too little relief too late. The Commission should deny the petition and require the CPUC to implement immediately traditional area code relief (all-services overlay or an area code split).