

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



September 30, 2003

Agenda ID #2823

TO: PARTIES OF RECORD IN RULEMAKING 95-04-043 ET AL.

This is the draft decision of Administrative Law Judge Thomas R. Pulsifer and alternate draft decision of Commissioner Loretta M. Lynch. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:hl2

Attachment

Decision DRAFT DECISION OF THOMAS PULSIFER [Mailed 9/30/2003]

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 IMPLEMENTING 909 AREA CODE PLAN

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OPINION IMPLEMENTING 909 AREA CODE PLAN**I. Introduction**

By this decision, we formally approve the industry plan (identified as Alternative #1) for a geographic split of the 909 area code, or Numbering Plan Area (NPA),¹ as set forth in this order. We authorize the North American Numbering Plan Administrator (NANPA), together with carriers serving this area, to proceed with implementation of the plan in accordance with the schedule below.

The 909 area code includes cities and communities in parts of the counties of Los Angeles, Riverside, and San Bernardino, as illustrated on the Appendix A map, and currently serves a portion of Local Access and Transport Area 730. Under the adopted plan, a geographic split will create a new 951 area code with a boundary line defined by the rate centers in a west-to-east direction approximately through the center of the 909 area code. The new 951 area code will be assigned to the region south of the new boundary line. The boundary lines and rate centers for the new area code are shown in Appendix A of this order.

The new area code is required to ensure a continued supply of numbering resources to serve customers in the region, and to relieve the impending

¹ Area codes are assigned nationally for designated local NPAs by the NANPA. The supply of available telephone numbers is governed nationally by the North American Numbering Plan which prescribes the structure of telephone numbering codes. Telephone numbers throughout the United States utilize a 10-digit dialing format composed of a three-digit area code, a three-digit central office prefix code and a four-digit individual telephone line number. Each central office prefix code represents 10,000 telephone line numbers.

exhaustion of prefix codes. The NANPA projects exhaustion of prefix codes in the 909 area code to occur during the fourth quarter of 2003. The demand for numbering resources is being stimulated by competition in the local exchange market and demand for new services and rapid changes in technology.

Under the adopted schedule, the new 951 area code may be dialed on a permissive basis beginning on July 17, 2004, and must be dialed on a mandatory basis for calls into the 951 area code beginning on October 30, 2004. Carriers may start assigning numbers from the new area code beginning February 27, 2005.

Permissive dialing is a term that refers to the introductory grace period during which customers are given the opportunity to begin adjusting to dialing the 951 area code for numbers assigned to the new area code. During the "permissive dialing period," customers have the option of dialing the new area code, but may still reach parties in the new 951 area code by dialing the 909 area code. Callers are encouraged to begin dialing the 951 area code once the permissive dialing period begins so that they will be used to the new area code by the time it becomes mandatory.

At the end of the permissive dialing grace period, a subsequent implementation phase begins referred to as the "mandatory dialing" period.² Once the mandatory dialing phase begins, callers dialing numbers that are assigned the new 951 area code must dial the new area code and can no longer reach the called party by dialing the 909 area code. During the "mandatory dialing" phase of implementation, carriers are required to play a special recorded message whenever a caller wrongly dials the 909 area code to reach a number

² The "mandatory dialing period" is generally referred to as the "recorded announcement period" in states other than California.

that has been changed to the 951 area code. The recorded message instructs the caller to hang up and redial the number using the 951 area code.

In order to ensure that callers hear the special recorded message whenever they dial the 909 area code for numbers assigned to the new 951 area code, no new numbers may be assigned to customers in the new area code during the mandatory dialing phase of implementation. Otherwise, a caller may reach a wrong number rather than hear the recorded message. Carriers are able to begin assigning numbers from prefixes in the new 951 area code only after the mandatory dialing phase of implementation has been completed. Of course, mandatory dialing of the new area code remains in effect after the implementation period concludes. At the end of the mandatory dialing phase of implementation, however, the special recorded message instructing the caller to redial the number using the new area code is no longer played. We discuss our concerns regarding continued notice to the public of the new area code after the official end of the implementation period later in this order.

II. Process for Planning and Implementing New Area Codes

The creation of a new area code is required when the supply of numbering resources available to a region covered by an existing area code are insufficient to meet the demand for new numbers. The process for implementing new area codes is governed both by state statute, applicable Commission decisions, and industry guidelines. California state statutes prescribe requirements for customer notification, establishment of new NPA boundaries and transitional dialing periods.

A. Initial Steps to Relieve Code Exhaust

In March 1998, the NANPA first declared a “jeopardy” situation³ in the 909 area code. Beginning in April 1998, NXX codes in the 909 NPA became subject to rationing through a monthly lottery. The industry then proceeded through the prescribed process required to implement a new area code in response to impending code exhaust.⁴ By letter to the assigned Administrative Law Judge (ALJ) dated December 7, 1998, the NANPA, presented two alternative NPA relief plans for the 909 area code.

By Decision (D.) 99-09-059, dated March 18, 1999, the Commission determined that a new area code was required to relieve code exhaust in the 909 area code and approved an industry plan that entailed two-phase geographic split of the 909 area code followed by an overlay. Implementation of the 909 area code relief plan was suspended, however, pursuant to D.99-12-051, as part of a broader statewide Commission initiative to undertake a comprehensive menu of measures to assure that numbering resources were being utilized as efficiently as possible before imposing any further area code changes on Californians. We

³ As defined by the CO Code Assignment Guidelines, a “jeopardy” situation exists when the forecasted and/or actual demand for central office code resources will exceed the known supply during the planning implementation interval for relief.

⁴ The planning process for NPA Relief is established in the industry-approved document INC 97-0404-016 “NPA Code Relief Planning and Notification Guidelines,” to be used by NPA Relief Coordinators. The document lists the assumptions, constraints, and planning principles used in NPA Code relief planning efforts.

undertook these measures pursuant to the delegated authority granted by the Federal Communications Commission (FCC) in a September 15, 1999 Order.⁵

B. Measures to Extend the Life of the Existing 909 Area Code

Since suspension of the previous 909 area code relief plan, the Commission has made significant progress in promoting more efficient utilization of numbering resources through number pooling and related conservation measures. These measures have extended the life of the 909 area code without the burden of a new area code.

In suspending the 909 area code plan, we observed that claims of impending exhaust were based merely upon carriers' forecasts of numbering requirements. No independent analysis had been provided, however, concerning carriers' actual utilization of numbering resources. Assembly Bill 406, enacted in 1999 and codified as Pub. Util. Code § 7937, required the Commission to obtain historical telephone number usage data from every telecommunications company in California. Accordingly, the staff undertook a study of the 909 area code number utilization, and on November 28, 2000, the Telecommunications Division (TD) released its Number Utilization Report on the 909 area code.

In compiling this report, the TD report relied upon representations of carriers as to the accuracy and reliability of reported number utilization. To provide greater confidence in the reliability and accuracy of number utilization data reported by carriers, an independent audit of numbering resources in the

⁵ In the Matter of California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures, Order, CC Docket No. 96-98, FCC 99-248 (FCC Order).

909 area code was authorized.⁶ By ALJ ruling dated June 14, 2001, TD was directed to audit number resource utilization reported by carriers in the 909 area code. The 909 Audit Report was released on December 21, 2001. Comments were filed in response to the 909 Audit Report on January 15, 2002.

The TD audit report indicated that number pooling has been largely successful in meeting the needs of pooling participants through better utilization of existing numbering resources. At the present time, only paging carriers do not participate in the 909 number pool. Paging carriers are still dependent on the semi-monthly lottery rationing for their numbering needs.

Based on the Audit Report findings, the TD staff concluded that the numbering needs of all carriers, including cellular carriers, in the 909 area code could probably be met through approximately 2003 from the 985 blocks then in the 909 number pool, assuming cellular carriers were to begin number pooling in November 2002. At the time of the Audit Report, there were 13 prefixes available for the 909 lottery and 23 prefixes identified as reserved for the number pool. The TD Audit Report recommended that the Commission move forward in adopting a new area code plan for the 909 area code within six months from that date (i.e., December 21, 2001) in order to provide adequate time for carriers to implement an area code change.

In view of the findings of the Audit Report, the Director of TD sent a letter dated March 14, 2002, to the NANPA Relief Planner, indicating that the 909 relief

⁶ A similar concern exists not just with the 909 area code, but wherever area code relief plans are under consideration. Therefore, it is in consumers' best interests that an independent staff verification of carrier-reported number utilization be made prior to our considering adopting a back-up plan for area code relief.

plans that had been submitted to the Commission in December 1998 should be revised as necessary to reflect more current conditions. The Director requested that an industry meeting be convened and that an updated industry proposal for a 909 area code relief plan be submitted to the Commission by June 17, 2002.

In accordance with the letter from the TD Director, NANPA notified the industry on March 27, 2002, that an updated plan for 909 area code relief needed to be addressed. Industry members met via conference call on May 1, 2002 to discuss various updated relief alternatives to arrive at an optimal overall plan. Industry members evaluated seven updated relief alternatives, and reached consensus to recommend that the Commission adopt and implement either Alternative #6 (an all-services overlay) or Alternative #7 (a two-way geographic split) for the 909 area code. On June 13, 2002, the NANPA formally filed a Petition on behalf of the industry members seeking Commission approval of either of these options for a 909 area code change.

As an additional measure to extend the life of the 909 area code, the Commission filed a petition with the FCC on September 5, 2002,⁷ seeking a waiver from the FCC “contamination” or number use, threshold requirement. Specifically, the Commission requested the FCC to grant California the 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% “contaminated,” or used, numbers. An increased level of allowable contamination or usage rates for poolable

⁷ 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.

thousand-number blocks (from current 10% to 25%) increases the number of thousand-blocks that are available to all carriers through each area code's number pool. By increasing the number of available thousand-blocks in this manner, the life of the 909 area code can be extended.

The FCC acted upon this Petition by its Order adopted August 5, 2003 and released August 11, 2003. While the FCC declined to grant a statewide waiver of the 10% contamination rate, it did find good cause to justify raising the contamination level in the 310 and 909 area codes, on an interim basis, while the Commission implements area code relief in those areas. The FCC concluded that the additional thousand-blocks that will be made available by increasing the level of contamination from 10% to 25% will extend the life of the 909 area code by one additional month. The FCC thus expressed its expectation that the Commission would now implement relief in the 909 area code, and make use of the additional thousand blocks to extend the implementation period accordingly.

C. Current Need to Open New Area Code

The public interest demanded an accounting of what numbers are actually in use before we proceeded with 909 area code relief plan. With that accounting now completed, we can state confidently that a rigorous scrutiny of existing number utilization has been undertaken, and several reforms have been instituted to ensure more efficient utilization of scarce numbering resources in the 909 area code. Customers have been spared the risk of being prematurely forced to undergo an area code change.

We remain cognizant of our obligation, however, to provide for adequate numbering resources so that the public may have a competitive choice in selecting a local carrier. The FCC has required that in any area code in jeopardy where the Commission implements a number pooling trial, steps must be taken

to adopt an area code back-up relief plan that could be implemented if numbering resources were in imminent danger of being exhausted.

The passage of time since the release of the TD audit report has provided the opportunity to evaluate the results of number pooling, as well as other number conservation measures adopted by this Commission and the FCC. As of the date of its updated filing of relief plan options in June 2002, the NANPA reported that 18 codes remained available for assignment, and 9 codes were set aside for number pooling. The forecasted demand rate at that time was 81 codes per year, including the non-local number portability (LNP) demand and requirements to stock the number pool. As of August 2003, there were 2 central office codes remaining for the set-aside allotment to the 909 number pool. There were 6 codes left for assignment through lottery rationing in the 909 area code. The NANPA's projected exhaust for the 909 area code is the fourth quarter of calendar year 2003.

Given the limited number of remaining prefix codes available for assignment either to the lottery or to the number pool, we find that implementation of the adopted 909 area code change plan must go forward now in view of impending code exhaust.

D. Public Notification and Meetings of Area Code Change

The industry team held an initial round of public meetings in August 1998 in response to the initial notification to NANPA of impending number exhaust in the 909 area code, in conformance with Pub. Util. Code § 7930. In view of the passage of time since these initial meetings and the summer of 2002 issuance of updated relief proposals submitted by the industry, the Commission scheduled a new round of public and "local jurisdiction" meetings in July 2003.

Although these new meetings were not required by statute, they provided the public and local jurisdiction officials an opportunity to express their views and provide input concerning the plans filed in June 2002.

As part of the 909 area code outreach efforts, Commissioner Loretta Lynch sent letters to some 320 public agencies and elected officials notifying them of the public and local jurisdiction meetings, asking them to attend, and enclosing informational materials regarding the potential area code changes. Letters were sent to city council members, mayors, city managers, fire chiefs, police chiefs, Riverside and San Bernardino County Boards of Supervisors, California State assembly members and senators, and U.S. congresspersons and senators associated with regions covered by the 909 area code.

Two local jurisdiction meetings were held in each of the affected counties (San Bernardino and Riverside Counties) on July 11, 2003. The Commission also held five meetings to present the proposed alternatives to the general public and gather their input. These meetings were held in Riverside City on July 12, San Bernardino on July 15, Murieta and Moreno Valley on July 16, and Ontario on July 17, 2003. We welcome the opportunity to receive this input in considering options for area code planning that are in the public interest.

At the public and local jurisdiction meetings held by the Commission in July 2003, participants were presented with the seven updated relief alternative plans for the 909 area code, and provided the opportunity to express their concerns and preferences among the proposed alternatives.

The overlay, Alternative #6, was not favored by most participants at the local jurisdiction and public meetings. Many attendees expressed opposition to the overlay, calling it difficult or cumbersome. Several speakers mentioned how confusing it would be to the senior community.

Of the seven alternatives under consideration, the majority of speakers expressed a preference for either Alternative #1 or #7. These two alternatives are very similar variations on a two-way geographic split. The split boundary line runs along rate center boundaries in a west to east direction approximately through the center of the 909 area code, creating a northern “Area A” and a southern “Area B.” Under both Alternative #1 and #7, Area A would keep the 909 area code following the split, while Area B would be assigned the 951 area code. The boundary line approximately separates Riverside and San Bernardino counties. Alternative #7 is a variation of Alternative #1, except the Calimesa rate center is moved from Area A into Area B. Otherwise, the two alternatives are the same.

At the Local Jurisdiction Meeting, the Chairman of the Board of Supervisors of the County of San Bernardino and the Mayor of Yucaipa both expressed strong preferences for Alternative #1 because it minimizes division of communities of common interest. Alternative #1 essentially splits the area code along the counties of San Bernardino and Riverside county boundaries, keeping all of San Bernardino County in the 909 area code. Supporters of Alternative #1 believe it adversely impacts fewer residents compared to Alternative #7. Alternative #1 keeps the City of Yucaipa with neighboring communities in San Bernardino County, which supporters of Alternative #1 believe is consistent with current, well-established patterns of communications for residents within the city.

III. Industry Proposals

The industry could not reach consensus on one plan for 909 area code relief, but reached consensus on forwarding two relief plan proposals, as described below.

A. Alternative #7 - Two-Way Geographic Split

The industry offers Alternative #7 as one of its two proposed options. Alternative #7 would split the boundary running along rate center lines in a west-to-east direction approximately through the center of the present 909 area code region. The new boundary line approximately separates Riverside and San Bernardino Counties, and maintains a single area code for residents of Calimesa and Riverside, Banning and Beaumont Counties.

NANPA projects the northern area would have a life of seven years and the southern area would have a life of twelve years. If the Commission approves this plan, the industry requests that the existing 909 area code be retained by the northern area in view of its shorter projected life and to avoid the potential for customers in this area to change their area code twice within a relatively short period of time. The industry also requests guidance from the Commission concerning the assignment of certain 909 central office codes rated to tandem switches which are located geographically outside the 909 area code.

The industry recommends shortening the mandatory dialing period to three months. Pub. Util. Code § 7932, which became effective January 1, 1999, provides discretion to the Commission to determine the duration of any transitional dialing period. The industry recommends the following implementation dates for the split plan:

IMPLEMENTATION EVENT	Timeframe
From Effective Date of Order to Start of Permissive Dialing	9 months
Permissive Dialing Period	3 months
From Beginning of Mandatory Dialing to First Code	2 months

Activation Using New Area Code	
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B. Alternative #6 – All-Services Overlay

Under the proposed overlay alternative, a new area code would be superimposed over the same geographic area currently served by the 909 area code. All existing customers would retain the 909 area code. If this option is adopted, the industry proposes a 10-month implementation period. The industry recommends the 10-month implementation period for Alternative #6 be allocated in the following manner:

IMPLEMENTATION MEASURE	Timeframe
Notification from Commission to industry	3 months
Permissive 1+10-digit dialing and Customer Education Period	6 months
From beginning of mandatory 1+10-digit dialing until first code activation in the new area code	1 month

C. Comments of Industry Members

Although both plans are sponsored by the industry, one party filed comments advocating a preference for the overlay. On June 28, 2002 Verizon Wireless filed comments in support of the all-services overlay as the preferred option. Verizon argues that this alternative avoids the divisive practice of drawing boundary lines and essentially picking winners and losers based on which side is assigned the new area code. Verizon argues that adequate consumer education, speed dialing, and other measures can help consumers adapt to 1+10-digit dialing without undue burden. If the Commission adopts a geographic split, however, Verizon proposes that wireless carriers be given an extended permissive dialing period in view of the required reprogramming of hundreds of thousands of handsets. In instances where over-the-air

reprogramming is not available, customers may have to bring their phones into retail or service outlets for reprogramming.

IV. Selection of New Area Code Plan

Having determined that a new area code must be implemented, we now select the plan that best meets the prescribed criteria. We have before us two alternative proposals for 909 area code relief as presented by the industry at the Local Jurisdiction and Public Meetings: (1) either an all-services overlay or (2) some version of a geographic split.

As a basis for evaluating the alternatives, we consider the criteria that have traditionally been utilized in selecting previous relief plans.⁸ The criteria are:

1. Minimize end users' confusion;
2. Balance the cost of implementation for all affected parties;
3. Provide that customers who undergo number changes shall not be required to change again for a period of eight to ten years;
4. Not favor a particular interest group;
5. Cover a period of at least five years beyond the predicted date of exhaustion; and
6. Provide that all of the codes in a given area shall exhaust about the same time in the case of splits. In practice, this may not be possible, but severe imbalances, for example, a difference in NPA lifetimes of more than 15 years, should be avoided.
7. Comply with state and federal statutes, rulings and orders.

We have also formulated policies regarding area code relief through a series of decisions in this rulemaking since 1995. In D.96-12-086, dated

⁸ The criteria are based on the INC 97-0404-016 "NPA Code Relief Planning and Notification Guidelines."

December 20, 1996, we evaluated the relative merits of splits versus overlays in terms of consumer impact. In particular, we reviewed consumer surveys concerning preferences for overlays and geographic splits as a means of creating new area codes. In that decision, we concluded that, at least for the near term, customers were better served with the geographic split option, and directed that splits be used for relief plans taking effect at least through the year 2000. Since the currently proposed 909 NPA relief plan would take effect after the year 2000, the policy in D.96-12-086 favoring geographic splits would not automatically preclude adoption of an overlay.

In D.97-08-065, we required that an overlay be evaluated in reference to the same criteria applicable to a geographic split. In D.96-08-028, we required that any overlay must be competitively neutral, and established two prerequisites at a minimum for competitive neutrality. These were: (1) mandatory 1+10-digit dialing for all calls within the service areas subject to the overlay,⁹ and (2) the full implementation of permanent LNP within the service area subject to the overlay. We determined that a further record needed to be developed regarding the relative merits of overlays versus splits once anticompetitive impediments could be overcome.

In D.96-12-086, we further developed the necessary conditions to be met in order to justify approval of an overlay. We required that a customer education program be instituted at least 12 months before any overlay would take effect.

⁹ In D.96-12-086, we ruled not to adopt statewide mandatory 1+10-digit dialing concurrently with the first overlay. We concluded that the advantages of preserving seven-digit dialing, for as many customers and for as long as possible, outweigh any potential customer confusion resulting from instituting mandatory 1+10-digit dialing only in those regions subject to overlays.

We also required that upon approval of any overlay, the code administrator and telecommunications industry members were to:

- a. Notify the nationwide industry, the national code administrator, and customers of the proposed dialing plan change;
- b. Educate customers, industry, and internal employees on the dialing plan change;
- c. Correct signage for dialing instructions on payphones and in directories;
- d. Perform switch translation work for implementing mandatory dialing (12 weeks prior to cutover); and
- e. Simultaneously with the cutover, institute customer instructional announcement for misdialed seven-digit calls.

In addition to requirements that we imposed, the FCC issued its own requirements in FCC Order 96-333 with respect to overlays. The FCC required mandatory 1+10-digit dialing for an overlay. The FCC also prohibited overlays from being applied only to specific telecommunications services, but required that overlays must apply to all services.¹⁰

The overlay avoids the problems involved with the geographic splitting of local communities by leaving existing boundaries intact. As the geographic area covered by the 909 NPA faces the prospect of further shrinkage in the current proposal before us, we note the increasing difficulty of drawing boundaries that minimize splitting local communities, consistent with Pub. Util. Code § 2887(a), and of balancing the projected lives of the old and new area codes.

¹⁰ Declaratory Ruling and Order, FCC Docket 95-19, IAD File No. 94-102, adopted January 12, 1995.

The overlay also avoids the need for existing customers to change their area code. Business customers, in particular, face economic hardships resulting from having to notify customers of area code changes, and to change business cards, letterheads, catalogs, etc.

While avoiding these problems, the overlay is not without its own issues. For example, customers who seek additional lines at the same location after the overlay takes effect may only be able obtain the additional lines under the new area code and thus be left with two area codes for multiple lines at the same location.

Moreover, while the area code boundaries would not change with an overlay, the boundaries would no longer define a single area code, but two (or more) area codes. Thus, one of the advantages of having geographically-defined area code boundaries (i.e., as a means of common identification) over time becomes less meaningful as a common bond of local communities of interest.

Another significant drawback of an overlay is customers' loss of seven-digit dialing. With the overlay, existing customers retain the 909 area code, but must submit to mandatory 1+10-digit dialing and lose the unique geographic identity presently provided by the 909 area code. Under a geographic split, by contrast, all customers in the 909 area code retain seven-digit dialing and a unique geographic area code identity, but more customers must take a new area code. The high value customers place on seven-digit dialing was reflected in the consumer surveys reviewed in D.96-12-086, in which respondents expressed preferences for splits or overlays

Customers would need a sufficient transition period to acclimate themselves to the changes resulting from an overlay associated with 1+10-digit dialing and loss of geographic-specific area code identification. An effective

customer education program would be essential in mitigating negative reaction to a mandatory 1+10-digit dialing requirement and other novel features of an overlay. In proposing an overlay for the 909 area code, however, the industry group failed to provide any details as to the nature, extent, and funding of any customer education program.

We previously authorized a customer education program in connection with the plan to implement an overlay in the 310 area code in 1998. Despite the level of effort and funding that went into that education program, however, it was unsuccessful at overcoming significant negative public reaction to mandatory 1+10-digit dialing. This negative public reaction was instrumental in our ultimately rejecting the overlay and adopting instead a geographic split as a back up plan for the 310 area code pursuant to D.00-09-073. The current 909 area code overlay proposal does not address how a successful customer education program should be designed to overcome such negative reaction as was experienced with the 310 area code overlay effort. This deficiency in the proposal gives us additional reason to favor a traditional geographic split for the 909 area code without the uncertainties of a massive customer education program of an entirely new dialing concept.

Given the uncertainties associated with design of an effective customer education plan, coupled with past customer survey preferences favoring splits, we conclude that a geographic split is the preferred choice for the 909 area code in this instance. Of the various geographic split options formulated by the industry group, we conclude that Alternative #1 is the best overall.

Although the industry group recommended Alternative #7, we conclude that Alternative #1 offers a better overall choice, particularly in view of input

received at the local jurisdiction and public meetings on 909 area code change options.

Alternative #1 essentially splits the area code along the boundaries of San Bernardino and Riverside Counties, thus enabling all San Bernardino County residents to retain the 909 area code. The southern area covering Riverside County would take the new 951 area code. Alternative #1 includes the City of Calimesa in the 909 area code, since Calimesa, Yucaipa, and the communities of Oak Glen, Forest Falls, and Angelus Oaks make up the “Calimesa Rate Center.” While Calimesa, located in Riverside County, would have a different area code from the rest of Riverside County, it is a small city of approximately 7,300 residents. The City of Yucaipa, on the other hand, is the largest city in the rate center with approximately 45,000 residents. Alternative #1 includes Yucaipa with its neighboring communities in San Bernardino County, all of whom will keep the 909 area code. San Bernardino residents make up the vast majority of the “Calimesa Rate Center.”

Alternative #7, on the other hand, would separate Yucaipa from much of San Bernardino County by placing a small portion of western Yucaipa in an area code separate from the rest of the community, creating two area codes within the city. Alternative #7 disrupts both residents and businesses, and disassociates Yucaipa from those with whom they conduct on-going business. Historically, Yucaipa has been considered a part of the “East Valley” of San Bernardino County. Residents’ travel/commute patterns are generally to the West, not to the South. We conclude that Alternative #1 would therefore adversely impact fewer residents than Alternative #7. Accordingly, we adopt Alternative #1 and order its implementation to proceed to relieve 909 NPA code exhaust pursuant to the

schedule set below. The affected boundaries and rate centers are depicted in Appendix A.

V. Implementation Schedule

We shall adopt an implementation schedule for the geographic split as set forth below. The NANPA shall notify carriers to implement the 909/951 area code split according to the following schedule:

Event	Due Date
Carriers to notify customers regarding the split	Within 90 days of the effective date of this order
Permissive dialing begins	July 17, 2004
Mandatory dialing begins	October 30, 2004
First Code Activation Using New Area Code	February 27, 2005

The NANPA shall promptly notify carriers serving the 909 area code of the adopted schedule for the new area code plan, and provide nationwide notification no later than 30 days from the effective date of this order. Carriers, excluding pagers, shall notify their subscribers no later than 90 days after the effective date of this decision, of the schedule for the new area code, and shall provide a second written notice within three months of the beginning of mandatory dialing for the new area code. Early customer notice will provide the maximum amount of time for the public to begin preparations for the new area code.

We shall adopt a nine-month interval from Commission approval for the beginning of permissive dialing under the new area code. This interval should

provide sufficient time for carriers to configure their switches and networks to accommodate the new area code.

We shall also adopt the industry proposal for a three and one-half month permissive dialing period to follow, and a subsequent four-month mandatory dialing period before prefix codes may be assigned using the 951 area code. We are concerned that the mere two-month mandatory dialing period proposed by the industry is too short to give customers the opportunity to become accustomed to the new area code.

The combined permissive and mandatory dialing periods determine how long before a new supply of numbers becomes available to carriers. Transitional dialing periods, if too long, increase the risk of running out of numbers to meet customer demand, and if too short, increase the potential for customer confusion or disruption resulting from dialing a wrong area code. Customers need time to notify others, change stationery, and business cards, change their listings in printed catalogs, and reprogram security alarm equipment, etc., to reflect the new area code. Customers also need time to acclimate to dialing the new area code.

The three and one-half month permissive dialing period will allow wireless carriers time to reprogram wireless phones that are not “over-the-air” capable. The wireless carriers estimate that several hundred thousand handsets will require reprogramming. Customers using these handsets that are not “over-the-air” capable must physically take them to their carriers for reprogramming if they want their new area code to be displayed on the handset. We have scheduled the start date for permissive and mandatory dialing on a Saturday in order to minimize the risk of customer problems that might otherwise occur.

At the end of the permissive dialing period, mandatory dialing of the 951 area code will take effect, requiring callers outside that area code to dial the

951 area code to reach a number in that area code. The mandatory dialing period shall begin on October 30, 2004. If a customer fails to dial the 951 area code after mandatory dialing begins, a recorded message will instruct the caller to hang up and redial using the 951 area code. This message will continue to play during the mandatory dialing period at least until February 27, 2005. As discussed in section V.A. below, we shall take further comments on extending the recorded message beyond this date.

Carriers will not be able to issue numbers from new prefixes in the 951 area code, however, until the end of the mandatory dialing period. During this period, numbers that were assigned in the 909 area code prior to the split cannot be reassigned as new numbers to customers in the 951 area code. The mandatory dialing period provides a further opportunity for the public to become accustomed to dialing the new area code. It also allows time for calling card and third-party type call billing records to be applied to the correct customer accounts before the prefixes assigned to the 909 area code are reassigned in the 951 area code.

After February 27, 2005, carriers can begin to assign new numbers from the prefix codes created by the 909/951 area code split. Up until then, carriers can still draw upon any existing inventory of prefix codes they hold as a source for providing their interim number needs. Carriers were permitted to keep a six-month inventory of prefix codes in the 909 area code

The constrained number resources in the 909 area code preclude delaying the start of mandatory dialing to a later period. In order to guard against adverse impacts on customers from insufficient time to prepare for the new area code, therefore, careful attention needs to be paid to effective customer outreach and notice concerning the new area code.

A. Continuation of Recorded Announcement Concerning Mandatory Dialing

Under existing industry practice, at the end of the prescribed mandatory dialing period, all service providers and carriers remove from their switching networks the special recorded message instructing the caller to redial using the new area code. After the special recording is removed, callers dialing the wrong area code will simply hear the standard "Vacant Code" recording indicating that call cannot be completed as dialed and instructing the caller to check the number and dial again. This standard recorded announcement continues to play for each prefix until such time as it is assigned to a service provider with a rate center and routing information as provided in the Local Exchange Routing Guide. Once the prefix is assigned to a service provider, any call dialed to that prefix using the wrong area code will trigger a recorded message indicating that the number is no longer in service. As numbers in that prefix are assigned to new customers, the caller will merely reach a wrong number.

We are concerned that the public interest is not adequately served by the present industry practice of discontinuing the special recorded message instructing the caller to dial the new area code immediately after the end of the prescribed mandatory dialing period. We recognize that there may be certain technical, economic, or regulatory issues involved in continuing the special recorded message beyond the end of the mandatory dialing period. Yet, we believe the time has come to critically consider new alternatives that will provide additional support to the public in adjusting to a new area code. We therefore direct local exchange carriers, to the extent possible, to continue playing the special recorded message instructing the caller to dial the new 951 area code for one year following the end of the mandatory dialing period, or until such time as the prefix is assigned in the 951 area code.

We also shall direct parties to submit comments on alternative measures that may be feasible to extend the period during which the special recording is played directing callers to dial the new area code. Parties shall also identify and discuss any technical, economic or regulatory constraints that may need to be resolved and proposed solutions for their resolution in order to implement the special recording for an indefinite period until the numbers subject to the area code change are assigned to a new customer. We shall address the issue in a subsequent order after receipt and review of comments.

VI. Continuation of Lottery Rationing

The prefix code lottery for the 909 area code currently continues in effect only for paging companies, since they are not currently subject to number pooling or porting requirements. In the interest of number conservation and preserving a supply of prefix codes, if needed, for paging carriers, we shall continue 909 area code rationing during the implementation phase of the 909/951 split. After the end of the mandatory dialing period, the need to continue a periodic lottery of prefix codes for the limited use of paging carriers will need to be reassessed. We delegate this task to the Director of TD.

VII. Number Pooling Requirements

As a condition of approving implementation of the 909/951 area code split, the existing 909 thousand-block number pooling shall continue in effect and apply to all numbers assigned in the 951 area code (except for paging companies) concurrent with its opening. All carriers other than paging shall be required to obtain 951 area code numbers in thousand-block increments through the number pool. Until paging carriers acquire pooling capability, they shall be permitted to obtain full 10,000-block prefix codes subject to meeting the applicable eligibility requirements as previously established by Commission decisions. As soon as

those carriers acquire pooling capability, they shall immediately be required to go through the number pool to meet any subsequent need for new numbers.

The existing thousand-block number pool for the 909 area code shall continue in operation after the split is implemented. Continued operation of the 909 number pool will help ensure that the positive efficiency gains that have been achieved in the 909 area code will continue after the split, and that the area code will not soon be facing another claim of early exhaust of its useful life. Pursuant to the FCC's awarding the national Pooling Administrator contract, NeuStar, Inc. will continue to act as Pooling Administrator both for the 909 and 951 area code number pools. Since federal number pooling has taken effect, the state-mandated 909/951 pools will operate pursuant to federal program rules.

VIII. Area Code Change for Customers of Wireless Carriers

In D.96-08-028, we adopted a policy permitting wireless carriers served by a tandem to retain their existing area code assignment even where wireline carriers serving the same geographic area are subject to an area code change. We adopted this grandfather provision to relieve the burden that would otherwise result whereby customers of wireless carriers would have to physically bring in their telephone equipment to be reprogrammed, or else reprogram it themselves. Customers of wireline carriers, by contrast, do not have to bring in their handsets to their serving carrier for reprogramming when they are subject to an area code change.

The policy of not requiring wireless carriers to change the area code of their customers' numbers assigned to rate centers subject to an area code change contributes to less efficient use of numbering resources. By carrying an area code that is not consistent with the geographic area in which it is located, the wireless customers' phone numbers effectively become stranded and cannot be reassigned

to wireline carriers through number pooling or other means. On April 17, 2003, D.03-04-056 was adopted, which implemented a program to phase out the grandfathering of area code assignments for wireless carriers. As noted in D.03-04-56, however, paging companies were excluded from the requirements regarding the reversal of grandfathering. Accordingly, we shall not require paging companies holding numbers in the 909 area code to change those numbers to the 951 area code. Any references to the requirements of wireless carriers in this order shall thus exclude paging companies unless otherwise indicated.

Consistent with the policy set forth in the D.03-04-056, all 909 area code numbers assigned to rate centers designated to change to the 951 area code, other than those assigned to paging companies shall be required to take the 951 area code. Wireless carriers, other than paging companies, will not be allowed to grandfather their 909 area code numbers in the new 951 area code.

IX. 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 _____.

X. Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner and Thomas R. Pulsifer is the assigned ALJ in this proceeding.

Findings of Fact

1. All reasonable steps have been taken to ensure efficient utilization of numbering resources in the 909 area code.

2. An area code relief plan needs to be adopted and initiated at this time due to the impending exhaustion of NXX codes in the 909 NPA, which the NANPA projects will occur in the fourth quarter of 2003.

3. It is in consumers' best interests that an independent staff verification of carrier-reported number utilization be made prior to our considering adopting a back-up plan for area code relief.

4. While the FCC declined to grant a statewide waiver of the 10% contamination rate for purposes of thousand-block donations, it did permit an increase the contamination level to 25% on a interim basis in the 310 and 909 area codes while the Commission implements area code relief in those areas.

5. The FCC concluded that the additional thousand-blocks made available by increasing the level of contamination from 10% to 25% will extend the life of the 909 area code by an additional one month.

6. The Area Code Relief Coordinator convened a series of meetings with the telecommunications industry planning team in May 2002 to develop updated relief alternatives for the 909 NPA, which were narrowed to two alternative options: (1) an all-services overlay; and (2) a two-way geographic split.

7. An additional series of public and local jurisdiction meetings were held by the Commission in July 2003 to present and gather input on the proposed updated 909 area code relief plan alternatives.

8. Geographic Split Alternative #1 is preferable to other geographic split options because it best preserves communities of common interest within the same area code, and minimizes the number of new area codes.

9. The Commission has stated in D.96-08-028 that before an overlay could be approved, there must be reasonable assurance that permanent LNP would be fully implemented before the overlay became operational.

10. Without permanent LNP, an overlay in the 909 NPA would not be competitively neutral.

11. In order to approve an overlay for the 909 NPA, permanent LNP must be in place by the date the overlay would take effect.

12. Absent the availability of LNP, customers subject to an overlay might have to change area code merely as a result of changing service providers, placing CLCs at a competitive disadvantage.

13. Pub. Util. Code Section 7931's requirement for a permissive and mandatory dialing period only applies where existing area codes are changed as part of a relief plan to acquaint customers with the area code change.

14. 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 prefixes in the old area code.

15. 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.

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

17. 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.

18. The results of the consumer preference poll reviewed in D.96-12-086 must be evaluated in light of the increasing hardship of cumulative changes in area

code, and the difficulty in fairly devising successive splits of the same NPA over time.

19. As the 909 NPA faces further shrinkage in the current proposal for code relief, the drawing of boundaries that minimize the splitting of local communities becomes increasingly difficult.

20. An overlay avoids the contentiousness of drawing new NPA boundaries by leaving existing boundaries intact, and avoids the need for existing customers to change their existing telephone number area code.

21. Over the long-term, overlays tend to divide communities inasmuch as communities will not be identifiable by a single area code. Over the long term, this effect may be more pronounced than the community rifts that are introduced by area code splits.

22. 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.

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

24. A business may consider an assignment of the overlay NPA less desirable than the original NPA, since customers may perceive the business with the new NPA to be newer or less established than the neighboring business that retains the more recognized original NPA.

25. With an overlay, customers will experience the loss of seven-digit dialing for calls within the same NPA.

26. In the consumer preference surveys reviewed in D.96-12-086, customers placed significant value on the ability to dial only seven digits for calls within the NPA.

27. Although customers in the 909 NPA may already be accustomed to dialing 1+10 digits for a 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.

28. With the overlay, customers with multiple lines at the same location seeking to add additional lines may only be able obtain the additional lines under the new area code, resulting in two area codes at the same location.

29. While both the overlay and geographic split have certain adverse impacts, a geographic split overlay will have less overall adverse impacts than the alternative proposed for the 909 NPA.

30. Since paging carriers cannot currently participate in thousand-block number pooling, the enhanced number utilization efficiencies being realized by number pooling participants does not currently apply to paging carriers.

Conclusions of Law

1. All reasonable efforts have been pursued to maximize the life of the 909 area code before proceeding with implementation of a new area code.

2. A plan for a new area code in the 909 area should begin implementation immediately in view of the impending exhaustion of numbering resources.

3. The adopted relief plan should be the alternative which best satisfies the criteria applied by the industry team in their selection of relief alternatives, namely:

- a. Minimize end users' confusion.
- b. Balance the cost of implementation for all affected parties.

- c. Provide that customers who undergo number changes shall not be required to change again for a period of eight to 10 years.
- d. Not favor a particular interest group.
- e. Cover a period of at least five years beyond the predicted date of exhaustion.
- f. Provide that all of the codes in a given area shall exhaust about the same time in the case of splits. In practice, this may not be possible, but severe imbalances, for example, a difference in NPA lifetimes of more than 15 years, should be avoided.
- g. Comply with state and federal statutes, rulings and orders.

4. In order to qualify for approval, an overlay plan must meet the minimum criteria established by this Commission and by the FCC for competitive neutrality at the date by which the overlay would take effect.

5. Given the uncertainties associated with design of an effective customer education plan, coupled with past customer survey preferences favoring splits, a geographic split is preferable to an overlay for the 909 area code.

6. The adoption of the proposed Alternative #1 geographic split for the 909 NPA best satisfies the prescribed criteria for competitive neutrality, and provides the best overall solution based upon the relief planning criteria applied by the industry team.

7. The proposed Alternative #1 plan should be approved in accordance with the terms and conditions adopted in the order below.

8. As a condition of approving the 909/951 area code split, the existing 909 thousand-block number pooling should continue to apply to all numbers assigned in the 951 area code (except for paging companies) concurrently with its opening.

9. Paging companies holding numbers in the 909 area code should not be required to change those numbers to the 951 area code because in D.03-04-056, paging companies were excluded from the provisions regarding reversal of grandfathering.

O R D E R

IT IS ORDERED that:

1. The proposed geographic split for the 909 Numbering Plan Area (NPA), identified as Alternative #1, as presented by the North American Numbering Plan Administrator (NANPA) is hereby approved. The geographic boundaries and rate centers to be assigned to the new area codes are as designated in Appendix A.

2. The NANPA and the telephone corporations, including paging companies and resellers, are hereby ordered to proceed with all due diligence to expeditiously implement the approved 909 area code relief plan, to take effect under the following schedule:

Event:	Dates:
Start of Permissive Dialing	July 17, 2004
Start of Mandatory Dialing and Recorded Announcement	October 30, 2004
First Code Activation Using New Area Code	February 27, 2005

3. The NANPA shall promptly notify the carriers in the 909 area code regarding the new 951 area code to be assigned. The notice shall set forth the above-adopted schedule, and shall specify the areas covered by the old and new area codes.

4. Each telephone corporation, excluding paging companies, serving the geographic area covered by the existing 909 NPA shall give written notice to its affected customers of the adopted 909 area code relief plan without delay and no later than 90 days from the effective date of this order. The notice shall set forth the schedule for permissive and mandatory dialing periods as associated with the geographic split portion of the adopted relief plan.

5. The NANPA shall provide nationwide notification of the adopted 909 NPA relief plan no later than 30 days from the effective date of this order.

6. The Telecommunications Division and Consumer Services Division, in cooperation with the Public Advisor, shall monitor the customer notification process concerning the 909/951 area code split and shall advise the assigned Commissioner in the event that further customer outreach efforts need to be implemented. To the extent that such additional customer outreach efforts are found to be warranted, affected carriers shall be notified and directed to implement such outreach measures.

7. The existing 909 area code thousand-block number pooling shall continue in effect and apply to all numbers assigned in the 951 area code (except for paging companies) concurrent with the opening of the new area code, with NeuStar, Inc. serving as Pooling Administrator.

8. Carriers are directed, to the extent possible, to continue playing the special recorded message instructing the caller to dial the new 951 area code for one year following the end of the mandatory dialing period, or until such time as the prefix is assigned in the 951 area code.

9. Parties are directed to submit comments on alternative measures that may be feasible to extend the period during which the special recording is played directing callers to dial the new area code. Parties shall identify and discuss any

technical, economic or regulatory constraints to be resolved and proposed solutions in order to continue the special recording played during the mandatory dialing period for an indefinite period until the numbers subject to the area code change are assigned to a new customer. Opening comments shall be due 20 business days from the effective date of this order. Reply comments shall be due 10 business days thereafter.

10. All 909 area code numbers assigned to rate centers designated to change to the new area code shall be required to use the new area code in accordance with D.03-04-056. No grandfathering of 909 numbers in the 951 area code shall be permitted.

11. In accordance with industry numbering guidelines, the following industry-standard prefixes shall be duplicated (i.e., set aside for the same special use for which they are used in 909) in the new area code: the N11 prefixes (211, 311, etc.), 555, 700, 950, 958, 959, and 976. Additionally, the following non-standard special-use prefixes shall be duplicated in the new area code until such time as the Commission formally addresses the possibility of consolidating or eliminating them throughout the state: 853 (time) and 520 (high-volume call-in).

12. The Director of TD is hereby delegated the task of reviewing the current lottery allotment and readjusting the allotment of prefix codes for the 909 area code between the lottery and the number pool as appropriate.

This order is effective today

Dated _____, at San Francisco, California.

NPA 909 Rate Center Map



Alternative #1 NPA Split



NPA 909 Map Legend

-  NPA Boundaries
 Rate Center Boundaries
 Split Line

ALTERNATIVE #1	PROJECTED LIVES
Area "A"	7 Years
Area "B"	12 Years

Produced by CDS Business Mapping 03/27/2002