

Decision 08-10-038 October 16, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the North American Numbering Plan Administrator, on behalf of the California Telecommunications Industry for Relief of the 760 Numbering Plan Area.

Application 07-06-018
(Filed June 18, 2007)

**DECISION GRANTING PETITION FOR
MODIFICATION OF DECISION 08-04-058 AND
ORDERING AN OVERLAY FOR THE 760 AREA CODE**

Summary

This decision grants the Petition for Modification of Decision 08-04-058 and orders the an area code overlay to add a new area code, 442, to the same geographic region as the 760 area code under the terms set forth below.

Background

On April 24, 2008, this Commission issued Decision (D.) 08-04-058, which adopted a geographic split to address the projected third quarter 2009 exhaustion of the supply of available telephone numbers in the 760 area code.

On August 15, 2008, Assemblyman Martin Garrick and the Chambers of Commerce of Carlsbad, Encinitas, Escondido, San Marcos, Oceanside and Vista filed their Petition for Modification of D.08-04-058. The petition contends that the Commission's decision was the result of erroneous interpretation of public comment received and the absence of comment from significant portions of the affected public. Due to a claim of inequitable economic harm imposed on northern San Diego County businesses and residences, the petition asks the

Commission to modify the decision to adopt an area code overlay, rather than the area code split that had been adopted.

In a ruling dated August 22, 2008, the assigned Commissioner and Administrative Law Judge (ALJ) scheduled public participation hearings in Victorville and Carlsbad to take public comment on the Petition for Modification. The Victorville hearing was sparsely attended with most speakers supporting the April decision, which allowed them to retain the 760 area code. The burden of dialing 11 digits for all calls was the most cited reason for opposing the proposed overlay.

In contrast, more than 200 persons attended the Carlsbad hearing, with over 125 offering comment to the Commission. The overarching theme was that changing their area code would impose substantial costs on businesses for advertising, documents, products as well as lost customers when they are unable to reach the business, and that residential customers would suffer lost contacts from friends and family when the 760 area code would no longer be effective for their telephone numbers. Businesses, especially seasonal ones, explained that advertising is often placed many months in advance and that the Commission's ordered notice provisions provide for inadequate time to notify all existing customers and change advertising for prospective customers. Residential customers stated that relatives and friends with whom they have infrequent contact will assume that the customer has moved when the "no longer in service" message is received in response to a telephone call.

Written responses in support of the Petition for Modification were submitted by Verizon California Inc., Pacific Bell Telephone Company dba AT&T California, Verizon Wireless, Telscape Communications, Inc., Sprint Nextel Corporation, and Cox California Telecom LLC, dba Cox Communications. The

responses reiterated the major themes of the petition; namely, that an overlay is preferred because it would be less expensive for customers to implement and would allow all to retain their existing telephone number and area code.

Inyo County responded in opposition to the petition and recommended that the Commission let stand the April 2008 decision adopting a geographic split. Inyo County stated that the 10-digit dialing protocol required by an overlay would be burdensome and confusing for its elderly and rural population.

The petitioners filed a reply to the responses and concluded that the public overwhelmingly supported an overlay, and that the Commission should grant the Petition for Modification and adopt an overlay.

Discussion

Pursuant to Pub. Util. Code §§ 7936 and 7943(c), before approving any new area code, the Commission must obtain utilization data from the North American Numbering Plan Administrator for any area code for which an area code change is proposed and must “perform a telephone utilization study and implement all reasonable telephone number conservation measures.” Where there is no reasonable alternative other than to create a new area code, the Commission must “do so in a way that creates the least inconvenience for customers.”

Our consideration of the information presented by the Administrator is set out in D.08-04-058 and remains valid. The Petition for Modification did not take issue with the need for area code relief, only the form of relief ordered in D.08-04-058. Today’s decision is limited to our reconsideration of the two-way geographic split ordered.

In D.08-04-058, we explained our support for an overlay as typically the best approach for creating additional numbering resources, but that the uniquely expansive geography of the 760 area code warranted departure from this general rule. The extensive public response to our decision focused on the inconvenience and expense of changing telephone numbers, as compared to the relatively minor burden of 10-digit dialing. Customers explained in great detail the expenses that will be incurred by businesses, the lost contacts for individuals, and the use of “speed dial” features on modern telephones that can offset the impact of 10-digit dialing.

We have considered the volume and substance of these comments and have determined that we should grant the Petition for Modification and adopt a geographic overlay. This will allow all customers to retain their existing telephone numbers, which we understand to be the highest priority for customers. The overlay will require all customers to adopt the 10-digit dialing protocol.

Therefore, we vacate all provisions of D.08-04-058 which order or require a two-way geographic split. The implementation schedule for the split set out in Ordering Paragraph 5 of D.08-04-058 is suspended. The following implementation plan is adopted:

DATE	EVENT
Saturday, May, 2009	Permissive Dialing begins
Saturday, October 24, 2009	Mandatory Dialing begins
Saturday, November 21, 2009	New 442 area code becomes effective

Carriers with numbering resources in the 760 area code will be also required to implement a public education program to assist customers in

adopting the new 10-digit dialing protocol. The carriers and the Administrator, subject to the approval of the Director of the Communications Division, shall develop a detailed public education plan generally consistent with the plan used for the 818 overlay as ordered in D.08-04-049. The Director is authorized to oversee the implementation of the public education plan and shall require all actions necessary to achieve a 70% awareness level of the overlay in all major customer and telephone user groups. Such actions may include: additional educational efforts, obtaining outside professional services, reviewing and approving all educational materials, overseeing the customer awareness assessment process, and requiring any needed additional funding from the carriers.

The final public education plan, approved by the Director, shall be filed and served as a compliance filing no later than 30 days after the effective date of this decision.

Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on October 6, 2008, and reply comments were filed on October 14, 2008.

Comments supporting the overlay were filed by the Joint Telecommunication Carriers,¹ Cox California Telecom L.L.C. dba Cox

¹ Bell Telephone Company dba AT&T California, New Cingular Wireless PCS, LLC dba AT&T Mobility, Sprint Nextel Corporation, Telscape Communications, Inc., Verizon California Inc. and Verizon Wireless.

Communications, and the petitioners. Thousands of letters and electronic mail messages were also received. The Joint Telecommunication Carriers also provided an implementation schedule which has been included in today's decision.

Letters opposing the overlay were submitted by the Imperial County Board of Supervisors, State Senator Denise Moreno Ducheny, Assemblywoman Bonnie Garcia, the Coachella Valley Association of Governments, and the cities of Rancho Mirage, Desert Hot Springs, Hesperia, and Cathedral City, among other local government officials. The Commission received hundreds of letters and electronic mail messages opposing the overlay in the proposed decision and supporting the two-way geographic split in D.08-04-058.

Reply comments were filed by the petitioners and Cox Communications. The petitioners noted that the Commission had received approximately 850 informal letters, both postal and electronic, opposing the overlay and about 7,500 in favor.

Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Maribeth A. Bushey is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. In D.08-04-058, the Commission adopted a two-way geographic split plan for relief of the 760 area code.

2. On August 15, 2008, Assemblyman Martin Garrick and the Chambers of Commerce of Carlsbad, Encinitas, Escondido, San Marcos, Oceanside and Vista filed their Petition for Modification of D.08-04-058, which sought an overlay rather than the two-way geographic split for the 760 area code.

3. Public Participation Hearings on the Petition for Modification were held in Victorville on September 3 and Carlsbad on September 4, 2008. Notice of the Public Participation Hearings was widely distributed by the Commission's Public Advisor and Press Office, and the ruling setting the hearings was served on all cities, counties, and Chambers of Commerce in the 760 area code, totaling over 500 entities.

4. Public comment indicated a substantial preference for retaining existing telephone numbers despite the inconvenience of 10-digit dialing.

5. No hearing is necessary.

Conclusions of Law

1. The legal and factual analysis of the need for area code relief in the 760 numbering plan area as set forth in D.08-04-058 has not been challenged and remains valid.

2. Petitioners and public comment have presented evidence that justifies modifying the relief ordered in D.08-04-058 and adopting an area code overlay in place of the ordered two-way geographic split.

3. The Petition for Modification should be granted.

4. An all-services overlay to add a new area code, 442, to the same geographic region as the 760 area code is adopted.

5. The implementation schedule set forth in Ordering Paragraph 4 is reasonable and provides additional numbering resources in the 760 Numbering Planning Area by November 21, 2009.

6. All service providers operating within the 760 Numbering Planning Area and/or having numbering resources with the 760 area code should cooperate in developing a public education plan generally consistent with the public education plan adopted for the 818 area code overlay in D.08-04-059.

O R D E R

Therefore, **IT IS ORDERED** that:

1. The August 15, 2008, Petition for Modification submitted by Assemblyman Martin Garrick and the Chambers of Commerce of Carlsbad, Encinitas, Escondido, San Marcos, Oceanside, and Vista is granted.
2. An all-services overlay to add a new area code, 442, to the same geographic region as the 760 area code is adopted.
3. The code and thousand block holders in the new 442 area code shall comply with the education and implementation requirements adopted in today's decision.
4. The overlay for the 760 Numbering Planning Area shall be implemented pursuant to the following schedule:

DATE	EVENT
Saturday, May 2, 2009	Permissive Dialing begins
Saturday, October 24, 2009	Mandatory Dialing begins
Saturday, November 21, 2009	New 442 area code becomes effective

5. The Director of the Communications Division shall oversee implementation of the 760 area code overlay and a public education plan generally consistent with the most recent plan adopted in Decision 08-04-059 for the 818 area code overlay.
6. No later than 30 days after the effective date of this order, the code and thousand block holders in the 760 area code shall file and serve a compliance filing setting forth the final implementation plan and public education plan approved by the Director of the Communications Division.

7. Application 07-06-018 is closed.

This order is effective today.

Dated October 16, 2008, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners