

Decision **DRAFT DECISION OF ALJ PULSIFER** (Mailed 7/25/2005)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion into Competition for  
Local Exchange Service.

Rulemaking 95-04-043  
(Filed April 26, 1995)

Order Instituting Investigation on the  
Commission's Own Motion into Competition for  
Local Exchange Service.

Investigation 95-04-044  
(Filed April 26, 1995)

**OPINION GRANTING PETITION TO MODIFY  
DECISION 00-09-073**



**OPINION GRANTING PETITION TO MODIFY  
DECISION 00-09-073**

**I. Introduction**

By this decision, we approve a plan for the implementation of a new 424 area code in the form of an all-services overlay to the existing 310 area code under the terms set forth below. In taking this action, we rescind the previously adopted plan for a new area code in the form of a geographic split, and accordingly grant, in part, the “Joint Parties’”<sup>1</sup> Petition for Modification of Decision (D.) 00-09-073, filed on March 9, 2005. In D.00-09-073, the Commission adopted a “back-up plan” for a geographic split of the 310 Numbering Plan Area (NPA) as a contingency should it become necessary to prevent code exhaust, and as required under the authority delegated to this Commission by the Federal Communications Commission (FCC).

In conjunction with replacing the geographic split with an overlay, we also conclude that implementation of the new area code cannot be delayed any longer without jeopardizing customers’ access to telephone numbers from the carrier of their choice. A timely start of implementation of the overlay is important to ensure that consumers continue to have access to line numbers from their carrier of choice by replenishing the stock of telephone numbers available within the 310 area code region. Accordingly, we direct the implementation of the new area code overlay to commence immediately. Under the new overlay plan, all calls within the 310/424 overlay region must include a “1” followed by the three-digit area code and seven-digit line number. Customers may begin using this dialing

---

<sup>1</sup> The Joint Parties sponsoring the Petition are Cingular Wireless, Nextel of California, Inc., SBC California, Sprint, T-Mobile, Verizon Wireless, and Verizon California Inc.

pattern on a permissive basis beginning on December 31, 2005. Customers must begin using the 1+10-digit dialing pattern on mandatory basis on July 26, 2006. New numbers will begin to be issued using the new 424 area code on or after August 26, 2006.

The 310/424 overlay will constitute the first use of this form of area code relief within the State of California. Given the novelty of the overlay area code, an effective publicity and education program will be essential in fostering the success of this new form of area code relief, as ordered herein.

## **II. Background**

The action we take today takes into consideration extensive debate over several years concerning the merits of geographic splits versus overlays. Moreover, we implement the overlay only after having pursued all reasonable efforts to ensure that numbers are being allocated efficiently, recognizing that further delay in opening a new area code would jeopardize customers' access to telephone numbers from the carrier of their choice.

The 310 area code serves Local Access and Transport Area (LATA) 730<sup>2</sup> located in Los Angeles County. The 310 area code was created in late 1991 to relieve number exhaustion in the 213 area code. The 310 area code was subsequently split in January 1997, forming a separate 562 area code, again to replenish number supplies. Telecommunications industry representatives began another round of customer notification of impending code exhaust and the need

---

<sup>2</sup> A "Local Access and Transport Area" is the designation for a service area covering one or more local exchanges within which local exchange carriers are authorized to provide service.

for yet another new area code plan for the 310 area in May 1997 pursuant to the 24-month customer notification requirements of Pub. Util. Code § 7930(a).

On February 18, 1998, industry representatives submitted to the Commission yet another proposed relief plan for the 310 area code, again claiming impending numbers exhaustion. In response to that industry proposal, on May 7, 1998, the Commission issued D.98-05-021, approving a 310 area code plan to implement the first overlay ever used within California.

In D.99-09-067, however, we determined that it was premature to open a new area code at that time, and that the life of the 310 area code could be extended through more efficient utilization of number resources. In D.99-09-067, therefore, implementation of the overlay plan was suspended, and the new 424 overlay area code was not placed into service.

We subsequently implemented a multi-pronged program for more efficient utilization of existing numbers, including number pooling and related measures. On September 15, 1999, the FCC granted the Commission's April 23, 1999 Petition for Additional Delegated Authority to implement various area code conservation and relief planning measures. Paragraph 15 of the FCC Order required that in any area code in jeopardy where the Commission implements a number pooling trial, steps must be taken to adopt a relief plan that could be implemented if numbering resources were in imminent danger of being exhausted. Since the Commission in D.99-09-067 mandated a number pooling trial in the 310 area code, and suspended the implementation of the overlay, it became necessary to adopt a back-up relief plan.

In D.98-05-021, we had concluded that an overlay would have less overall adverse impact than would a split. As a basis for devising a back-up plan for the 310 area code, however, we reevaluated the merits of an overlay. Based on this

reevaluation, we decided not to retain the overlay in formulating a back-up plan. Consequently, in D.00-09-073, the Commission adopted a geographic split as a back-up plan for the 310 area code.

Under the back-up plan adopted in D.00-09-073, rate centers in the southern portion of the 310 area code, including El Segundo, Hawthorne, Compton, Redondo, Lomita, Torrance, and San Pedro, would split to become the 424 area code. The northern region, including most of Inglewood, and all of Culver City, Marina Del Rey, Mar Vista, Santa Monica, Beverly Hills, West Los Angeles, Malibu plus a small portion of the City of Hawthorne and Ventura County, would retain the 310 area code. A map of the 310/424 area code boundaries is presented in Appendix C. We deferred setting a schedule to implement the back-up plan, however, until after confirming that carrier-reported utilization data was reliable. We ordered an independent audit to make such confirmation. In the interests of avoiding the undue disruption to customers of a new area code, we have continued to defer implementation up until the present time. We now reconsider both the manner and timing of any new area code plan in response to the recently filed Petition to Modify D.00-09-073, as discussed below.

### **III. Petition to Modify to Replace the Geographic Split With an Overlay**

#### **A. Position of Petitioners**

On March 9, 2005, the Joint Parties filed a Petition to Modify D.00-09-073 to replace the previously approved geographic split with an overlay as the adopted back-up plan for the 310 area code. Petitioners' proposal also called for a predetermined timing trigger that would automatically set in motion the

implementation of the overlay based upon the number of remaining unassigned prefix codes. Petitioners' refer to their proposal as a "triggered overlay."

The process for modifying Commission decisions is governed by Pub. Util. Code § 1708 which states:

The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the parties, have the same effect as an original order or decision.

Joint Parties argue that the Petition to Modify is warranted in view of what they describe as dramatic changes since the geographic split was adopted as a back-up plan in D.00-09-073. As examples of such changes, Joint Parties argue that carriers and regulators have become better able to manage numbering inventories and have become accustomed to the FCC's requirements for efficient utilization of numbers. Joint Parties also argue that the Commission and carriers have implemented and exhausted all feasible number conservation measures in the 310 area code.

Joint Parties also argue that since D.00-09-073 was issued, carriers have garnered more experience with the implementation of overlays in various metropolitan areas in other state jurisdictions. Joint Parties claim that this experience gained in other states can be used effectively to implement an overlay in California. Joint Parties emphasize that their proposal incorporates a "trigger" provision, such that implementation would not begin until remaining unassigned prefix codes reach a predetermined level. As such, Joint Parties claim that their proposal does not require opening of the new area code earlier than necessary to assure an adequate supply of telephone numbers.

The Joint Parties also claim that they are aware of only one objection to an overlay, namely, its requirement for 1+10-digit dialing for all calls. Joint Parties downplay such an objection, however, arguing that customer education can readily alleviate such concern.

### **B. Formal Parties' Responses to the Petition for Modification**

Responses to the Petition to Modify were filed on April 8, 2005. A Joint Response was filed by the California Cable & Telecommunications Association (CCTA) and XO Communications Services, Inc (XO). CCTA/XO generally support the Petition, but argue that the overlay plan should also incorporate a transitional priority allocation process for 310 pooled numbers.

A response in opposition to the Petition was filed by the South Bay Coalition (the Coalition).<sup>3</sup> The Coalition characterizes the proposed mechanism to “trigger” the implementation of an overlay as poorly defined with no consumer protections. The Coalition agrees that the concept of a trigger theoretically would allow for better advance preparation for the eventual exhaust of numbers in a given area code. Nonetheless, the Coalition contends that without “appropriate guidelines” for measuring and managing carriers’ number inventories, no “trigger” can be accurately or equitably defined.

The Coalition further argues that until the Commission addresses the concept of carrier inventory management, there will be no way to define the triggering event that would provide adequate protection to the public.

---

<sup>3</sup> The South Bay Coalition consists of the South Bay Cities Council of Governments (SBCOG), Los Angeles County Supervisor Don Knabe, Congresswoman Jane Harman, Assemblymember Mike Gordon, and Assemblymember Jenny Oropeza. The SBCOG is a joint powers authority of 16 cities in the southwest portion of Los Angeles County.

The Coalition expresses no preference for either a geographic split versus an overlay as the means by which any new area code may ultimately be introduced to relieve code exhaust in the 310 area code. The Coalition does, however, raise certain concerns with switching from a geographic split to an overlay plan. The Coalition points out that additional public education will be needed given the fact that an overlay has never been done before in California, and ends the association of a single area code with unique and specific geographic boundaries. The Coalition, however, believes that the period allotted by the Petitioners for such education is too short.

The Coalition further proposes that if such a plan would require mandatory 1+10-digit dialing for all calls originated within the 310/424 area code region, the Commission should consider the effects of implementing such a change on a broader geographic basis, rather than just for one area code region.

### **C. Public Meetings Regarding 310 Area Code Changes**

In addition to responses by formal parties of record, members of the public have been given an opportunity to be heard regarding 310 area code changes. A local jurisdiction meeting for city and county government representatives was initially held on August 27, 1997, to provide local jurisdictions with a status report on the area code change process and to gather additional information.

Public meetings were required by statute to occur within six months of the initial May 1997 customer notification of a proposed area code change. The industry team held four public meetings during 1997, one more than required (Pub. Util. Code § 7930) due to the request of the Commission staff to ensure adequate coverage of the geographic area served by the existing 310 area code. Following those public meetings, the Commission adopted an overlay plan for

the 310 area code, but subsequently suspended it before it was fully implemented, as previously explained.

Although there was no statutory requirement to do so, the Commission subsequently held additional public meetings during 2001, to obtain updated public input regarding the 310 area code geographic split plan in view of the passage of time since the original public meetings held in 1997. These were held in the cities of Carson and Redondo Beach on April 23, 2001, and in Culver City on April 24, 2001.

Most recently, a series of public meetings was convened during April 2005, in response to the most recent proposal of the Joint Carriers to replace the geographic split with an overlay as the back-up plan in the 310 area code. These meetings were held in El Segundo, Redondo Beach, Malibu, and Culver City. A “Local Jurisdiction” Meeting was also convened in El Segundo for local government officials within the 310 area code region to appear and comment concerning alternative plans for a new area code. The public meetings provided members of the public an opportunity to appear and be heard concerning the pending proposals for creating a new area code in the region assigned to the 310 area code.

The 2005 series of public meetings were well attended, with over 300 people attending the five meetings held. At the local jurisdiction meeting, there were a large number of local elected officials and representatives of many of the statewide elected officials from that region. The public officials generally spoke with a unified voice that it is premature to consider splitting the 310 area code,

the Commission should wait until or if Assembly Bill 1380<sup>4</sup> is passed, and that the Commission should continue our successful number conservation measures.

At the four other public meetings, the message was mixed, depending on in which portion of the 310 area code the audience members lived, and whether they would get to keep the 310 area code or be assigned the new 424 area code in the event of a geographic split. Most speakers did not want the Commission to take any action to add a new area code. The people living in the area who would keep the 310 area code in a geographic split appeared to favor the split plan. People living in the area who would get the new area code under a split tended to favor the overlay plan more. Many of the business people liked the overlay proposal better than the split. Those who represented the senior and disabled communities favored the split plan.

#### **D. Discussion**

##### **1. Replacement of the Geographic Split With an Overlay**

Petitioners raise two distinct issues. One issue involves the appropriate way of creating a new area code, and whether the previously approved geographic split should be replaced with an overlay. The other issue involves when the new area code should be implemented. We shall address each of these questions in turn.

First, regarding the merits of a geographic split versus an overlay, we have previously weighed the advantages and disadvantages of each method, as

---

<sup>4</sup> Assembly Bill 1380 is proposed state legislation that would require the Commission to take certain actions to impose inventory requirements on carriers' numbering supplies. Although the Bill has passed the Assembly and first committee in the Senate, the ultimate disposition of this Bill is uncertain at this time.

previously discussed. Now we are faced with yet another request to reevaluate the issue. No single method of creating an area code will ever be popular with everyone that is affected. Moreover, any adverse effects from creating a new area code will not be felt equally, or in the same manner, by all those affected. These facts are simply inherent in any area code method that is selected. Thus, our goal is to adopt the method that will have the least overall negative impacts over the long term.

Formal opposition to the Petition for Modification was filed by the South Bay Coalition. Yet, while the South Bay Coalition opposes action to implement any new area code, it expresses no particular preference for a geographic split as being superior to an overlay, assuming a new area code is required. The Coalition and CCTA/XO, however, raise additional issues to be addressed in connection with an overlay, as we discuss below.

Taking into account the advantages and disadvantages of each alternative, we are now persuaded that an all-services overlay is preferable to a geographic split for the 310 area code. The 310 area code is one of best candidates for an overlay in California particularly because of its characteristics as a geographically small, but densely populated region, surrounded by several adjacent area codes, which are also densely populated. The 310 area code has already shrunk with the previous geographic split to create the 562 area code. As the 310 area code faces the potential of yet further shrinkage through another geographic split, it becomes increasingly difficult to avoid dividing local communities of interest, consistent with Pub. Util. Code § 2887(a).

An overlay avoids various problems involved with the geographic splitting of local communities, by leaving existing boundaries intact. The overlay also avoids the need for existing customers to change their area code. At public

meetings for the 310 NPA, there has been opposition expressed, particularly by business customers, about the economic hardships resulting from having to notify customers of area code changes, and to change business cards, letterheads, etc. The geographic splitting of the 310 NPA also makes it increasingly difficult to balance the projected lives of the old and new area code regions. The shorter the area code life, the more frequently customers are subjected to the disruptions and hardships that come with new area codes.

The overlay, however, introduces its own separate set of concerns. For example, while an overlay would not change area code boundaries, the defining significance of the boundaries would itself, change. The geographic boundaries would no longer define a single area code, but two area codes. The traditional advantage of having geographically defined unique area code boundaries would give way to multiple area codes within a single geographic region.

Instead of dividing customers geographically, an overlay divides them chronologically, depending upon whether they obtain service lines before or after the overlay takes effect. An area code overlay signifies *when* the customer was assigned the number rather than *where* geographically, the number is located. The overlay also disadvantages new customers who must take the new area code which is less familiar and may create confusion as to where the customer is located.

As a result, a new business customer, for example, may be required to take the new underpopulated 424 area code while an established neighboring business retains the 310 area code, resulting in various advantages and disadvantages. A business with the new 424 area code may be perceived as newer or less established than the neighboring business that retains the more recognized 310 area code. Likewise, to the extent that newer telecommunications

providers have fewer or no numbers in inventory from the 310 area code, they may find it more difficult to compete for new customers if they can only offer 424 area code numbers.

Another problem with the overlay is that customers who seek additional lines at the same location after the overlay takes effect may only be able obtain the additional lines through the new area code. Such customers will be left with different area codes for multiple lines at the same location. The only alternative, if the customer wishes for all their telephone lines to be under one area code, will be to change their original line numbers' area code, thereby losing one of the advantages of the overlay.

Within the overlay region, customers will also experience the loss of seven-digit dialing, even for calls within the same area code. Under the rules of both the FCC and this Commission, an overlay area code requires 1+10-digit dialing for all calls within the overlay region in the interests of providing competitive neutrality among carriers.<sup>5</sup> Even though customers are already accustomed to dialing 1+10-digits for a significant number of existing calls, the overlay will mean that calls even within the same area code require 1+10-digit dialing. Customers will also lose the ability to uniquely identify a given geographic region by a single area code. The overlay will not only require callers to dial 1+10-digits within the same area code, but could also require dialing a different area code simply to call a next-door neighbor. Without mandatory 1+10-digit dialing for all calls within the overlay region, the burdens associated

---

<sup>5</sup> The 10 digits consist of the three-digit area code and the seven digit line number. The "1" preceding the 10 digits signals that the following three digits will be an area code rather than a central office prefix.

with the new overlay code would fall disproportionately on newer carriers and their customers. This is so because newer carriers rely more heavily on the overlay area code for numbers. The 1+10-digit dialing requirement, while inconvenient for certain customers<sup>6</sup> thus promotes competitive neutrality through equal treatment between customers of more established carriers (who tend to have more stocks of numbers in the old area code) and customers of new carriers (who tend to rely more on stocks of numbers with the new area code).

In D.95-08-052, we therefore determined that dialing consistency should apply to calls within an overlay region, irrespective of which carrier provides the service. Subsequently, as more carriers acquired number blocks within the 310 area code, this disparity became less of an issue. Thus, we later filed a petition with the FCC to remove the mandatory 1+10-digit dialing requirement. On October 21, 1999, however, the FCC issued an order (FCC 99-243) denying several parties' requests to grant an exemption from the mandatory 1+10-digit dialing requirement for an overlay in order to avoid anticompetitive consequences. Thus, the 1+10-digit dialing requirement remains in effect.

The overlay will also create a disparity between how calls are dialed in the 310/424 area code overlay region versus calls dialed throughout the rest of California. We previously considered the trade-offs involved with disparate statewide dialing patterns resulting from an overlay. In D.96-12-086, we determined not to require statewide mandatory 1+10-digit dialing concurrent with implementing an overlay. In this way, we minimize the burdens on California residents. Nonetheless, the disparity in dialing patterns in the

---

<sup>6</sup> The inconvenience of 1+10-digit dialing may be mitigated in some instances, for example, by the use of automatic speed dialing.

310/424 area code overlay still constitutes a downside compared with the uniformity of a geographic split.

On balance, however, we conclude that while both the overlay and geographic split have drawbacks, as summarized above, the overlay will have fewer drawbacks for the 310 area code. The justification for an overlay outweighs that of geographic splits, particularly in the 310 area code, characterized by a small densely populated region. Because of the small geographic size of the 310 area code, a significant number of customers calls originated within the area code terminate outside of the 310 boundaries. Therefore, customers are already accustomed to dialing 1+10-digits for a significant portion of their calls.

Moreover, in the past five years since we last attempted an overlay of the 310 area code, various metropolitan areas outside of California have implemented new area codes utilizing the overlay approach. Since wireless carriers became capable of number pooling in November 2002, all area code relief within the United States (with the exception of the 909/951 area code split adopted by this Commission) has been done through overlays. A total of 23 overlays have been implemented within 14 states. At the time we last attempted an overlay of the 310 area code, this track record of experience had not yet been developed.

We believe that the drawbacks with an overlay relate largely to its novelty and highlight the need for an adequate transition period for customers to adjust to the change in dialing procedures. Issues relating to acceptance of the new dialing patterns should be adequately resolved through public education measures and the practical experience of making calls within the overlay region.

Accordingly, we hereby grant the petition to modify D.00-09-073 to the extent that we replace the geographic split with an overlay for the 310 area code under the conditions outlined below. As explained below, we decline to set a separate “trigger,” as proposed by Joint Parties, but instead, set a schedule herein for the overlay implementation.

The overlay that we approve shall apply to all services within the 310 area code region. Various members of the public have asked that any overlay, if approved, should be limited only to certain categories of telecommunications service, such as wireless only, or other limited technology-specific applications. Yet, such a technology-specific overlay would require FCC approval. This Commission has previously sought FCC approval of a technology-specific overlay without success. Accordingly, we are constrained to adopt the overlay on an all-services basis.

## **2. Overlay Implementation Schedule Issue**

### **a. Should Inventory Rules Be Adopted Before Setting a Schedule?**

Petitioners do not propose specific dates for the overlay to be implemented, but instead propose that it be subject to a “trigger” that would set in motion the implementation at some yet-to-be determined future date. The South Bay Coalition, however, argues that the concept of a “trigger” is “misguided” because it is premised on the assumption that an adequate system is in place for managing number resources. The South Bay Coalition challenges this assumption, claiming that the current number allocation system is “rife with inconsistency and manipulation, and provides inadequate consumer protections.”

Although the Coalition makes these broad claims, the only specific number allocation issue actually cited by the Coalition relates to whether Commission rules should be imposed limiting number blocks that carriers retain in inventory. The Coalition argues that the Commission should not set a trigger nor implement a new area code until it has adopted rules for the permissible level of carrier inventory.

Notwithstanding the Coalition's claims, however, the Commission has already considered the issue of guidelines for inventory so that carriers do not hoard excessive supplies of numbers. On July 16, 2004, the Assigned Commissioner issued a ruling on development of carrier six-month inventory rules. Comments were filed on July 30, 2004, with reply comments on August 6, 2004. A subsequent Assigned Commissioner's Ruling on September 24, 2004, set forth proposed rules for limits on permissible levels of carrier inventories. A workshop was held on October 4, 2004, where participants were offered the opportunity to provide input concerning proposed rules.

The South Bay Coalition filed comments, supporting the Commission's establishment of inventory guidelines and making similar arguments to those that it has made in response to the instant Petition to Modify. Several other parties filed comments asserting, however, that the Commission lacked authority to adopt guidelines for carriers' inventories, or to direct the Pooling Administrator or the North American Numbering Plan Administrator (NANPA) to determine a carrier's inventory. Such parties argued that authority lies exclusively with the FCC, and that the FCC authorized the NANPA to withhold numbering resources from carriers not in compliance with FCC rules. Parties argued that the states were merely to provide a forum for carriers to challenge

the NANPA and to either affirm or overturn the NANPA's decision to withhold numbering resources.

The parties argued that the FCC's delegation of numbering authority placed specific limits on Commission action, excluding authority to determine a carrier's inventory needs. The parties argued that although the FCC granted conditional authority to implement certain area code conservation and relief planning measures, the delegation was superseded by subsequent FCC decisions in the Numbering Resource Optimization (NRO) proceeding.<sup>7</sup> The FCC NRO, released in March 2000, required among other things, that carriers keep no more than a six-month inventory of numbering resources.

In the NRO, the FCC determined that a carrier should be able "to retain a sufficient number of thousands-blocks to meet its six month inventory projection forecast."<sup>8</sup> The FCC thus permitted carriers to determine a six-month inventory level based upon each carrier's own forecast of demand rather than being limited to historic use or other restrictions.

Although an ALJ's Draft Decision on this issue was subsequently presented for consideration, the Commission declined to adopt the Draft Decision or any alternate version thereof. The Commission has thus already declined to adopt inventory rules as a precondition before moving forward with opening a new area code, recognizing that the FCC delegated authority does not permit Commission adoption of such rules.

---

<sup>7</sup> See Report and Order and Further Notice of Proposed Rulemaking (NRO Order) FCC 00-104 at ¶ 7.

<sup>8</sup> FCC 00-104 at ¶ 191.

Accordingly, by raising the claim again here that the Commission should adopt inventory rules, the South Bay Coalition is seeking to relitigate a matter that has already been decided, and is no longer before this Commission. Thus, there is no basis to refrain from adopting a schedule for timely area code relief merely on the grounds that the Commission has not adopted inventory rules.

**b. Other Commission Actions to Extend  
the 310 Area Code Life**

Likewise, we find unpersuasive the Coalition's claims that the existing number allocation system is subject to manipulation and inconsistency. Contrary to such claims, the Commission has adopted multiple reforms in recent years and has diligently pursued all feasible means within our jurisdiction to ensure that numbers are allocated efficiently, fairly, and consistently. As a result of such measures (as summarized, for example, in D.03-10-060), the Commission has been successful in extending the life of the 310 area code several years beyond the point at which the new area code was originally scheduled to open.

In D.99-09-067, in conjunction with suspending the previously planned 310 overlay, the Commission ordered the staff to study telephone number use in the 310 area code to ascertain how efficiently carriers were using the 10,000-number blocks already assigned to them. We required a full accounting of telephone numbers actually in use in the 310 area code before setting any schedule to open a new area code.

Beginning in March 2000, the Commission initiated the first-ever utilization study of actual number use in California, in the 310 area code. We found three million unused telephone numbers even though the area code was allegedly out of available telephone numbers. By the end of 2001, the Commission had completed a utilization study for each of the state's other 24

area codes. In every case, we found that each area code contained between 40- and 80% of the available numbers classified by the carriers as unused.

Moreover, under our delegated authority, new telephone numbers are now allocated to carriers much more efficiently than before. The most effective number conservation tool is number pooling. Prior to number pooling, numbers could only be assigned to individual carriers in NXX codes consisting of 10,000 numbers each. Number pooling assigns telephone numbers to carriers in smaller blocks of 1,000 numbers, thereby enabling multiple providers to share a single NXX code and use number resources more efficiently. Today, every area code in California has implemented number pooling.<sup>9</sup> Distribution of numbers in smaller blocks better meets the needs of new, smaller companies without stranding numbers in a 10,000-number block.

The technology used to support number pooling is Local Number Portability (LNP). LNP was mandated in 1996 by the FCC to enable customers to retain their telephone numbers when switching to a different local telephone company. Without LNP, a customer is inhibited from changing carriers because he or she must change both the equipment and the telephone number.

Though LNP technology has existed for several years and wireline carriers became LNP-capable by 1998, the FCC gave cellular and PCS companies until November 2003, to become LNP-capable. The FCC further gave paging companies a permanent exemption from the LNP requirement. Until November 2002, only wireline carriers could participate in number pooling, and those carriers received telephone numbers solely through the number pool.

---

<sup>9</sup> NeuStar, Inc. is the Pooling Administrator for all area code number pools in the United States.

Wireless carriers received numbers in 10,000-number blocks through Commission-administered lottery rationing, and through emergency requests to the Commission.

Wireless carriers began participating in number pooling in November 2002. Currently, both wireline and wireless carriers in California receive numbers through number pools. Only paging companies still receive numbers through the lottery system.

California also requires companies to manage the numbers they already have in an efficient manner. For example, a carrier must return any 10,000-number block that it has held for more than six months without using. Telephone companies must show they will be out of telephone numbers within six months before a request for additional numbers can be granted. Telephone companies must show they have used at least 75% of the numbers they hold before requesting additional numbers. Companies must assign numbers in thousand-block sequence, moving to the next thousand-block only after using all available numbers in the preceding opened block.

As an additional measure to extend the life of the 310 area code, the Commission petitioned the FCC on September 5, 2002,<sup>10</sup> for a waiver from the FCC's "contamination" or number use, threshold requirement. Specifically, the Commission requested authority to increase the existing 10% "contamination" rate. Under FCC rules, carriers must donate to each area code's common number pool all thousand-blocks of telephone numbers that contain less than 10%

---

<sup>10</sup> See the *Petition of the California Public Utilities Commission and the People of the State of California for Waiver of the Federal Communication Commission's Contamination Threshold Rule*, dated September 5, 2002.

“contaminated,” or used, numbers. An increase level of allowable contamination or usage rates for poolable thousand-number blocks (from current 10% to 25%) increases the number of thousand-blocks available to all carriers through each area code’s number pool.

The FCC acted upon this Petition by Order adopted August 5, 2003, and released August 11, 2003. While declining to grant a statewide waiver of the 10% contamination rate, the FCC did raise the contamination level in the 310 and 909 area codes. The Commission directed carriers to comply with the new contamination rate in the 310 and 909 area codes by ruling dated August 21, 2003.

Accordingly, this summary of measures taken by the Commission confirms that we have exercised due diligence to promote the most efficient use of number resources in the 310 area code. In view of the exhaustive measures we have implemented to promote efficient and fair number allocation, we affirmatively conclude that no further measures are left to be performed as a basis to delay taking further action to provide for adequate supplies of numbers in the 310 area code.

**c. Obligation to Provide Adequate  
Numbers Within the 310 Area Code**

Notwithstanding our commitment to avoid unnecessary or premature opening of new area codes, we also recognize our obligation to ensure that customers are not deprived of adequate telephone number resources. Our mandate to implement area code relief is set forth in the September 15, 1999, FCC Order granting the Commission’s April 23, 1999 Petition for Additional Delegated Authority to implement various area code conservation and relief planning measures.

Paragraph 15 of that FCC Order requires that, in any area code in jeopardy where the Commission had implemented a number pooling trial, the Commission must adopt an area code relief plan that could be implemented if numbering resources were in imminent danger of being exhausted. Since the Commission in D.99-09-067 mandated a number pooling trial in the 310 area code, and suspended the implementation of the previous overlay, we must provide for timely area code implementation to assure an adequate supply of telephone numbers.

In D.03-10-060, issued October 16, 2003, the Commission revisited whether the time had come to move forward with the 310/424 area code split. At that time, the Commission found that adequate telephone number supplies still remained available in the 310 area code. We concluded that it was not yet necessary to split the 310 area code. Instead, we directed that the supply of telephone numbers in the 310 area code be closely monitored to ensure adequate telephone number supplies.

We also directed in D.03-10-060 that the success of wireless industry compliance with local number portability requirements, which took effect on November 24, 2003, be evaluated before imposing an area code split in the 310 area code. By porting migrating customers' existing numbers from one wireless carrier to another, wireless carriers no longer require new blocks of numbers for customers migrating between carriers.

The passage of time since October 2003 has provided further opportunity to evaluate the effects of number pooling on remaining number supplies, as well effects of other conservation measures. At the present time, only nine unassigned prefix codes currently remain available in the 310 area code for allotment through the semi-monthly lottery process, and only one prefix code

remains available as a set-aside for replenishing the 310 area code number pool. A total of 267 thousand-number blocks currently remain available for assignment in the 310 number pool.

Nonetheless, even with these unused blocks of numbers, various constraints limit carriers' ability to use these unassigned numbers in serving customer needs. For example, a certain quantity of unused numbers must remain reserved for carriers' inventory. Also, in certain cases, carriers may need numbers in a particular rate center.<sup>11</sup> The tabulation set forth in Appendix B of this order, however, shows that the 267 remaining thousand-blocks are not evenly distributed among rate centers. For example, no blocks remain available in the Torrence Rate Center. Less than five blocks remain available in each of four other rate centers. Even if there are unused numbers in the other rate centers, a carrier may be unable to use those numbers to serve customers in a rate center where a shortage exists of central office prefixes or number blocks.<sup>12</sup>

In addition to carriers' demand for number blocks from conventional telephone service, there is also the potential that additional number blocks may be demanded for newer applications such as Voice Over Internet Protocol (VOIP).

---

<sup>11</sup> A rate center is a specific geographic location within a local exchange that is used to determine the rating of calls as either local or toll, depending on the distance between the rate centers serving two calling parties. Telephone number prefixes are assigned to a particular rate center.

<sup>12</sup> In the case of wireless carriers, however, it is technically possible, though sometimes undesirable, to use numbers from an adjacent rate center to provide customers with numbers even if there is a shortage of central office prefixes in the desired rate center.

In view of the limited stock of number supplies remaining in the 310 area code, particularly in rate centers with five or fewer blocks, therefore, we conclude that a new area code must be implemented soon in order to replenish dwindling number resources to avoid code exhaust. We address the specific schedule for implementing the overlay in the following section.

**d. Adopted Schedule for Overlay Implementation**

In conjunction with proposing that the geographic split be replaced with an overlay, Petitioners also propose that a “trigger” be adopted to automatically initiate the overlay implementation. Thus, Petitioners do not propose a specific start date for overlay implementation, but propose that the “trigger,” once activated, would automatically set in motion the implementation process.

Under Petitioners’ proposal, the “trigger” would be automatically activated upon assignment of the seventh remaining NXX code. At that point, the NANPA would inform the Commission that only six unassigned NXX codes were left, and the Assigned Commissioner would authorize implementation to begin. The Petitioners propose the new overlay area code be opened 10 months later.

Petitioners argue that implementation should begin at the 6-NXX code trigger point to avoid code exhaust. Based on the current rate of block assignments of 26 thousand-blocks per month, Joint Parties claim that the remaining 6 NXX codes may theoretically provide adequate number resources until new numbers become available.

Joint Parties propose the following implementation schedule:

<b><u>Event</u></b>	<b><u>Triggering Event/Duration</u></b>
---------------------	---

Network Preparations for the Overlay:	Beginning effective with the issuance of this decision, to be completed within 120 days
Overlay authorized to be implemented	Upon NANPA notice that only 6 NXX codes remain
Carriers prepare and distribute Customer notification materials	Within 90 days after NANPA notification as noted above
Permissive dialing Period	Beginning 120 days after triggering event and continuing for 5 months
Customers sent second notice	30 days before beginning of Mandatory dialing
Mandatory dialing Period	After the 5-month permissive dialing period ends
New numbers become available	Not earlier than 30 days after the beginning of the mandatory dialing period

Petitioners distinguish their “triggered” overlay proposal from the all-services overlay previously approved for the 310 area code in D.98-05-021. As described by Petitioners, the “trigger” is “pulled” only when exhaust can no longer be avoided.

We view Petitioners’ “trigger” proposal, however, not as an alternative to an “all-services” overlay, but merely as a way to schedule an all-services overlay implementation. The “trigger” would not constitute a new principle that was not already required with the geographic split back-up plan. Our stated policy has consistently been that no new area code would be implemented until all

reasonable measures to conserve numbers have been employed and exhaust can no longer be avoided.

We find no useful purpose in adopting a separate “trigger” for overlay implementation rather than simply setting a schedule now. Particularly because the remaining NXX code stock is already very close to the 6 NXX code level, anyway, it is unnecessarily cumbersome to introduce the additional administrative burden of a separate “trigger” for initiating the starting and ending dates for implementation of the overlay. A “trigger” could also lead to potential customer confusion as to the significance of what is being ordered in today’s decision versus a separate later authorization to start implementing the overlay.

We are also concerned that delaying the start of implementation until only 6 prefix codes remain may create undue risk that the 310 area code would exhaust before the overlay could be completed. Given the limited number of remaining prefix codes and number blocks available for assignment either to the lottery or to the number pool, and continued demand for numbers expected over the next 12 months, we conclude that a schedule should now be set for the overlay implementation.

Key transitional events in the implementation schedule involve customer notifications, and “permissive” and “mandatory” dialing periods leading up to the point where the new area code is opened for number assignments. The overlay does not involve a “permissive” dialing period as narrowly defined in Section 7931 (i.e., where the caller can reach the same party by dialing either the old or new area code). The term “permissive” dialing period in connection with the overlay, however, refers to the period during which customers can reach the same party by dialing either seven digits or 1+10-digits. Customers are

permitted, but not required, to use 1+10-digit dialing during this period. Correspondingly, the “mandatory” dialing period refers to the mandatory requirement to dial 1+10-digits for all calls within the overlay region.

Parties assume a 10-month duration from the point of NANPA notification to the point where new numbers become available. While we agree with Joint Parties that information conveyed closer in time to an actual event will be more effective, we question whether all of the necessary preparations for the Public Education Program (PEP) can be executed within the shortened schedule contemplated by the Joint Parties. In order to provide reasonable assurance that the PEP can be properly planned, administered, and executed, we conclude that a 12-month duration should be applied from the effective date of this decision until the point where new numbers become available.

Thus, we generally adopt the schedule durations proposed by the Joint Parties, but shall lengthen the duration of the permissive dialing period from five months to seven months. The additional two months provide more time to ensure that an adequate PEP effort can be developed and disseminated.

As part of the education program for the 310 overlay, we shall require that “permissive” dialing be instituted beginning no later than seven months before the beginning of mandatory 1+10-digit dialing. To the extent that any carriers providing local service within the 310 NPA do not presently offer their customers the capability to dial 1+10-digits within the same area code, they shall make permissive 1+10-digit dialing available to their customers no later than this date. During permissive 1+10-digit dialing, customers should be encouraged to voluntarily dial 1+10-digits for calls within their area code as part of the education program for the overlay.

In D.96-12-086, we directed that, upon activation of mandatory 1+10-digit dialing, customers who try to dial seven digits will hear an instructional recording informing them of the 1+10-digit dialing requirement. In D.96-12-086, we contemplated that mandatory 1+10-digit dialing would be instituted at the same time that the overlay took effect. In D.98-05-021, in the interests of minimizing customer confusion, however, we directed that mandatory 1+10-digit dialing take effect three months prior to initiation of the new overlay area code. In this way, customers would already have become somewhat accustomed to dialing 1+10-digits before making the further adjustment of distinguishing between two different area codes within the same geographic calling area. In their current schedule, Joint Parties propose that new numbers in the 424 area code become available not earlier than 30 days after the beginning of the mandatory dialing period. We shall incorporate Joint Parties' 30-day window in the adopted schedule.

Although we are requiring a somewhat longer PEP duration than Joint Parties assumed, we are also starting the implementation earlier than contemplated under Joint Parties' "trigger" concept. Thus, the point in time at which new numbers become available under the new overlay area code may not be significantly different than what would have resulted from applying the Joint Parties' "trigger" concept. In this way, the PEP implementation efforts can proceed on a timely basis while still meeting the same end point as proposed by the Joint Parties for opening the new area code.

### E. Proposed Reservation of Blocks for New Entrants

The FCC recognized that with an overlay, new CLEC entrants could be competitively disadvantaged by consumer preference for the original area code. In its Local Competition Second Report and Order,<sup>13</sup> the FCC found that “. . . customers would find it less attractive to switch carriers if new entrants had to assign telephone numbers to their customers from the new, overlay area code, while incumbent LECs had telephone numbers available for assignment to their customers from both the overlay code and the old area code.”<sup>14</sup> In order to ensure a new entrant had access to numbering resources in both the old area code and new area code,<sup>15</sup> the FCC required that before implementing an all-service overlay, the state regulatory body must first ensure the availability of at least one full NXX code (ten-thousand numbers) in the existing area code to every telecommunications provider in that area.<sup>16</sup>

The Commission incorporated this requirement into its original 310 overlay plan by requiring the set-aside of several 310 NXX codes for new entrants prior to the implementation of the overlay.<sup>17</sup> The FCC eventually dropped the NXX Code “set-aside” precondition in its Third Order<sup>18</sup> in part,

---

<sup>13</sup> *Local Competition Second Report and Order*, 11 FCC Rcd at 19519.

<sup>14</sup> *Id.* at 19519 ¶¶ 287-289.

<sup>15</sup> *Local Competition Second Report and Order* at ¶ 288.

<sup>16</sup> *Id.*; see also 47 C.F.R. § 52.19(c)(3)(iii).

<sup>17</sup> See D.98-05-021, *mimeo.* at 26.

<sup>18</sup> *Third Order on Consideration of second report and order CC Docket No. 92-237*, Sept. 13, 1999.

because assigning full NXX codes to new entrants could spur depletion of an area code.<sup>19</sup>

CCTA/XO argue that although the FCC removed this preference rule, the underlying justification for the rule remains. Moreover, since the FCC issued its Third Order, the industry has deployed number pooling so providers no longer require a full NXX per rate center and the inefficiency that led the FCC to drop its new entrant preference rule no longer exists. CCTA/XO thus argue that the spirit of the FCC's new-entrant preference plan should be retained by implementing the New Entrant Reserve Pool (NERP).

CCTA/XO thus propose that in the event an overlay is implemented, the Pooling Administrator set aside a maximum of 6 blocks for new entrant "footprint" use in each of the 16 rate centers. CCTA/XO propose that for each rate center, the NERP function for 12 months from the date that an NXX is first assigned from the 424 area code, or until the 6 NERP blocks in the rate center are assigned, whichever comes first. Under their proposal, all remaining 310 area code blocks in each rate center would become generally available thereafter consistent with national pooling rules. Only initial block requests would qualify for a NERP block and only one NERP block would be assigned per service provider in a rate center. Such a pool would not only provide new carriers with the opportunity to obtain at least one thousand-block of 310 numbers in rate centers for customers who desire the 310 number, but would also facilitate the wide dispersment of the new 424 area code among carriers, thus facilitating distribution and public acceptance of the new 424 overlay.

---

<sup>19</sup> *Id.*

While we agree in principle with the goal of CCTA/XO that newer carriers should not be competitively disadvantaged by the lack of availability of number blocks, we cannot approve their NERP proposal at this time. Such a proposal would entail establishing a separate new number pool within the 310 area code. CCTA/XO have not shown that this Commission has the jurisdictional authority to order and implement such a new number pool. To the extent that CCTA/XO seek to continue pursuing this proposal, their recourse would be to take this matter up with the pooling administrator and appropriate regulatory channels within the FCC.

## **F. Public Education Program for the Overlay**

### **1. Background**

As a condition of replacing the adopted back-up plan for a 310 area code from a geographic split to an overlay, an effective PEP is necessary. The public is familiar with the traditional association of a single area code with a unique geographic area, and has had a long standing expectation that telephone calls between numbers within a single area code require dialing only seven digits. With an overlay, however, these traditional paradigms would no longer apply to calls within the overlay region. Instead, every call originated within the 310 and 424 overlay area code will require mandatory 1+10-digit dialing, even for calls terminated within the same area code. Accordingly, the public will need an adequate transitional period to become educated to the resulting changes due to an overlay.

In D.96-12-086, the Commission required that for an overlay, a PEP would be required to begin at least 12 months prior to the implementation of mandatory 1+10-digit dialing for the affected region. (D.96-12-086 at 36.) For the 310 area code overlay plan previously approved in D.98-05-021, the PEP began with the

introduction of permissive 1+10-digit dialing, to provide for 12 months in which to educate the public before the overlay was to take effect.

In the Petition to Modify D.00-09-073, Joint Parties propose only a nine-month period to conduct a PEP from the initial triggering of implementation until mandatory 1+10-digit dialing begins. The proposed schedule allows a five-month period for “permissive dialing.” This is the period during which callers within the 310 area code would retain the option of dialing either the seven-digit line number only or dialing the 1 plus the area code (for a total of 1+10-digits) to reach other numbers within the 310 area code. Yet, a nine-month period for educating the public would be inconsistent with the 12-month duration for the PEP prescribed in D.96-12-086.

The ALJ issued a ruling dated March 25, 2005, concerning whether to shorten the lead time requirement for the PEP, consistent with accomplishing the goals of the PEP. The March 25, 2005 ALJ ruling also solicited comments concerning whether, or to what extent, the PEP previously approved for the 310/424 overlay should be applied for the currently proposed overlay. In the alternative, parties were to address what, if any, changes from the previously approved PEP should be made for purposes of the overlay as currently proposed.

In response to the ruling, Joint Carriers filed comments on April 18, 2005, arguing that the Commission should shorten the lead time for the PEP from twelve months to nine months prior to the beginning of mandatory dialing. The Joint Carriers argue that given their past experience with overlays in other parts of the country, a nine-month lead time is sufficient for the PEP. The Joint Carriers’ experience is that information about the overlay that is conveyed closer

in time to the actual event taking place is more effective than when it is conveyed too far in advance.

The Joint Carriers attached as Exhibit A to their comments (attached as Appendix A of this order), a proposed list of activities to be performed with a schedule for completing them.

An ALJ ruling was issued on May 31, 2005, soliciting further comments on the PEP relating to additional issues. Comments in response to the supplemental ALJ ruling were filed on June 15, 2005. In addition to carriers, comments regarding the PEP were also filed by the South Bay Coalition. We take those comments into account in adopting the PEP requirements.

In D.98-12-081, the Commission previously set the scope of PEP-related measures for the 310/424 overlay plan, to achieve at least a 70% customer awareness level. The Commission identified four major objectives of the PEP:

- (1) public awareness of the change in dialing patterns and area code identification resulting from implementation of the overlay;
- (2) understanding of how customers will be affected by the change and the rationale behind the change;
- (3) public assurance that cost or quality of telephone service will not be adversely affected by the change; and
- (4) promotion of positive acceptance by customers of the change.

In D.99-02-074, the Commission augmented the PEP to require paid advertising about the overlay in the zoned editions of newspaper media, including newspapers targeting communities not reached by the mass market,

with the potential use of radio advertising within the 310/424 area code region and adjacent regions which were sent bill insert notices of the overlay.<sup>20</sup>

The PEP adopted for the previously approved 310/424 overlay was required to meet the following objectives:

1. Explanation of why mandatory 1+10-digit dialing is a necessary feature of an overlay;
2. Information indicating that the change in the dialing pattern resulting from an overlay will not affect the distinction between local and toll calls, nor the rates charged for the different type of calls;
3. Focus attention on educating the elderly, children, and ethnic groups;
4. Give priority notification to those entities that will need to reprogram equipment to allow for a maximum lead time;
5. Provide information to easily locate the correct area code for a given number and to know that the 1+ the area code must be dialed preceding any number within the region subject to the overlay;
6. Provision to inform customers to dial directory assistance to locate numbers applicable to different area codes within the same overlay region;
7. Use of billing inserts, public service announcements, as well as press releases, TV and radio announcements discussing the effects of the overlay;
8. Change of telephone directories to identify the area code in addition to the seven-digit number for each directory listing;
9. Scope of education plan must include adjacent area codes; and

---

<sup>20</sup> The Commission subsequently adopted a similar PEP in June 1999 for the 408/669 area code overlay in Appendix A of D.99-06-087.

10. Industry must submit the public education plan to the Commission for review and approval.

Notwithstanding these efforts to educate and prepare the public, there was still significant negative public reaction in the 310 area code when mandatory 1+10-digit dialing was instituted in the spring of 1999. Moreover, six years have elapsed since that time, and reinstatement of mandatory 1+10-digit dialing will require a new PEP effort.

In comments, the Joint Parties propose the establishment of a 310 Task Force to manage the PEP. CCTA proposed that the Commission address PEP-related cost issues to assure that PEP funding is sufficient, timely, fairly allocated, and cost-effective. CCTA raises the issues of how the PEP will receive sufficient funding, what type of 310 resource-users will be expected to fund the PEP, and what equitable cost recovery mechanism will be adopted.

## **2. Adopted Scope and Standards**

As a starting point for the PEP, we shall require that the minimum scope of activities and standards adopted in the previous PEP for the 310 and 408 area code overlays be applied prospectively. As proposed, we shall order the formation of a 310 Task Force to manage the PEP. The Task Force shall be comprised of Commission staff and at least one representative from each entity holding numbering resources in the 310 area code. The Task Force shall be responsible for implementing the specific details of message content, public awareness, outreach to ethnic communities, as well as potential post-implementation efforts. The Task Force shall be required to implement the scope of activities and standards of activities on at least the level contemplated in the previously budgeted 310 and 408 PEP amounts. Accordingly, the PEP shall be conducted at the level of effort necessary to achieve at least a 70% public

awareness. PEP outreach efforts shall specifically target key governmental agencies and community leaders, chambers of commerce, major airports, hospitals, alarm providers, pay telephone providers and the state coordinator for E-911. The PEP shall also include special outreach to senior citizens, the disabled, and ethnic communities.

The Task Force shall be required to arrange for paid advertising about the overlay in the zoned editions of newspaper media, including newspapers targeting communities not reached by the mass market, with the potential use of radio advertising within the 310/424 area code region. Funding for such paid advertising shall be set at the minimum level previously adopted for the 408 overlay. We discuss authorized funding levels for the PEP in more detail in Section III.F.4 below.

The Commission previously adopted a PEP for the 408/669 area code overlay which was ultimately suspended without taking effect. In the 408/669 overlay PEP, however, the Commission identified various elements requiring clarification and augmentation. We conclude that those same elements need to be clarified and/or augmented as part of the PEP for the 310/424 overlay.

For example, the Commission noted that the PEP did not clearly delineate the division of responsibility between individual carriers versus the Task Force for coordinating press releases and distributing collateral materials. Likewise, there was no tracking mechanism for implementing Speakers' Bureau activities to determine who was expected to speak to particular groups. Such delineation is necessary so that appropriate follow-up and monitoring can be performed to make sure that mandated tasks are carried out on the schedule and on the scale that is set forth in the PEP budget. We shall require the Task Force to develop a reasonable means of delineating the division of responsibility for the

above-referenced activities so that adequate tracking and compliance can be assured.

The Commission also found that the 408 PEP was deficient in not clearly specifying which ethnic or non-English-speaking groups were included in the outreach to those sectors of the public. As reported by Joint Parties, the principal ethnic groups in the 310 area code region include Caucasian, Hispanic, African-American, and Asian communities. Thus, we agree that PEP materials must be made available in the native languages applicable to the principal ethnic communities in the 310 area code. In certain cases, the PEP also failed to identify a scheduled target date for completion of designated tasks. We shall require the Task Force to report with sufficient specificity on these matters.

In the PEP previously attempted for the 310 overlay, volunteer efforts by employees of individual carriers were sometimes challenging with much work being done by just a few volunteers. The Task Force for the 408 overlay, therefore, solicited the assistance of a professional firm to provide logistical administration for the PEP. Since the cost of this effort was unknown, the Task Force requested that any reimbursable budget adopted by the Commission for the 408 PEP identify this as a line item, with costs to be determined later. The Commission agreed to this approach for the 408 PEP.

In its comments in this proceeding, CCTA agrees that based on the experience from the 408 Task Force, it is not practical to rely on in-house telecommunications employees, often outside their area of expertise, to manage the logistics of the PEP. CCTA notes, however, that the substantial body of materials that have already been produced from the prior PEP efforts would be usable in a prospective 310 PEP effort, with appropriate updating. The effort of a

professional agency could then be left to focus on implementation, and not on development of the PEP.

The Joint Parties, however, are not in favor of using an outside professional agency for logistical administration. They argue that given their combined experience in managing previous overlay implementation, they can handle such administration more efficiently by using in-house personnel.

The 310 Task Force should be able to handle responsibility for developing the materials and content of the PEP, maximizing the use of prior PEP efforts, and conforming to the requirements of this order. We remain concerned as to whether the Task Force will also be able to adequately staff logistical and administrative functions. At this time, the Task Force will not be required to solicit the assistance of an outside professional firm to focus on implementing the logistical administration of the PEP. Nonetheless, we shall require the Task Force to report on the steps it is taking to provide an adequate level of in-house staffing to handle administrative logistical issues. If logistical administrative problems develop during the course of implementation, the Commission shall reconsider whether outside professional assistance must be required.

### **3. Potential for Continuation of the PEP Beyond the Overlay Opening Date**

In D.99-06-087, the Commission determined that a second-phase PEP extending beyond the opening of the overlay area code may be necessary to promote necessary public awareness regarding the fact that the 408 and 669 area codes would co-exist in the same geographic area. In the case of overlays implemented in other states, the Commission observed that some customers had expressed confusion, thinking that the overlay area code served a different geographic area, perceived as requiring a toll call. The Commission noted the

concern as to the competitive consequences of such a misperception should it emerge in California, since competitive local carriers would be more likely than incumbents to serve customers with the new, less recognized overlay area code.

The Commission agreed that by focusing mainly on the change to mandatory 1+10-digit dialing patterns, and by ending the PEP before the overlay actually takes effect, public confusion could remain a problem concerning the identification of the new area code with the original area code region. With the 408 area code overlay, the Commission agreed that it may prove useful to extend the duration of the PEP beyond the opening of the overlay area code to ensure that customers are not confused as to the location of the new area code and that the rating of calls would not be affected.

In its comments, CCTA agrees that planning for the continuation of the PEP beyond the opening of the overlay area code could provide useful flexibility to ensure proper public awareness. We shall monitor the effectiveness of the PEP through the implementation period, and make a further assessment at a later date as to whether, or to what extent, the PEP should continue to actively disseminate information after the overlay area code is opened.

#### **4. Funding for the PEP**

Joint Parties also raise the issue of the funding of the PEP. Regarding the funding for the previously approved 310 and 408 PEPs, the industry costs of preparing and implementing the PEP were to be collected as a joint pool of funds from all NXX code holders in the area code, with funds to be withdrawn by individual carriers as needed to reimburse them for prescribed PEP activities. Moreover, in D.00-12-032, the Commission denied a motion by Pacific Bell Telephone Company seeking to recover any PEP-related costs from retail customers as a “limited exogenous” factor.

For the 310 PEP, the Commission initially approved a budget of \$187,715, but later, by D.99-02-074, augmented this amount by \$120,000 to cover additional mass media advertising and by \$10,000 for collateral materials and distribution. The resulting final PEP budget was \$317,715. For the 408 overlay, the Commission approved a budget of \$340,000, covering a similar level of effort, with provision for further augmentation to cover the costs of outside professional administration of the PEP, as described above.

We shall authorize a preliminary budget for the 310 PEP of \$340,000 based upon the allocation to activities as previously authorized in the 408 overlay PEP. Of this total amount, we shall require that a minimum of \$120,000 be allotted to cover mass media advertising, including radio and television, and \$10,000 for collateral materials and distribution. Because the budgeted PEP amounts were adopted in 1999, they do not reflect any price level changes attributable to the effects of inflation. Accordingly, we shall authorize increases in the preliminary budget to reflect the effects of inflation since 1999. Subject to continuing review and monitoring as PEP activities progress, we may find it further necessary to adjust the budgeted PEP amount prospectively. We shall delegate responsibility for approving any subsequent PEP budget adjustments for inflation or other items to the Commission's Director of the Information and Management Services Division, in consultation with the Telecommunications Division.

In their comments filed June 15, 2005, Joint Parties proposed that the funding mechanism be based on thousand-block assignments. To the extent that actual expenses for shared costs exceed or are less than the budgeted costs, Joint Parties propose that any shortfall be made up on the same basis and any refund be distributed accordingly. Joint Parties propose that individual carrier costs for carrier-specific tasks be the responsibility of each carrier.

We shall adopt Joint Parties' proposal that funding for those joint tasks be allocated among carriers in proportion to the relative percentage of thousand-blocks that they hold in the 310 area code as of the effective date of this order. In its comments, CCTA assumes that the Commission and its staff will exercise oversight regarding the terms of PEP funding withdrawals. The Commission and its staff do not have the budgetary resources to administer the collection and disbursement of PEP funds. It will instead be the responsibility of the 310 Task Force to arrange for adequate accounting of total PEP costs incurred, determination of contributions due from each carrier based on their block holdings, and follow up for collections and disbursements of PEP funds. The Task Force, shall however, provide for periodic reporting to the Commission staff concerning the details of collections disbursements by individual carriers relating to the PEP. Such reporting shall be necessary to confirm that the PEP is carrying out its authorized mandate on schedule. The specific details of the budgetary reporting framework shall be developed as part of the Task Force administration.

Telecommunications carriers serving in the 310 area code shall institute an instructional announcement directing callers to dial 1+10-digits effective beginning on July 26, 2006. With this measure in place, customer confusion should be minimized, even for visitors from other areas outside of the 310 area code that are subject to different dialing patterns. With repeated usage over time, we are confident that public familiarity and acceptance of 1+10-digit dialing should increase.

#### **IV. Comments on Draft Decision**

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules and

Practice and Procedure. Comments were filed on \_\_\_\_\_ and reply comments were filed on \_\_\_\_\_.

## **V. Assignment of Proceeding**

Michael R. Peevey is the Assigned Commissioner and Thomas R. Pulsifer is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. Pursuant to FCC requirements, this Commission previously adopted a back-up plan in D.00-09-073 to implement a geographic split of the 310 area code to be initiated at a subsequent point in time once it was determined that code exhaust was imminent.

2. Joint Petitioners presented updated information regarding the successful implementation of overlays in other regions of the nation over recent years.

3. Based upon reevaluation of the merits of the split versus overlay options, taking into consideration more recent experience with overlays in other states, it is found that an overlay would result in fewer overall adverse impacts when compared with a geographic split of the 310 area code.

4. Good cause has been shown to modify D.00-09-073 to replace the geographic split with an overlay as the adopted form of relief.

5. A new area code is needed within the next year in view of pending exhaustion of numbering resources in the 310 area code.

6. The Commission is required under FCC rules to open a new area code where necessary to avoid code exhaustion and denial of numbering resources necessary for competitive service.

7. The Commission has undertaken reasonable measures to ensure that numbering resources in the 310 area code are being utilized as efficiently as possible.

8. The Commission has already considered an ALJ's Draft Decision as to whether this Commission has the authority to impose or should impose guidelines regarding the six-month inventory level of number blocks that carriers may retain, and declined to adopt any such guidelines.

9. D.96-12-086 required mandatory 1+10-digit dialing within the region subject to an overlay to prevent an anticompetitive dialing disparity between customers of competing carriers who lacked equivalent access to NXX codes in the old NPA.

10. Although there is no area code change for existing numbers with an overlay, customers still need a transitional period to become familiar with mandatory 1+10-digit dialing and the notion of two area codes within a single geographic area.

11. In the context of an overlay, "permissive" dialing has reference to 1+10-digit dialing, and means that customers are permitted to dial 1+10-digits for calls within the same area code, but are not required to do so.

12. Before the permissive dialing period can begin, network preparation and initial customer notification must be completed.

13. A 120-day network preparation period, to begin upon the effective date of this order, will provide carriers with adequate time to make the required modifications to the network to begin permissive dialing when necessary.

14. A 90-day initial customer notification period, to begin with the effective date of this order, will provide carriers adequate time to work with the Commission to prepare and provide customers with the initial notification of dates for the permissive and mandatory dialing periods, as well as other necessary information regarding the overlay.

15. A seven-month permissive dialing period will provide the necessary time for the PEP efforts to be developed, executed, and disseminated, so that customers may become acquainted with the new requirements associated with the overlay before new prefix codes in the 424 overlay area code become available to carriers and their customers.

16. D.96-12-086 required that a customer education program be instituted at least 12 months before an overlay would take effect explaining the new mandatory 1+10-digit dialing requirements and the overlay plan to the public.

17. D.96-12-086 directed that, upon activation of the overlay area code, customers who dial seven digits will hear an instructional recording informing them of the 1+10-digit dialing requirement.

18. D.96-12-086 identified certain minimum elements to be included in the customer education plan, including an explanation why mandatory 1+10-digit dialing is necessary, and assurance that the change in their dialing patterns will not affect the rates charged for calls.

19. As the 310 NPA faces further potential shrinkage with a geographic split, the drawing of boundaries that minimize the splitting of local communities becomes increasingly difficult.

20. The overlay avoids the need for existing customers to change their telephone number area code for existing lines.

21. A geographic split creates economic hardships particularly on affected businesses which must notify customers of area code changes, and change business cards, letterheads, advertisements, etc.

22. With an overlay, geographic boundaries no longer define a single NPA, thereby eliminating the advantage of having geographically-defined NPA boundaries as a means of identifying and unifying communities of interest.

23. Although customers in the 310 NPA are already accustomed to dialing 1+10-digits for a significant portion of their calls, the overlay will still require them to learn that calls within the same area code also require 1+10-digit dialing.

24. While both the overlay and geographic split have certain adverse impacts, the overlay will have less overall adverse impacts than either of the geographic split alternatives proposed for the 310 NPA.

### **Conclusions of Law**

1. The Petition to Modify D.00-09-073, filed by the Joint Parties, should be granted, in part, to replace the geographic split with an all-services overlay to the 310 area code in accordance with the schedule adopted below.

2. Joint Parties have not shown why a “trigger” set at 6 NXX codes would produce a more efficient or coherent implementation approach as opposed simply to setting an implementation schedule as ordered below.

3. Because the FCC has not delegated authority to this Commission to impose carrier inventory rules, there is no basis to delay implementation of necessary area code relief in the 310 area in order for this Commission first to develop carrier inventory guidelines.

4. The adoption of the proposed overlay back-up plan for the 310 NPA provides a better overall solution than does a geographic split in terms of minimizing impacts on customers.

5. An overlay plan should be approved in accordance with the schedule and conditions adopted in the order below.

6. A PEP to acquaint customers with mandatory 1+10-digit dialing and the overlay, should be required as a condition of approving the overlay, consistent with D.96-12-086.

7. The PEP should incorporate, at a minimum, the requirements set forth in Appendix A, and be consistent with the previously authorized PEP for the 310 and 408 area code overlays.

8. Once permissive 1+10-digit dialing is in place, customers should be encouraged to voluntarily dial 1+10-digits for calls within their area code as part of the education program during the year leading up to the overlay.

9. The recorded instructional announcement alerting customers who dial seven digits to dial 1+10-digits should begin on, or no later than, July 26, 2006, and shall be continued until further notice by all telecommunications carriers following the date the 310 NPA overlay area code is opened. The instructional announcement should also be instituted on all 424 codes as they are opened and continue until further notice.

10. The public education plan should focus attention on the education of all classes of customers including children, the elderly, the disabled, as well as the various ethnic groups in the current 310 NPA.

11. The industry should give priority to notifying entities which will need to reprogram equipment as a result of the change to mandatory 1+10-digit dialing.

## O R D E R

### **IT IS ORDERED** that:

1. The Petition to Modify Decision 00-09-073, filed by the Joint Parties identified above, is hereby granted, in part, in accordance with the terms adopted below.

2. The previously adopted back-up plan known as Alternative 1A, the geographic split of the 310 Number Plan Area, is hereby replaced with an

all-services overlay, in accordance with the terms and conditions set forth below, consistent with Federal Communications Commission requirements.

3. The schedule set forth below is adopted for the overlay.

4. Carriers shall complete any network preparation (including but not limited to network translations, operational support system modifications and E-911 configurations) necessary to implement the overlay within 120 days of the effective date of this order.

5. Effective with the date of this order, the North American Numbering Plan Administrator is hereby authorized and directed to notify code holders in the 310 area code to proceed with implementation of the all-services overlay adopted in this order.

6. No later than 90 days after the effective date of this order, carriers serving in the 310 area code shall provide their customers with initial notice of the schedule for permissive and mandatory dialing associated with implementation of the all-services overlay adopted in this order.

7. Permissive 1+10-digit dialing shall officially begin on December 31, 2005, after the effective date of this order, and shall continue for a period of seven months thereafter.

8. Mandatory 1+10-digit dialing shall begin on July 26, 2006.

9. The 424 overlay area code shall be opened effective August 26, 2006, and new numbers shall begin to be assigned effective on or after that date.

10. A Public Education Plan (PEP) shall be required as a condition of approval of the overlay. The PEP shall at a minimum consist of the measures as set forth in Appendix A of this order, and shall incorporate at a minimum the scope of activities and standards previously required for the 310 and 408 area code overlay PEPs. PEP outreach efforts shall specifically target key governmental

agencies and community leaders, chambers of commerce, major airports, hospitals, alarm providers, pay telephone providers and the state coordinator for E-911. The PEP shall also include special outreach to senior citizens, the disabled, and ethnic communities. The PEP shall be conducted to achieve a 70% public awareness level.

11. A PEP Task Force shall be formed comprised of members of Commission staff and at least one representative from each entity holding number resources in the 310 area code to administer the PEP in accordance with the requirements of this order.

12. The PEP Task Force shall develop a reasonable means of delineating the division of responsibility for the above-referenced activities so that adequate tracking and compliance can be assured.

13. The Commission's Director of the Telecommunications Division shall maintain general oversight of the PEP Task Force and shall require periodic reporting of the status of PEP activities, as deemed warranted.

14. Funding for the joint tasks of the PEP shall be allocated among carriers in proportion to the relative percentage of thousand-blocks that they hold in the 310 area code as of the effective date of this order.

15. A preliminary budget shall be designated for the 310 PEP of \$340,000 based upon the allocation to activities as authorized in the 408 overlay PEP. Of this total amount, a minimum of \$120,000 shall be allotted to cover mass media advertising, including radio and television, and a minimum of \$10,000 shall be allotted for collateral materials and distribution. Because the budgeted PEP amounts were adopted in 1999, they do not reflect any price level changes attributable to the effects of inflation. Accordingly, we shall authorize

subsequent increases in the preliminary budget to reflect the effects of inflation since 1999.

16. The Commission's Director of Information and Management Service Division shall have responsibility for approving any subsequent 310 PEP budget adjustments.

17. The PEP Task Force shall arrange for adequate accounting of total PEP costs incurred, determination of contributions due from each carrier based on their block holdings, and follow up for collections and disbursements of PEP fund among carriers.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX A**  
**Elements of Overlay Public Education Plan**

<b>Timeframe</b>	<b>Activity</b>	<b>Description</b>	<b>Audience</b>	<b>Shared or Individual Carrier Effort</b>
Posted by 4/11/04 per ALJ Ruling	Information	Update company websites to include 310 Public Meeting Notice.	All telecom users	Individual
<b>TBD</b>		<b>Petition for Modification Granted</b>		
Approximately one week of Issuance of Order	Administration	Formation of PEP Committee - each carrier to designate a committee representative	n/a	Commission Staff and Carrier Representatives
After Issuance of Order	Information	As Directories are published add a Banner to alert the consumers of 10-digit dialing in the 310 Area Code	All telecom users	Individual
Approximately 30 days after Issuance of Order	Information	Distribute information internally to be used as a tool by customer service representatives in order to answer customer inquiries.	Service Representatives	Individual
Periodically	Information	Notify the California Relay Service to send messages to alert their customers to the 10-digit dialing in the 310 Area Code	Hearing Impaired	Individual

**APPENDIX A  
Elements of Overlay Public Education Plan**

<b>TBD</b>		<b>Trigger Date</b>		
Approximately one week after Trigger Date	News Release	Telecommunication industry to issue release which describes the Los Angeles 310 Area Code relief plan. (distribute within 310 Area including chambers of commerce and local governmental agencies)	All telecom users	Shared
Approximately 30 days after Trigger Date	Information	Telecommunications industry to send information package to Chambers of Commerce, city councils, LAX, and public safety organizations (e.g., police, sheriff and fire) throughout the 310 Area.	Select organizations and associations	Shared
Approximately 60 days prior to permissive dialing	Information	Customer Notification No. 1: Announce the new area code plan. Include information about 10-digit dialing and indicate affected areas.	Resident & Business Customers	Individual
Approximately 60 days prior to permissive dialing	Information	Notification to pre-paid customers.	Wireless prepaid Customers	Individual
Approximately 60 days prior to permissive dialing	Information	Provide information to key government agencies, 911 and alarm-service providers by mail, phone or visit.	Select business segments	Shared

**APPENDIX A**  
**Elements of Overlay Public Education Plan**

Approximately 60 days prior to permissive dialing	Information	Contact key community leaders, legislators, state/local government contacts by letter, phone or visit.	Key Leaders	Shared
Approximately 60 days prior to permissive dialing	Information	Provide targeted information to advocacy groups (seniors, consumer panels, activist organizations, schools, etc.) by letter, phone or visit	Advocacy groups & consumer groups	Shared
Approximately 30 days prior to permissive dialing	Information	Begin the process for developing recorded announcements required for Mandatory Dialing	Residence and Business customers	Individual
Approximately 30 days prior to permissive dialing	Public Appearances	Offer speeches or appearances to Chambers of Commerce, economic development organizations, service clubs, and other business organizations.	Select organizations and associations	Shared (Assuming use of Industry Spokesperson(s))
Approximately 30 days prior to permissive dialing	Public Appearances	Telecommunications industry to schedule appearances on local radio or TV Talk shows.	All Telecom users	Shared (Assuming use of Industry Spokesperson(s))
Approximately five to ten days prior to permissive dialing	Information	Telecommunications industry to issue new release to Los Angeles media regarding approach of "transitional" dialing period.	All telecom users (310 Area Code Area)	Shared

**APPENDIX A**  
**Elements of Overlay Public Education Plan**

<b>120 days after Trigger Date</b>		<b>Permissive Dialing Begins</b>		
Approximately 30 days prior to mandatory dialing	Information	Customer Notification No.2	Residence & Business customers	Individual
Approximately 15 days prior to mandatory dialing	Public Appearances	Telecommunications industry to schedule appearances on local radio or TV Talk shows.	All telecom users	Shared (Assuming use of Industry Spokesperson(s))
Approximately 15 days prior to mandatory dialing	Public Appearances	Offer speeches or appearances to Chambers of Commerce, economic development organizations, service clubs, and other business organizations.	Select organizations and associations	Shared (Assuming use of Industry Spokesperson(s))
Approximately five days before mandatory dialing begins	News Release	Telecommunications industry to issue release to media regarding the start of mandatory dialing	All telecom users (within the 310 NPA and adjacent NPA areas)	Shared
<b>270 Days After Trigger Date</b>		<b>Mandatory Dialing</b>		

**(END OF APPENDIX A)**

**APPENDIX B**

**Status of Remaining Number Blocks in 310 Area Code  
(By Rate Center)**

Rate Center	Number of Blocks Available in the Pool
Avalon	6
Beverly Hills	28
Compton: Compton DA	27
Compton: Gardena DA	26
Culver City	11
El Segundo	44
Hawthorne	2
Inglewood	9
Lomita	2
Malibu	7
Redondo	23
San Pedro	1
Santa Monica: Mar Vista DA	54
Santa Monica: Santa Monica DA	26
Torrance	0
West Los Angeles	<u>1</u>
<b>Total</b>	267

**(END OF APPENDIX B)**

[Pulsifer Agenda Dec. Appendix C](#)