

COMMENTS OF THE MINNESOTA DEPARTMENT OF COMMERCE

I. INTRODUCTION

The Minnesota Department of Commerce (MNDOC) respectfully submits these comments in response to the Federal Communications Commission (FCC) December 12, 2013 Public Notice (*Notice*) DA No. 13-2367, in which the FCC seeks comment on Local Number Portability (LNP) Best Practice 30¹ which is intended to address number porting and implementation of area code splits. The MNDOC represents the public interest and is the investigatory and enforcement agency on matters that comes before the Minnesota Public Utilities Commission (MNPUC).

The MNDOC encourages the FCC to ensure that any decision it makes in this matter preserves the ability of states to implement area code relief based on input from those affected.²

II. DISCUSSION AND RECOMMENDATIONS

A. *THE CURRENT RULES RECOGNIZE THAT AREA CODE RELIEF IMPLEMENTATION IS NOT 'ONE SIZE FITS ALL'*

47 CFR Part 52 – Numbering, §52.19 contains the rules regarding area code relief. §52.19(a) appropriately provides state commissions' with the authority to "...resolve matters involving the introduction of new area codes within their states. Such matters may include, but are not limited to: ***Directing whether area code relief will take the form of a geographic split, an overlay area code, or a boundary realignment; establishing new area code boundaries; establishing necessary dates for the implementation of area code relief plans; and directing public education efforts regarding area code changes.***" (Emphasis added) Thus, the current rules provide the states with the ability to determine how area code relief should be implemented to protect consumers and facilitate competition.

B. *PREVIOUS FCC ACTION*

When the FCC previously solicited comments regarding certain LNP Best Practices, the Public Notice asked whether the FCC should adopt the Best Practice "as a rule".³ The current request for comments did not ask whether the FCC should adopt these Best Practices as a rule, so it is

¹ The Public Notice also seeks comments on LNP Best Practice 65, however, these initial comments address only LNP Best Practice 30.

² "Principles of Cooperative Federalism" as outlined by the National Association of Regulatory Utility Commissioners' Federalism Task Force and adopted by the NARUC Committee of the Whole, November 20, 2013.

³ For example see Public Notice DA 11-1558 dated September 15, 2011 seeking comments on LNP Best Practice 67; and, Public Notice DA 11-1954 dated November 29, 2011 seeking comments on Best Practice 70.

unclear if the FCC is proposing a rule change, should it adopt LNP Best Practice 65 and 30. The MNDOC sees no need for a change in rules that would limit a state's ability to manage area code relief based on a determination by the state of how the public interest is best served. If the FCC is not proposing a rule change, it is unclear what the significance is of any action the FCC otherwise takes on the Best Practices.

C. BEST PRACTICE 30 RECOGNIZES THAT AN AREA CODE SPLIT MAY BE ORDERED BY A STATE COMMISSION.

The MNDOC appreciates the technical expertise of the Local Number Portability Administration Working Group (LNPA WG). However, in area code relief proceedings there needs to be an understanding of the specific impacts to the affected businesses and citizens. The state regulators are closer to their citizens than the FCC and are best able to determine the costs and benefits of an area code overlay vs. an area code split.

According to the LNPA WG website, Best Practice 30⁴ is as follows:

It is the LNPA WG's recommendation that in order to limit the impacts to customers when the need for area code relief arises, an area code overlay is implemented instead of an area code split. The Pros and Cons of an Overlay versus a Split can be found in the attached document.⁵

In the case where a split is ordered, service providers shall support the following:

- If the ICP/LSR⁶ is sent prior to Permissive dialing beginning, but does not complete until after permissive dialing, the new and old providers shall support processing the port request under the old NPA.⁷
- If the ICP/LSR is sent after permissive dialing begins, the new and old providers shall support processing the port request under the new NPA.

⁴ The October 17, 2013 NANC report requests FCC approval of Best Practice 30. The letter included an overview explaining how the area code overlay is the preferred method, and also includes a section entitled "Benefits Of All-Services Overlay", however, the letter does not include Best Practice 30 itself. See letter from Betty Ann Kane, NANC Chairman to Julie A. Veach, Wireline Competition Bureau (WCB) dated October 17, 2013, at <https://prodnet.www.neca.org/publicationsdocs/wwwpdf/101713lnp.pdf>.

⁵ See attachment at:

<http://www.npac.com/content/download/26248/222596/Overlays%20VS%20NPA%20Splits%20-%20Final%2004262013.MNDOCx>. This document is also include in the October 17, 2013 NANC letter to the WCB.

⁶ ICP = Inter-carrier Communication Process; LSR = Local Service Request. See <http://www.npac.com/lnpa-working-group/nanc-lnp-process-flows>

⁷ Although the acronym NPA is used multiple times in the North American Numbering Council (NANC) LNP process flows, the acronym is not defined on the website. The Free Dictionary defines NPA as "NPA (1) (Numbering Plan Area) The Bellcore/Telcordia telephone area code system in use in the U.S., Canada, Alaska, Hawaii and islands in the Caribbean." See <http://encyclopedia2.thefreedictionary.com/NPA>

- If the OSP cannot support receiving the ICP/LSR under the old NPA they shall return the ICP/LSR with the appropriate reject code letting the NSP⁸ know to cancel and start again under the new NPA.
- The NPA should remain the same throughout the life of the port request. If for any reason the NPA needs to change then the port request should be cancelled and resubmitted under the appropriate NPA.⁹

It appears that Best Practice 30 is intended to ensure that, *if* a state orders an area code split, there are technical requirements that should be followed relating to number porting. NANC does not appear to be suggesting a change to the rules to limit states' ability to determine which option best meets the needs of the state, but rather that certain practices are required when an area code split is ordered. What is confusing is the conclusion drawn by the Best Practice that an area code overlay limits the impact to customers. *If* a state can order an area code split, it is inappropriate for the Best Practice to draw the conclusion that the area code overlay has a more limited impact to consumers than an area code split.

The states are in the best position to determine the impacts to customers when the need for an area code split arises and may include factors that the LNPA WG and NANC were not aware of and had not considered. For example, the MNPUC April 6, 1999 Order After Reconsideration¹⁰ explained in detail the factors it considered in making the decision to order a geographic split to minimize the disruption of preexisting dialing patterns, and retain seven-digit dialing, to the greatest possible extent. The report said it also examined other factors, including the retention of geographic identity, simplicity and ease of understanding, long term stability and the conservation of numbering resources.¹¹ This decision on how to address area code relief in Minnesota was based on a record complete with comments and input from all stakeholders.

D. CONCLUSION

Any future consideration of area code relief in Minnesota should occur only after a full record is developed that includes three major considerations; (1) the continuation of high quality service with the least disruption to customers; (2) the effects of the relief plan on the competitive balance between incumbents and new entrants;¹² and, (3) the effect of the plan

⁸ Network Service Provider (NSP) = Carrier that provides the facilities and switch/equipment components needed to make up an end user's local telecommunications service. The following terms identify NSPs with specific roles during the porting process: See <http://www.npac.com/lnpa-working-group/nanc-lnp-process-flows>

⁹ LNPA-WG Best Practice #30 can be found at <http://www.npac.com/lnpa-working-group/lnp-best-practices#0030> (Emphasis added)

¹⁰ In the Matter of a Relief Plan for the Exhaust of the 612 Area Code, Docket No. P-999/M-97-506.

¹¹ See the April 6, 1999 Order After Consideration, p. 7, Docket No. P-999/M-97-506.

¹² For example, if the 612 area code exhausted and area code overlay was a requirement, new entrants may not get access to 612 numbers which could put them at a competitive disadvantage.

on preexisting dialing patterns.¹³ The MNDOC opposes any consideration the FCC may give to making Area Code Overlay mandatory when Area Code Relief is needed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dennis D. Ahler". The signature is written in a cursive style with a small star-like mark above the final letter.

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¹³ See the April 6, 1999 Order After Consideration, p. 6, Docket No. P-999/M-97-506.