

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the matter of:

Numbering Resource Optimization

CC Docket 99-200

Implementation of the Local  
Competition Provisions of the  
Telecommunications Act of 1996

CC Docket No. 96-98

**PETITION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION  
AND OF THE PEOPLE OF THE STATE OF CALIFORNIA  
FOR AUTHORITY TO IMPLEMENT SPECIALIZED  
OVERLAY AREA CODES**

The California Public Utilities Commission and the People of the State of California (California or CPUC) submit to the Federal Communications Commission (FCC or Commission) this Petition for Authority to Implement Specialized Overlay Area Codes. Specifically, the CPUC requests that the Commission authorize California to implement two technology-specific or specialized overlays (SOs) as discussed in detail below.<sup>1</sup>

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<sup>1</sup> On September 25, 2002, the CPUC filed with the FCC a petition for authority to implement technology-specific overlay area codes covering the 310 and the 909 numbering plan areas (NPAs) in Southern California (See Petition of the California Public Utilities Commission and of the People of the State of the California for Authority to Implement Technology-Specific Overlay Area Codes and Request for Expedited Treatment, dated September 25, 2002.) The CPUC withdrew its petition on March 14, 2003 and stated in the withdrawal that the CPUC would submit a new petition for authority to implement a different type of specialized overlay. (See Motion by the California Public Utilities Commission and of the People of the State of California to Withdraw Petition for Authority to Implement Technology-Specific Overlay Area Codes, dated March 14, 2003.)

## **I. BACKGROUND**

In the *Third Report and Order on Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 (Third Report & Order)*, the FCC granted in part a prior CPUC petition seeking authority to implement a technology-specific overlay.<sup>2</sup> Specifically, the FCC decided to “allow state commissions seeking to implement SOs to request delegated authority to do so on a case-by-case basis”.<sup>3</sup> The Commission set forth criteria to be addressed in a state petition for such authority, and we address those criteria below.

## **II. CRITERIA FOR SPECIALIZED OVERLAYS**

### **A. Technologies and Services**

The CPUC proposes to include several different types of services in the SOs. We propose to place in the SOs all “transparent” or “non-geographic based” numbers, except for cellular services, that would otherwise be assigned to the underlying numbering plan areas (NPAs). These numbers include those used for services such as On-Star, E-fax, automatic teller machines (ATMs), point-of-sales, as well as numbers that would be assigned to modems or fax machines. For modems or fax machines, however, we propose to include into the SOs only businesses with fifty or more access lines for the

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<sup>2</sup> See Petition of the CPUC and of the People of the State of California for Waiver, filed April 26, 1999.

<sup>3</sup> *Third Report & Order*, ¶¶ 67, 79.

serving carrier.<sup>4</sup> We do not propose to include in the SOs numbers that would be assigned to modems or fax machines used by residential customers. The CPUC also proposes to include paging companies<sup>5</sup>, Internet telephony/voice over Internet protocol (VoIP) services and dial-up numbers for Internet service providers (ISPs) such as American Online into the SOs.

Since this approach is new, both for the CPUC and for the FCC, California anticipates that a number of questions pertaining to the technical details of implementing the SOs will arise as we plan for this change. For example, we will need to address and resolve specific concerns the carriers raise regarding assignment of transparent numbers in the new SOs. The industry has also informed the CPUC staff that they do not currently track the type of services to be included in the SOs. At this time, the industry can neither estimate the current level nor the future demand of numbers used for these services. Carriers assert that they would need to individually survey their customers to determine the extent of usage and identify the individual numbers assigned to specialized overlay type services. Going forward, carriers will need to modify their billing, provisioning and ordering data bases and systems in order to track these services. The CPUC requests that the FCC grant us some leeway in resolving these questions as we

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<sup>4</sup> CPUC staff have been informed by ILEC technical staff that ATMs and POS terminals often do not have a separate number assigned for each machine or device. Therefore, the extent to which ATMs or POS terminals could be placed in an SO would depend on how the equipment is provisioned by the respective serving carrier. The ILEC technical staff also have informed us that they can manage the logistics of requiring placement of these numbers into an SO by adding a line item to the form business service representatives follow when a business customer initiates or augments service.

<sup>5</sup> The CPUC is including paging companies in this request, but recognizes that paging companies are excluded from number pooling. The impact of that exclusion would require further investigation to evaluate the relative benefits to the public versus burden on the industry should paging companies be assigned to the SOs.

cannot today anticipate every issue nor propose a solution to unknown problems. We note that CPUC staff presented the broad proposal contained here to the industry including the largest incumbent local exchange carriers (ILECs), competitive local exchange carriers (CLECs), wireless carriers and VoIP service providers in California. Based on their responses, we believe that we can work with the carriers to resolve implementation issues as they develop.

**B. Geographic Area to Be Covered**

In order to optimize telephone number usage and extend the life of as many area codes as possible, the CPUC proposes to implement two SOs that would cover the entire state of California. Specifically, one SO would be implemented over the northern part of California covering 530, 707, 415, 510, 925, 650, 408, 831, 209 and 916 area codes. The other SO would be implemented over the southern part of California covering 760, 559, 661, 805, 619, 858, 818, 213, 310, 323, 562, 626, 714, 949 and 909 area codes. In addition, the rate centers for the SOs would match the rate centers for each of the underlying area codes. Matching of the rate centers would avoid rating and routing problems, and associated billing problems that would otherwise arise if rate centers do not match.

California currently has 738 rate centers in its 25 NPAs. The CPUC estimates that each CLEC and ILEC, which has business customers in a particular rate center, will need a thousands-block in each rate center where they operate. Some cellular carriers providing global positioning services for vehicles will also need a thousands-block in rate

centers in which they operate. Assuming all CLECs, all ILECs and 50% of the cellular carriers need a thousands-block in each rate center in which they operate, the CPUC estimates that two overlays over the entire state of California would be necessary.

The Commission, *in its Third Report and Order*, noted that SOs covering more than one area code are superior for optimizing number use because they would reduce the demand for numbers in multiple area codes.<sup>6</sup> The Commission also held that “service-specific overlays that include non-geographic based services may be ideal, from a numbering perspective, if implemented across a wide geographic area. . . .”<sup>7</sup> The CPUC’s proposal includes both of these elements. The SOs proposed herein would include all of the existing area codes in California and would geographically cover the entire state of California.

### **C. Permanent SOs**

The CPUC requests authority to implement the SOs on a permanent basis. The Commission noted in the *Third Report & Order* that it prefers service-specific overlays, that include non-geographic based services, to be permanent in nature because they tend to preserve geographic identity.<sup>8</sup> Since the CPUC’s proposal comprises primarily of transparent or non-geographic based numbers, with the exception of cellular service, the

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<sup>6</sup> *Id.* at ¶ 83.

<sup>7</sup> *Third Report & Order*, ¶ 83.

<sup>8</sup> *Id.* at ¶ 84.

assignment of numbers to the SOs would be on a permanent basis.

#### **D. Take-backs**

In the *Third Report & Order*, the FCC discussed “take-backs”; that is, “take-back” of numbers assigned to end-users. The FCC acknowledged that take-backs have significant drawbacks and costs in general, but nonetheless, held that with respect to service-specific overlays, it would likely favor SOs that would include take-back of non-geographic-based numbers.<sup>9</sup>

The CPUC seeks authority to assign all transparent or non-geographic based numbers proposed herein on a prospective basis. We also seek authority from the Commission to take back these numbers on a retroactive basis. The industry has informed the CPUC staff that take-backs pose a number of technical challenges. For instance, they state that they would first need to identify which of their numbers are transparent or non-geographic-based numbers. They would then need to reprogram and change each of their customers’ phone numbers. They also state that take-backs may be very costly. Given these challenges, if granted authority, the CPUC plans to work closely with the industry to determine if and how take-backs should be implemented in California.

#### **E. Ten-Digit Dialing**

In the *Second Report and Order and Memorandum Opinion and Order* in Docket 96-98, the FCC established two conditions for states choosing to implement an all-

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<sup>9</sup> *Id.* at ¶ 88, 90.

services area code overlay. The condition relevant to this petition was the first of the two: “mandatory 10-digit local dialing by all customers between and within area codes in the area covered by the new code”.<sup>10</sup> In the *Third Report & Order*, however, the Commission reached a different conclusion as follows:

“Because we continue to believe that ubiquitous ten-digit dialing when an overlay is implemented would maximize numbering resource optimization, [footnote omitted] we favor SO proposals that include ten-digit dialing in the SO NPA as well as the underlying area code, in the same manner that ten-digit dialing is required when all-services overlays are implemented. . . . We, nevertheless, will not necessarily require ten-digit dialing with SOs at this time, at least not until we are better able to determine whether a temporary waiver of the ten-digit dialing requirement in any way increases the use and effectiveness of SOs.”<sup>11</sup>

In light of this language, the CPUC seeks authority to implement a permanent seven-digit dialing requirement in the proposed SOs.<sup>12</sup> We do not believe ten-digit dialing would be necessary in the SOs because the competitive concerns, which prompted the Commission to adopt the ten-digit dialing requirement in 1996, have largely been abated over time.<sup>13</sup>

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<sup>10</sup> *Second Report and Order and Memorandum Opinion and Order*, FCC 96-333, CC Docket 96-98, Released August 8, 1996, ¶ 286.

<sup>11</sup> *Third Report & Order*, ¶ 92.

<sup>12</sup> The CPUC recognizes the FCC’s further statement that “it is not likely that requests for permanent waiver of the ten-digit dialing requirement, especially after a transitional SO is expanded to include all services, will be granted”. (*Third Report & Order*, ¶ 92.) Nonetheless, the CPUC asks the Commission to weigh carefully the impact of the proposal put forth here for permanent seven-digit dialing on the public versus on the industry.

<sup>13</sup> The ten-digit dialing rule requires state commissions to introduce ten-digit dialing in the underlying area code(s) as well as the overlay area code upon when an overlay is implemented. (47 USC 52.19(c)(3)(ii).)

The FCC originally adopted the ten-digit dialing rule to ensure that competitors do not suffer any competitive disadvantages as a result of local dialing disparity.<sup>14</sup> The Commission noted that, without mandatory ten-digit dialing requirement, “all existing telephone users would remain in the old area code and dial seven digits to call others in that area code, while new users with the overlay code would have to dial ten digits to reach any customers in old code.”<sup>15</sup> Hence, the Commission concluded that mandatory ten-digit dialing was necessary in order to create a level playing field and encourage competition by new entrants to the local telecommunications market. The ten-digit requirement was also premised on an all-services overlay, which included a single underlying area code.

Since passage of the 1996 Federal Telecommunications Act, the California State Legislature enacted Public Utilities Code section 7943. Subsection (b) of § 7943 requires the CPUC to seek from the FCC authority to “order telephone corporations to assign telephone numbers dedicated to wireless and data usage to a separate area code and to permit seven digit dialing within that technology-specific area code and the underlying preexisting area code or codes.”<sup>16</sup> (Emphasis added.) Pursuant to that statutory requirement, the CPUC must seek, and here does so seek, authority from the FCC to

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<sup>14</sup> See *Second Report and Order and Memorandum Opinion and Order*, FCC 96-333, CC Docket 96-98, Released August 8, 1996, ¶¶ 285 – 287; *Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200*, Released December 29, 2000, ¶ 70.

<sup>15</sup> *Id.*

<sup>16</sup> The CPUC first sought authority from the FCC to establish a technology-specific area code in a petition filed with the Commission on April 23, 1999. The FCC responded to that petition in the *Third Report & Order*. (See ¶ 67.)

allow continued use of seven-digit dialing in the SOs. Calls across any area code boundary, including calls between the underlying area codes and the SOs, however, would require 1+ten-digit dialing, as is true today throughout California.

California telecommunications market has changed substantially since the Commission adopted its ten-digit dialing requirement. Most of the carriers in California have been in business for some years and hold many numbers in existing NPAs. The FCC's concern that only new competitors would be required to take numbers in an overlay, while established carriers could draw on plentiful number supplies in the existing area codes, has been mitigated just by the passage of time and competitor acquisition of number holdings.

Furthermore, there would be no dialing disparity between carriers in the SOs because all of them would be required to draw numbers used for transparent and non-geographic based services from the SOs and would have equal access to the numbers from the SOs.

#### **F. Rationing**

The CPUC proposes that the rules of the existing NPAs in California, including pooling and lottery, apply to the SOs. In addition, we propose that number conservation rules such as sequential numbering and fill rate apply to the SOs as well.

#### **G. Thousands Block Number Pooling**

The purpose of establishing the SOs in California is to prolong the lives of the existing NPAs, as well as to use new numbers as efficiently as possible. To that end, a number pool will be used in the SOs immediately upon implementation. Once the SOs

open, all carriers would draw new numbers used for transparent or non-geographic based services, only from the new SOs.

### **III. CONCLUSION**

For all of the foregoing reasons, the CPUC requests authority to implement two specialized overlay in California as described in this petition.

Respectfully submitted,

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