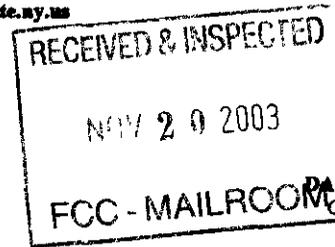


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November 17, 2003

Hon. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals II
445 12 St., SW
Washington, D.C. 20554

RE: Comments of the New York State Department of Public Service in the Matter of the Petition of the California Public Utilities Commission for Authority to Implement Specialized Overlay Area Codes; CC Docket No. 99-200

Dear Secretary Dortch:

The New York State Department of Public Service ("NYDPS") submits these comments in response to the Federal Communications Commission's (Commission) Wireline Competition Bureau's October 16, 2003 Public Notice ("Notice"). The Notice seeks comment on the petition of the California Public Utilities Commission (CPUC) for delegated authority to implement two permanent specialized overlays (SOs). Together, the overlays would cover the entire State of California, so as to optimize telephone number usage and extend the life of as many of the existing underlying area codes as possible.

Specifically, the CPUC proposes, on a prospective basis, to place services, such as fax machines and modems for larger businesses,¹ services like E-Fax and On Star, paging services, and dial-up Internet access services (e.g., America Online), in these two new area codes.² The CPUC also requests authority for "retroactive take-backs," which would permit the reassignment of customers with these services to the new area codes; however, the CPUC indicates that, if

¹ This will include businesses with 50 or more access lines for the serving carrier.

² The CPUC states that it will not include cellular services nor modems or fax machines used by residential customers.

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granted such authority, it will carefully consider if and how to reassign customers. The CPUC further requests that customers in both the new SOs and the underlying geographic area codes continue to use seven digit dialing for intraLATA calling, rather than requiring ten-digit intraLATA dialing throughout the state.

The CPUC's solution will optimize number usage while limiting the effects of the transition to a new area code. Area code relief is a difficult transition for all stakeholders. For example, service providers must modify switch translations and permissible dialing arrangements; consumers must inform friends and families of new numbers; businesses must change stationery and advertising; and alarm companies must visit many customer locations to reprogram auto-dialers. In anticipation that the CPUC will need to resolve numerous issues regarding assignment of numbers to the new SOs, the CPUC has already met with numerous carriers and believes that they can work with them to resolve implementation issues as they develop, which should ease the transition to the new SOs.

The CPUC's proposal is consistent with the Commission's policy on the establishment of SOs as a means to provide area code relief. The Commission has delegated authority to the states to carry out area code relief, recognizing that states should have flexibility in crafting area code relief to address local needs and to mitigate transition issues. In the Number Resource Optimization Third Report and Order (CC Docket 96-98 and CC Docket 99-200), the Commission set forth eight factors that each request for delegated authority to implement an SO is to address.³ The CPUC has made its required showing and has set forth its rationale for the need for the SO by responding to each factor. The Commission should find that the CPUC has met its burden.

The NYDPS supports the retention of seven-digit dialing within the new area codes and within the underlying area codes.⁴ The Commission required ten-digit dialing in areas served by overlay codes to ensure that competitors do not suffer any competitive disadvantages as a result of dialing disparity. Such disparity might exist if telephone customers in the existing area codes were allowed to dial seven-digits to call others in that area code, while customers in the overlay would have to dial ten-digits to call a customer in the old area codes. These competitive issues are not present here because all carriers will assign the same area code for similar types of equipment or services. A specialized overlay can be accomplished with little interruption and will not impede the growth of competing non-geographic services, even with the retention of

³ The Commission indicated that state commissions are to address the following: (1) the technologies or services to be included in the SO; (2) the geographic area to be covered; (3) whether the SO will be transitional; (4) when the SO will be implemented and, if a transitional SO is proposed, when it will become an all-services overlay; (5) whether the SO will include take-backs; (6) whether there will be ten-digit dialing in the SO and the underlying area code; (7) whether the SO and the underlying area code(s) will be subject to rationing; and (8) whether the SO will cover an area in which pooling is taking place.

⁴ Calls across any area code boundary, including calls between the underlying area codes and the SOs would, however, require ten digit dialing, as is presently the case in the State of California.

seven-digit dialing. Under the CPUC's proposal, all carriers providing similar services will be on an equal footing, since all customers for similar services will be in the overlay area codes.

For the reasons stated, the Bureau should act favorably on the petition.

Very truly yours,



Dawn Jablonski Ryman

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