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Decision 03-10-060 October 16, 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)

O P I N I O N

I. Summary

Adequate telephone numbers still are available in the 310 area code to provide customers and telephone carriers with sufficient service. It is not necessary at this time to split the 310 area code by implementing the back-up area code split plan adopted in Decision (D.) 00-09-073. Instead, the Commission should closely monitor the additional need for telephone numbers in the 310 area code during the next six months to assure adequate telephone number supplies. The wireless local number portability requirement scheduled to take effect on November 24, 2003, would free up significant quantities of unused telephone numbers in the 909 area code. Prior to imposing the burden of an area code split on businesses and families in the 310 area code, the Commission should evaluate the success of wireless industry compliance with local number portability requirements this November.

II. Background

The traditional system for assigning numbers was a legacy from an era in which one incumbent telephone company provided all customers with local service in a given area code. Under the traditional system, a carrier wishing to serve only a few customers in an area was allocated telephone numbers in blocks of 10,000 for each rate center in that area. That system worked reasonably well as long as only one incumbent local exchange carrier required telephone numbers. Yet, with the opening of the local exchange market to competition, together with the growth in the competitive market for wireless and advanced technological telecommunications services, the traditional number assignment system could no longer keep up with the growing demand for numbers from multiple carriers serving the same customer base. The traditional system did not lend itself to efficient distribution of numbers in a competitive market where numbers are assigned to multiple carriers to serve customers in each rate center.

From 1947 to January 1997, the number of area codes in California increased gradually from 3 to 13. During the next three years, however, the number of area codes in California nearly doubled. By the end of 1999, California had 25 area codes statewide, and because of inefficient management of telephone numbers, the industry projected we would need 17 more area codes by the end of 2002. Today, because of aggressive and successful conservation efforts in California, we have not split a single area code since 1999.

The FCC has exclusive jurisdiction over numbering in the United States. Only by the FCC's delegation of authority to the states can the states implement number conservation policies. Recognizing the substantial social and economic burdens associated with constant area code changes, in April 1999 the Commission petitioned the FCC for the delegated authority to implement

specific telephone number conservation measures in California in order to slow down unnecessary area code proliferation. The FCC granted the Commission's request in September 1999.[1] As a condition of that delegated authority, the FCC has required that the Commission must take steps to provide additional telephone numbers through an area code split or overlay if telephone numbers are in imminent danger of being exhausted.

A. History of Procedural Actions Taken to Split the 310 Area Code

The 310 Area Code, or Numbering Plan Area (NPA)[2] was created in 1992 to create more numbers in the geographic area previously covered by the 213 area code. The 310 area code was subsequently split in January 1997, forming a separate 562 area code, again to provide additional phone numbers based on industry projections of future demand. On February 18, 1998, industry representatives submitted to the Commission yet another proposal for splitting the 310 area code, again claiming telephone number exhaust[3].

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[1] 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).

[2] Area codes are assigned nationally for designated local "Numbering Plan Areas" (NPAs) by the North American Numbering Plan Administrator (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 (NXX) code, and a four-digit individual line number. Each NXX code, also known as a prefix, represents a 10,000-number block of telephone numbers.

[3] Number exhaust is another term for running out of telephone numbers in a given area code, which precipitates the need for an area code split or overlay.

The industry first began customer notification of the impending exhaustion of numbers in the 310 area code in May 1997 in accordance with the 24-month customer notification required by Pub. Util. Code § 7930(a). A local jurisdiction meeting for city and county government representatives was held on August 27, 1997, to provide local jurisdictions with information concerning split and overlay options for the 310 area code.

Public meetings were required to occur within six months of the May 1997 customer notification, i.e., by November of 1997. Telecommunications carriers held four public meetings, one more than required under Pub. Util. Code § 7930 at the request of the Commission staff to insure adequate coverage of the geographic area served by the existing 310 area code.

On May 7, 1998, the Commission issued D.98-05-021, approving the creation of additional numbers by calling for the implementation of the first area code overlay ever used within California. In conformance with federal rules, the overlay plan also required the implementation of mandatory 1+10-digit dialing within the 310 area code and the newly created 424 area code.

On June 9, 1999, shortly after implementation of mandatory 1+10-digit dialing, Assemblyman Wally Knox, with other parties, petitioned to modify D.98-05-021, seeking to halt the opening of the overlay scheduled to occur on July 17, 1999, and to end mandatory 1+10-digit dialing. In D.99-06-091, issued on June 24, 1999, the Commission temporarily suspended mandatory 1+10-digit dialing in order to provide time to address the full merits of the Petition. In D.99-09-067, the Commission granted the Knox Petition, suspending the 310 area code overlay plan, eliminating mandatory 1+10-digit dialing, and instituting a program of telephone number conservation measures to extend the life of the 310 area code.

On August 2, 2000, the Cellular Carriers Association of California (CCAC) filed a motion asking the Commission to immediately create new numbers in the 310 area code.[4] CCAC argued that in view of wireless carriers' forecasted need for triple the number of remaining 10,000-number blocks at that time, there was an unavoidable need for immediately creating a new area code.

In September 2000, in D.00-09-073, we took a preliminary step toward splitting the 310 area code and establishing a new 424 area code, by adopting a plan for a geographic split of the 310 area code should it become necessary as required under Federal Communications Commission (FCC) rules. The split plan adopted in D.00-09-073 provided for implementation of Alternative 1A, the geographic split plan previously proposed by the industry planning group as originally described in D.98-05-021. Under the adopted plan, the northern portion, including the majority of Inglewood, and all of Culver City, Marina Del Rey, Mar Vista, Santa Monica, Beverly Hills, West Los Angeles, Malibu and a small portion of the City of Hawthorne and Ventura County shall retain the 310 area code. The southern portion of the current 310 area code, including El Segundo, Hawthorne, Compton, Redondo, Lomita, and San Pedro shall be split off to form a new 424 area code.[5] The boundary lines and rate centers covered by the new area code are depicted in Appendix A of this order.

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[4] CCAC also filed a separate motion to file certain information contained in its pleading under seal, stating that such information was highly confidential and proprietary in nature. No party opposed the motion to file under seal. We grant the motion to file proprietary information under seal.

[5] Although there was no statutory requirement to conduct additional public meetings, the Commission did subsequently hold additional public meetings during 2001, to provide updated public input regarding the 310 area code geographic split plan in view of the passage of time since the original public meetings in 1997. Public meetings were

Footnote continued on next page

We recognized that any area code change will entail some level of disruption, particularly to those customers that are required to take the new area code. Alternative 1A was approved by the Commission, because it scored more highly in satisfying all of the designated criteria than any of the alternatives.[6]

On September 29, 2000, Senate Bill 1741 (Bowen) amended Pub. Util. Code § 7930. This bill provided specific direction to the Commission regarding creation of new area codes. Among other things, this section prohibits the Commission from approving new area code splits or overlays unless a telephone utilization study has been performed and all reasonable telephone number conservation has been implemented.

On December 19, 2002, CCAC sent a letter requesting that the Commission adopt and implement all-services overlays in both the 310 and 909 area codes. In its letter, CCAC reiterated its August 2002 claim that the 310 area code faces immediate need of area code relief. CCAC sent a second letter with the same request on February 6, 2003.

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held in the cities of Carson and Redondo Beach on April 23, 2001, and in Culver City on April 24, 2001.

[6] The designated criteria included factors such as the estimated life of the new area code to be created (i.e., dividing an existing area code in a way that creates two area codes that will last the longest possible time), maintaining communities of interest to the extent possible, and preserving municipal boundaries.

B. California's Innovative Number Conservation Measures Have Extended the Life of the 310 Area Code

Working with the North American Numbering Plan Administrator (known as NANPA),[7] the Commission immediately took steps to implement its delegated authority to conserve telephone numbers in 2000. Beginning in March 2000, the Commission adopted various number reporting and conservation measures which collectively have slowed significantly the pace of area code splits in California.

In exercising its delegated authority from the FCC, the Commission has found that industry claims of impending telephone number exhaustion were based merely upon carriers' forecasts of future telephone number usage within each area code, not their respective historical or actual use of telephone numbers. In essence, marketing predictions, not actual number use, formed the basis of each carrier's forecast number requirements – and the national numbering policy. No independent analysis had been provided, however, concerning the reliability of such forecasts or carriers' actual utilization of telephone numbers. Accordingly, in D.99-09-067, the Commission ordered the staff to undertake a study of telephone number use in the 310 area code to ascertain how efficiently carriers were actually using the 10,000-number blocks already assigned to them. The Commission stated that a full accounting of telephone numbers actually in use in the 310 area code would be required before setting any further date for the opening of a new area code.

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[7] NANPA is an independent third-party administrator responsible for managing the nation's supply of telephone numbers under policies and guidelines established by the individual states and the FCC. NeuStar, Inc. performs this service.

First, California now considers new area codes based on actual need for new numbers, not carriers' unaudited forecast demand. Beginning in March 2000, the Commission initiated the first-ever utilization study of actual number use in California, in the 310 area code – where we found three million unused telephone numbers in an area code that was allegedly entirely 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 actually contained between 40-80% of the available numbers classified by the carriers as unused.

Second, under our delegated authority, new telephone numbers are allocated to carriers more efficiently. By far the most effective number conservation tool is number pooling. Number pooling allows telephone companies to receive numbers in smaller blocks than the traditional 10,000 numbers, enabling multiple providers to share a 10,000-number block and therefore use this limited resource much more efficiently. In March 2000, California began the state's first number "pool", in the 310 area code. Today, every area code in California has implemented number pooling, operated by a neutral third-party Pooling Administrator.[8] Through distribution of numbers in smaller blocks of 1,000, we can better match the numbering needs of new, smaller companies without stranding the remaining numbers in the 10,000-number block.

[8] NeuStar, Inc. is the Pooling Administrator for all area code number pools in the United States.

The technology that enables the network to support the assignment of smaller blocks is referred to as Local Number Portability, or LNP. LNP was originally mandated in 1996 by the FCC as a means to enable customers to retain their telephone numbers when they switch telephone service to another local telephone company. This same technology is utilized for number pooling. The FCC required all wireline[9] carriers to become LNP-capable by the end of 1998 in the top 100 Metropolitan Statistical Areas (MSAs) in the country.[10] 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 the wireline carriers became LNP-capable by 1998, the FCC has subsequently granted cellular and PCS companies three separate extensions of time, until November 2003, to become LNP-capable.[11] 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; wireless carriers received numbers in 10,000-number blocks through a Commission-administered monthly rationing system, or "lottery", and through emergency requests to the

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[9] Incumbent and competitive local exchange carriers providing traditional "land-line" service.

[10] FCC's Opinion and Order on Telephone Number Portability FCC 97-74, issued March 6, 1997.

[11] On September 1, 1998 the FCC's Wireless Telecommunications Bureau, under the authority delegated to it by the FCC, granted a nine-month extension to March 31, 2000; On February 8, 1999, the FCC granted an additional extension to November 24, 2002; and on July 26, 2002, the FCC granted a final extension, to the current deadline of November 24, 2003.

Commission. Now, although wireless carriers have not yet made local number portability available to their customers, they have implemented enough of the technology to enable their participation in number pooling beginning in November 2002. Currently, therefore, both wireline and wireless carriers in California receive numbers through the state's number pools. Only paging companies, which are still exempt from LNP requirements, now receive numbers through the monthly lottery system.

Third, in addition to more efficiently managing number distribution, California is also requiring companies to more efficiently manage the numbers they already have. These new requirements include requiring companies to return any 10,000-number block that the telephone company has held for more than six months without using it; requiring telephone companies to show they will be out of telephone numbers within six months before a carrier's request for additional numbers can be granted; and requiring telephone companies to show they have used at least 75% of the numbers they hold before they can request additional numbers (known as the "fill rate requirement"). Companies must assign numbers in thousand-block sequence (called "sequential numbering"), moving to the next thousand-block only after using 75% of their numbers.

Fourth, as an additional measure to extend the life of the 310 area code, the Commission filed a petition with the FCC on September 5, 2002,[12] seeking a waiver from the FCC's "contamination" or number use, threshold requirement. Specifically, the Commission requested that the FCC grant California the

[12] 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.

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 increase level of allowable contamination or usage rates for poolable 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. The Commission directed carriers to comply with the new contamination rate in the 310 and 909 area codes by ruling date August 21, 2003.

The wireless carriers note in their comments the conclusions of a report provided by a North American Numbering Council ("NANC") working group that reviewed the California 25% contamination petition. Although this report contained two separate sets of recommendations, the wireless carriers have articulated only the section that reflects the industry's view. They rely on the section of the working group report that concluded that the costs of implementing the 25% contamination threshold would outweigh the benefits. This analysis of the benefits assumes that as each rate center in each area code runs out of blocks, the first rate center to exhaust means the area code is exhausted. It did not assume that the pool could be replenished with new 10,000-number blocks. We note that this working group report contained a second sets of analysis and conclusions, put forth by California, that examined

every rate center in every area code in California and projected its life based on using up all existing available 10,000-number blocks in the area code. This analysis shows many area codes lasting years longer with a 25% contamination threshold.

These policies have resulted in more numbers being made available for number pooling, to be allocated through the monthly lottery for each area code, or to be otherwise used by other companies. Indeed, since the CPUC extended the 75% use requirement in all California area codes, the demand for 10,000-number blocks in each area code's monthly lottery has declined.

C. Utilization Study and Audit of 310 Telephone Numbers

On March 16, 2000, the Commission's Telecommunications Division (TD) issued its "Report on the 310 NPA" (Report) presenting findings on how efficiently telephone numbers remaining in the 310 area code were actually being utilized by carriers, in compliance with the directive of D.99-09-067. Parties were permitted to file responses to the Report. As reported by TD, approximately three million unused numbers existed in the 310 area code as of November 1999. The TD Report provided corroboration of our earlier caution in questioning whether prior carrier claims of number exhaustion were supportable. The number conservation measures that we have adopted, including requirements in D.99-11-027 for carriers to return unused codes, fill rate and sequential numbering rules in D.00-03-054, and thousand block number pooling for local number portability-capable carriers, help insure that the unused numbers in the 310 area code identified in the TD Report are allocated as efficiently as possible.

The TD Report also recognized that, even considering the large quantity of unused numbers in 310, there are various constraints on the ability of

carriers to make use of these unassigned numbers in meeting current customer service needs. For example, under FCC rules, a certain quantity of unused numbers must remain reserved for carriers' inventory needs. Also, in certain cases, carriers may need numbers in a particular rate center.[13] Even if there are unused numbers in other rate centers, a carrier may be unable to use those numbers to serve customers in a rate center where there is a shortage of 10,000-number blocks.[14] Of the three million unused numbers as of March 16, 2000, 466,000 were identified in the Staff Report as belonging to wireless carriers.

While we approved Alternative 1A as the designated back-up plan in D.00-09-073, we deferred its implementation pending independent confirmation that carrier-reported utilization data underlying telephone number exhaust forecasts for the 310 area code were accurate and reliable. Considerable effort went into preparing the TD Report on number utilization in the 310 area code, but the results of the Report reflected only the representations of carriers. In order to rely on the findings underlying the TD Report, therefore, we required independent confirmation that representations made by carriers were valid and that properly conformed with the state and federal rules adopted for reporting purposes. Thus, we ordered TD staff to conduct an independent audit of the

[13] 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. Each 10,000-number block of telephone numbers is assigned to a particular rate center.

[14] In the case of wireless carriers, however, is technically possible to use numbers from an adjacent rate center to provide customers with numbers even if there is a shortage of 10,000-number blocks in the desired rate center.

number utilization data underlying the TD Report on the 310 area code. The audit report findings were released on February 16, 2001.

Based on the published audit findings, TD reached three overall conclusions. First, carriers did not deliberately misreport telephone number utilization data for the March 2000 Report on the 310 area code. Second, the audit authenticates the utilization data that carriers submitted for the March Report, except for certain recommended adjustments as noted in the audit report. Third, the additional telephone number adjustments noted in the audit report are relatively small compared to the twelve 10,000-number blocks available for assignment as of the date of the audit report and the codes set aside for number pooling.

Since the publishing of the Audit Report, additional codes have been assigned through the lottery. Moreover, additional codes have been opened to provide inventory for the 310 area code number pool, and since the pool's inception carriers have donated or returned over three hundred 1,000-number blocks to the 310 area code pool. The TD audit report indicates that number pooling has been overwhelmingly successful in meeting the needs of pooling participants through better utilization of each area code's existing telephone numbers.

III. Discussion

In D.99-09-067, we stated that the public interest demanded an accounting of what numbers are actually in use before we set a date to split the 310 area code. Now, with that accounting completed, we have undertaken a rigorous scrutiny of existing number utilization, and instituted the numerous telephone number conservation measures discussed above to ensure more efficient utilization of telephone numbers. These actions have spared customers

the risk and inconvenience of being prematurely forced to undergo an area code change.

We remain cognizant of our obligation to provide for adequate telephone numbers in each area code so that the public may have a competitive choice in selecting a local carrier. At the same time, we are acutely aware of our responsibility to California consumers to ensure that California's telephone number inventory is efficiently managed to the extent we can under FCC rules, and to implement all possible number conservation measures before imposing the burden of an area code split or overlay on consumers. Toward that end, we believe it is important to carefully scrutinize carriers' claims of impending number exhaust, and to analyze the remaining numbers in the 310 area code in the context of the rate that carriers are withdrawing those numbers from the number pool, and our options for managing those remaining numbers.

A. Forecast versus Actual Demand for Telephone Numbers

The decision of whether or not to split or overlay an existing area code is based on analysis of whether adequate telephone numbers exist to meet the projected demand. Currently, five unassigned 10,000-number blocks remain available in the 310 area code for allotment through the semi-monthly lottery process, and three 10,000-number blocks remain available as a set-aside for replenishing the 310 area code number pool. In other words, there are 8 whole prefixes, or 80 one-thousand number blocks available in 310. In addition, there are almost 400 unused one-thousand number blocks already assigned to various rate centers and currently available to be used by carriers within the 310 number pool, and over 2.4 million unused numbers in telephone companies' inventories.

Efficient management of the remaining 310 telephone numbers will be critical going forward. As the ALJ noted in a March 30, 2001 ruling, the experience with the 310 number pool indicates that some of the 10,000-number blocks previously reserved for pooling were able to be reassigned to extend the monthly lottery without jeopardizing carriers' access to numbers through the pool. Reallocating the remaining unused 10,000-number blocks between the pool and the lottery gives us additional flexibility to extend the life of the 310 area code.

A group of joint commenters[15] responded to the ALJ ruling, opposing the idea of transferring 10,000-number blocks from the pool into the lottery, arguing that any reduction in the 310 number pool inventory below its current level at that time would be inconsistent with FCC rules that require a six-month inventory of numbers in the pooling inventory. The joint commenters pointed to the 310 Pooling Administrator's inventory data account indicating that only approximately six months of inventory remained in the pool. The joint commenters therefore claimed that there are no excess codes in the number pool that were available to be transferred to the lottery in order to extend the life of the lottery.

We disagree with the claim that transferring 10,000-number blocks from the pool to the lottery violates FCC rules. Commenters' claim is based on the premise that the 10,000-number blocks remaining in the inventory will last no longer than six-months. Yet, comparisons of actual demand for thousand blocks

[15] The comments were jointly sponsored by the California Cable Television Association, AT&T Communications of California, ICG Telecomm Group, XO California, Inc, Time Warner Telecom of California, L.P., and WorldCom, Inc. (Joint commenters).

versus forecasted demand since the inception of the 310 number pool indicate that carriers have consistently overestimated their actual demand for number blocks by several orders of magnitude. For example, for the year 2000, carriers forecasted 883 thousand-number blocks would be needed to meet demand. In reality, however, only 161 thousand-number blocks were actually used by carriers participating in the 310 area code number pool, representing less than 20% of forecast demand. Likewise, in 2001, carriers forecasted that 581 thousand-number blocks would be required from the 310 area code number pool to meet demand. By contrast, only 20 blocks were actually assigned during the same period. Thus, only 3.4% of the forecast block demand was actually needed during 2001. For 2002, carriers forecast a need for 626 blocks, but actually took only 227 blocks. The relative increase in carrier "withdrawals" from the number pool in 2002 over 2001 was due to the effects of wireless carriers entering the number pool, and leaving the lottery system from which they had previously obtained numbers.

For the time period August 2002 through March 2003, carriers requested and were assigned 1,000-number blocks from the 310 number pool at an average rate of 35 blocks per month. This average reflects a significant jump in thousand-block codes from the number pool in November and December 2002. We believe that this short-term increase in carrier requests for telephone numbers from the 310 number pool in November correlates with the wireless carriers' entry into the 310 number pool in November 2002. Beginning in November 2002, the 310 number pool was the only way for wireless carriers to acquire new telephone numbers or to build up their respective six-month inventories in the 310 area code, and as a result, carrier draws from the pool spiked accordingly. As the NANPA data indicates, this November/December

spike significantly skews the average amount of numbers taken from the pool. Without the influence of the November / December spike, the carriers' average monthly draw from the 310 number pool was less than ten 1,000-number blocks.

Month	Thousand-block codes assigned from 310 number pool
August	2
September	3
October	4
November	188
December	46
January	8
February	11
March	21

We believe it is unreasonable to base our forecast of future assignments from the 310 number pool using the November / December 2002 data. The significant draw on the 310 pool resources was precipitated by the wireless carriers' joining the pool for the first time in November 2002. It is more prudent to base our estimate on the average draw from the pool excluding those months, or approximately 10 thousand-blocks per month. Considering the 500 thousand-blocks currently in the pool, and the 80 additional thousand-blocks that could be added to the pool, a draw of 10 thousand-number blocks per month leads us to conclude that adequate unassigned telephone numbers remain in the 310 area code to meet carrier and customer needs, and that splitting the 310 area code is not warranted at this time. In their comments to the draft alternate decision, the Joint Wireless Carriers and Verizon Wireless argue that this analysis underestimates demand for telephone numbers because it ignores the "pent-up demand" of the wireless carriers in November and December 2002, and represents a time frame during which wireline demand is relatively low (Joint Wireless Carriers at p. 9, Verizon Wireless at p. 10). Verizon Wireless notes that this pent-up demand was "created by the stringent rationing of the 310 NPA for years." We disagree. As we have noted above, the "pent-up demand" that

drove the relatively high demand for telephone numbers out of the 310 number pool in November and December 2002 was driven by the wireless carriers' entry for the first time into the number pool. We believe that the demand was not, in fact, "pent-up…by the stringent rationing of the 310 NPA for years;" rather, the large spike in demand was in fact a product of the wireless industry's own recalcitrance to participating in the number pool until three years after it was established. We direct our TD staff to monitor carefully the remaining telephone numbers in the 310 area code. We will reconsider this conclusion if the draw from the number pool increases significantly from our forecast discussed above.

In view of the consistent pattern of carriers' significant overforecasting of demand for thousand blocks, carriers' forecasts of blocks required to meet six-month inventory needs are also likely to be overstated.

We conclude that flexibility exists to reallocate unused 10,000-number blocks between the pool inventory and the lottery allotments as deemed necessary to best provide for carriers' number resource needs. We direct TD staff to continue to monitor the remaining telephone numbers in both the number pool and the lottery, and to make any necessary reallocations in order to provide carriers with necessary telephone numbers.

B. Pending FCC Actions Could Extend the Life of the 310 Area Code

We expect two other measures to help increase the effectiveness of California's area code number pools and prolong the life of the existing 310 area code. First, we believe that the wireless carriers' implementation of local number portability technology will be another important number conservation tool for the 310 area code, as well as for California's other area codes. Using LNP technology, consumers can "port", or carry with them their existing phone

numbers when they switch telephone providers. As discussed above, while wireline local telephone companies have already deployed this technology, the FCC has granted wireless carriers repeated exemptions. Finally, under current FCC rules, wireless carriers must implement LNP technology by November 24, 2003.

We believe that wireless local number portability will help to decrease the demand for new telephone numbers in the 310 and other area codes, as customers exercise the option to keep their existing telephone number(s) if they switch carriers. Currently, any wireless customer who wishes to switch to a different wireless carrier must weigh the benefits of that switch against the time, cost and inconvenience of accepting a new seven-digit telephone number from the new carrier. Once wireless LNP is implemented this fall, consumers will have the option to keep, or port, their telephone number(s) from wireless carrier to wireless carrier, or between wireless and land-line carriers. This new option will impose fewer burdens on consumers, and will help to minimize the demand by carriers to assign new telephone numbers.

Wireless LNP could also expand the industry's participation in other number conservation measures that would allow carriers to receive numbers in even smaller "blocks" from an area code number pool, such as individual telephone number pooling (ITN) and unassigned number porting (UNP). Both of these measures require use of full LNP capability, and their effectiveness is limited until the wireless industry deploys the necessary supporting technology, LNP. We intend to work with the FCC to pursue these further conservation measures after the wireless industry achieves this milestone later this year.

Second, the Commission filed on October 7, 2003 a petition for FCC authorization to implement a technology-specific overlay. We believe this option

should be more fully explored as a means of prolonging the life of the 310 are code before taking action to impose a split or overlay on it businesses and families.

All of these considerations and further options for additional number conservation lead us to conclude that it is premature to order implementation of the 310 split plan.

C. Continued Requirements for Effective Number Conservation

In its August 2, 2000 motion, CCAC requests that the Commission discontinue rationing of 10,000-number blocks. At the time that the CCAC motion was filed, wireless carriers were still participating in the lottery and were not subject to number pooling. Since that time, wireless carriers (except for paging companies) have begun to participate in the 310 area code number pool, and thus no longer obtain telephone numbers through the 310 lottery. Thus, the request of CCAC to discontinue lottery rationing is moot to the extent its focus is on the telephone number requirements of non-paging wireless carriers.

The 10,000-number block lottery for the 310 area code currently continues in effect only for paging companies because they are not currently subject to number pooling or porting requirements. We note, however, that since non-paging wireless carriers have become the sole participants in the 310 area code number pool, no requests for 10,000-number blocks through the 310 area code lottery have been received. During this period, paging carriers have been able to meet their demand for numbers in the 310 area code without drawing additional codes from the 310 lottery. Nonetheless, in the interests of number conservation and preserving a supply of 10,000-number blocks, if needed, for

paging carriers, we decline to discontinue 10,000-number block rationing in the 310 area code.

The existing thousand-block number pool for the 310 area code shall continue in operation. Continued operation of the 310 area code number pool will help assure that the positive efficiency gains that have been achieved in the 310 area code will continue. Pursuant to the FCC's awarding the national pooling contract, NeuStar, Inc. will continue to act as Pooling Administrator for the 310 area code number pool. Now that federal number pooling has taken effect, the state-mandated 310 pool will operate pursuant to federal program rules.

As noted above, we ordered an independent staff audit to be conducted of number reporting of carriers in the 310 area code prior to implementing a schedule for the geographic split to proceed. We ordered the independent audit because otherwise, we had no independent verification of the representations made by carriers concerning number resource utilization. We note that a similar concern exists not just with the 310 area code, but is generic to all of the California area codes for which area code split plans are under consideration. Therefore, in recognition of this generic concern, 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 an area code split or overlay.

IV. Comments on Draft Decision

The alternate draft decision of Commissioner Lynch 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 May 27, 2003 by the Joint Wireless Carriers,[16] Verizon Wireless, and jointly by Pacific Bell and Verizon CA. No reply comments were filed. The comments of the Joint Wireless Carriers and Verizon Wireless generally contest what they characterize as the "wait and see" approach of the draft alternate, and urge the Commission to implement an all-services overlay or the split as described in the ALJ's draft decision. We have reviewed these comments carefully and modified the decision as noted in the body of this decision.

V. Assignment of Proceeding

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

Findings of Fact

1. The Commission has undertaken reasonable audit and conservation measures to assure that telephone numbers in the 310 area code are being utilized as efficiently as possible.

2. In D.00-09-073, the Commission previously approved Alternative #1A, a geographic split, as the designated back-up plan to be implemented for creating additional number in the 310 area code.

3. The Commission has a responsibility to California consumers to efficiently manage California's telephone numbers, and to implement all possible number conservation measures before imposing the burden of an area code split or overlay on consumers.

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[16] The Joint Wireless Carriers include AT&T Wireless of California, Cingular Wireless, Sprint PCS, Nextel California, and T-Mobile.

4. In view of the consistent pattern of carriers' significant overforecasting of demand for thousand blocks, carriers' forecasts of blocks required to meet six-month inventory needs are also likely to be overstated.

5. There exist 8 whole prefixes, or 80 one-thousand number blocks available in the 310 area code.

6. There are almost 400 one-thousand number blocks already assigned to various rate centers and currently available to be used by carriers within the 310 number pool.

7. Beginning in November 2002, the 310 number pool was the only way for wireless carriers to acquire new telephone numbers or to build up their respective six-month inventories in the 310 area code.

8. Carrier draws from the 310 number pool spiked significantly in November and December 2002 after wireless companies joined the number pool and no longer received 10,000-number blocks of numbers through the monthly lottery.

9. Without the influence of the November and December 2002 spike, carriers' average monthly draw from the 310 number pool was less than 10 codes.

10. There are currently adequate telephone numbers for the 310 area code to meet carrier and customer needs.

11. An increased level of allowable contamination, or usage, rates for poolable thousand-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.

12. FCC rules require wireless carriers to implement LNP technology by November 2003.

13. Wireless local number portability will help to decrease the demand for new telephone numbers in the 310 and other area codes, as customers exercise the option to keep their existing telephone number(s) if they switch carriers.

14. Wireless LNP could also expand the industry's participation in other number conservation measures that would allow carriers to receive numbers in even smaller increments from an area code number pool.

15. It is in consumers' best interests that an independent staff verification of carrier-reported numbers be made prior to adoption of a back-up plan for that area code.

Conclusions of Law

1. The Commission's telephone number conservation policies and actions to date have spared customers the risk and inconvenience of being prematurely forced to undergo an area code change.

2. It is important to carefully scrutinize carriers' claims of impending number exhaust, and to analyze the remaining numbers in the 310 area code in the context of the rate that carriers are withdrawing those numbers from the number pool, and the Commission's options for managing those remaining numbers.

3. Flexibility exists to reallocate 10,000-number blocks between the pool inventory and the lottery allotment as deemed necessary to best provide for carriers' number resource needs.

4. The significant draw on the 310 number pool resources was precipitated by the wireless carriers' joining the pool for the first time in November 2002.

5. It is prudent to base our future estimates of carrier draws from the 310 number pool on an average that does not include the November and December 2002 data.

6. It is premature to implement the 310/424 area code split until the data indicates that demand exceeds supply of numbers, and until the effects of other number conservation measures such as the increased contamination threshold,

wireless local number portability, and a technology specific overlay, have been evaluated.

7. The wireless carriers' implementation of local number portability technology will be another important number conservation tool for the 310 area code, as well as California's other area codes.

8. The existing 310 area code number pool should continue pursuant to the federal number pooling program.

9. Lottery rationing of 10,000-number blocks in the 310 area code should continue.

O R D E R

IT IS ORDERED that:

1. It is not necessary at this time to implement the back-up area code split plan for the 310 area code adopted in Decision (D.) 00-09-073

2. The Director of TD is hereby delegated the task of reviewing the current lottery allotment and readjusting the allotment of 10,000 number blocks for the 310 area code between the lottery and the number pool as appropriate.

This order is effective today

Dated October 16, 2003, at San Francisco, California.

CARL W. WOOD
LORETTA M. LYNCH
SUSAN P. KENNEDY
Commissioners

I dissent.

/s/ MICHAEL R. PEEVEY

President

I dissent.

/s/ GEOFFREY F. BROWN
Commissioner