

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)	
to consider implementation of a 248 area code)	Case No. U-12721
relief plan)	
_____)	

At the April 17, 2001 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

I.

HISTORY OF PROCEEDINGS

The 1999 Central Office Code Utilization Survey's projected demand for new central office codes (frequently referred to as NXX codes) indicated that the still-available NXX codes in the 248 area code could be exhausted by the first quarter of 2000. Based upon the projected exhaustion date and an unanticipated increase in the demand for NXX codes within the 248 area code, the North American Numbering Plan (NANP) Administrator, which is currently NeuStar, Inc.,¹ formally declared the 248 area code's numbering plan to be in jeopardy and, on May 17, 1999, notified the Commission and the telecommunications industry of that fact. Following discussions

¹In late 1999, all NANP and other numbering functions were transferred from Lockheed Martin IMS, Inc., to NeuStar.

both among its members and with NeuStar, the industry adopted procedures intended to delay the exhaustion of NXX codes within the 248 area code until the second quarter of 2001.

On July 14, 1999, members of the industry met again with NeuStar, this time to discuss long-term relief alternatives for the 248 area code. Those alternatives included proposals to implement various geographic splits or overlays.² As a result of that meeting, and on behalf of both itself and the industry, NeuStar prepared a petition for 248 area code relief (the petition) in which an all-services distributed overlay was recommended as the preferred means of relief.

Because the statutes then in effect did not allow the Commission to assert jurisdiction over the proposed area code relief plan, on June 15, 2000, NeuStar submitted the petition to the Federal Communications Commission (FCC) for review and approval. However, on July 17, 2000, Governor John Engler signed into law Public Act 295 of 2000, which amended the Michigan Telecommunications Act, 1991 PA 179, as previously amended, MCL 484.2101 et seq.; MSA 22.1469(101) et seq. (the Act). Among other things, those amendments granted the Commission authority to address proposed area code changes in Michigan. In light of that extension of the Commission's authority, the FCC forwarded the petition--and, with it, all issues relating to the potential 248 area code relief plan--to the Commission for its consideration by letter dated July 28, 2000.

On November 20, 2000, the Commission issued an order in this case setting a public hearing on the 248 area code relief plan for December 11, 2000 in Pontiac. Due to adverse weather conditions, the public hearing was rescheduled for December 19, 2000, again in Pontiac. The

²A geographic split refers to situations in which the geographic area served by an area code in which there are few or no NXX codes left for assignment is split into two or more geographic parts, each with a separate area code. In contrast, an overlay provides relief by opening up another area code within the same geographic area as the area code requiring relief.

Commission's order also provided an opportunity for interested persons to file written comments and responses to those comments.

Included in the comments received by the Commission were assertions by the two incumbent local exchange carriers (ILECs) operating in the 248 area code, namely Ameritech Michigan and Verizon North Inc. (Verizon), to the effect that it could take at least 18 months to begin implementing a relief plan. Specifically, comments submitted on December 12 and 13, 2000 by Ameritech Michigan and Verizon, respectively, stated that: (1) regardless of whether the Commission chooses an overlay or a geographic split, permissive dialing should commence on June 22, 2002; (2) if an overlay is adopted, mandatory dialing should begin on October 26, 2002; and (3) if a geographic split is ordered, mandatory dialing should start on January 25, 2003.

Expressing strong concern about the implementation schedule suggested by the ILECs, which would delay 248 area code relief until well beyond the predicted NXX code exhaustion date, the Commission issued an order on January 4, 2001 requiring Ameritech Michigan and Verizon to answer numerous questions regarding the basis for that proposed delay and the potential for its reduction. Ameritech Michigan and Verizon filed answers to those questions on January 24, 2001. Between February 2 and 5, 2001, responses to those answers were filed by MCImetro Access Transmission Services, Inc., MCI WorldCom Communications, Inc., and Brooks Fiber Communications of Michigan, Inc., (collectively, WorldCom); AT&T Wireless PCS, L.L.C., (AT&T Wireless); Verizon Wireless; and Oakland County.

II.

DISCUSSION

The Petition

In its petition, NeuStar explained that the industry examined five alternatives for 248 area code relief. The first of these was an all-services distributed overlay that would establish a new area code covering the same geographic area as the 248 area code. Under this proposal, all existing customers would retain their existing telephone numbers, including their 248 area code. Once any still-available NXX codes in the 248 area code were exhausted, new customers requesting any type of service (landline, cellular, paging, fax, etc.) would be assigned the new area code. However, as is the case with every all-services distributed overlay, this alternative would necessitate customers dialing either 10 digits (the area code plus the 7-digit local number) or 11 digits (1 plus the 10-digit number) in order to complete a local call.³ According to NeuStar, the new area code arising from this alternative would have an expected life of approximately 7 years.

The second alternative involved a geographic split of the existing 248 area code. Under this alternative, the six rate centers comprising the southeastern corner of the 248 area code (designated in the petition as “Area A”) would be separated from the other 12 less-densely populated rate centers lying to their north and west (designated as “Area B”). Although this alternative would allow for the continuation of 7-digit dialing for calls within each area, it would necessitate 10- or 11-digit dialing from one area to the other and require existing customers located in one of those areas to change their phone numbers in recognition of their new area code. Adopting this proposal

³This requirement, established by the FCC in its Second Report and Order on Local Competition, 11 FCC Rcd at 19518, is based on the assumption that dialing parity is necessary to preserve competition between carriers assigned numbers in the underlying area code and those assigned numbers in the overlay area code.

would, according to NeuStar, result in estimated lives of approximately 7 years for the area code assigned to Area A and 6.5 years for Area B.

The third and fourth alternatives consisted of proposals to establish an all-services distributed overlay that would simultaneously cover more than one area code. For example, the third alternative would superimpose the new area code over both the 248 and the 313 area codes, whereas the fourth alternative would place it on the 248, 313, and 734 area codes. The estimated lives for these proposals were approximately 3 years for the third alternative and 2 years for the fourth.

Finally, the fifth alternative mentioned in the petition was to establish a new area code within the 248 region that would apply only to wireless customers. However, because current FCC regulations ban the use of technology-specific overlays, as reflected in 47 CFR § 52.19(c)(3)(i), NeuStar and the industry eliminated this alternative from consideration prior to developing an estimate of how long it would last.

The petition went on to recommend adopting the first alternative, namely the all-services distributed overlay covering only the 248 area code. According to NeuStar, this recommendation was based on the fact that, having been split from the 313 area code in 1993 and the 810 area code in 1997, the 248 area code “currently is divided into the smallest practical area without dividing communities of interest.” Petition, p. 6. Moreover, NeuStar continued, implementing an overlay in this situation will “minimize customer confusion and [will] not require customers to change their telephone numbers.” Id.

Comments

Six parties made statements at the December 19, 2000 public hearing. In addition, over 40 written comments were submitted for the Commission's consideration.

Among the members of the industry that provided comments on the issue, there was strong support for implementing the all-services distributed overlay recommended in the petition. This support was based largely on the fact that overlays (1) are easier, and thus faster, to implement than geographic splits, (2) require no customers to change their current telephone numbers, (3) avoid dividing communities of interest into progressively smaller areas, (4) make it significantly easier to provide future area code relief through the application of additional overlays, if needed, and (5) provide more flexibility when implementing number conservation. With regard to this last factor, Verizon Wireless noted that with an overlay in place, number conservation measures like NXX code reclamation and thousands-block number pooling "can, in effect, work retroactively." Comments of Verizon Wireless, p. 3. Finally, Ameritech Michigan and Verizon asserted that Section 303(5) of the Act, MCL 484.2303(5); MSA 22.1469(303)(5), does not require adjusting the 248 area code's boundaries to conform to county lines because it is not "technically and economically feasible" to split or reconfigure the area code in that manner.

Contrary to the other industry members, WorldCom indicated that it "generally favors" geographic splits over overlays. WorldCom's response, p. 2. Nevertheless, WorldCom continued, it would not oppose implementing an overlay "under certain conditions." *Id.* Specifically, it asserted that any overlay approved by the Commission should be coupled with 10-digit dialing.

As for the other parties, their comments ran the gamut from supporting splits (on the grounds that overlays would confuse customers by breaking the traditional link between area codes and geographic territories) to recommending the implementation of a technology-specific overlay

(which, as noted earlier, is currently barred by FCC regulation). However, a majority of these parties supported a proposal that was first espoused by Oakland County. Namely, they asserted that the Commission should reject all overlays and splits and, instead, rely on such things as thousands-block number pooling and rate center consolidation to remedy the current NXX code exhaustion problem in the 248 area code.

According to Oakland County and these parties, the problem faced in this proceeding was primarily caused by the industry's "continued use of an archaic system utilizing 18 different rate centers in the area code." Oakland County's comments, p. 3. Because each NXX code assigned to a service provider contains 10,000 individual telephone numbers, it was noted, any competitive local exchange carrier (CLEC) or cellular phone company seeking to provide service throughout the 248 area code must obtain at least 180,000 numbers from the NANP Administrator, regardless of how many customers it actually expects to serve. This has, Oakland County pointed out, resulted in a situation where a vast majority of the available numbers in the 248 area code have been "stranded." *Id.* These parties therefore asserted that, in addition to continuing its efforts regarding number reclamation,⁴ the Commission should immediately free up these stranded numbers by ordering thousands-block number pooling and rate center consolidation. Until then, they asserted, the Commission should reject all requests for 248 area code relief.

Before moving on, it should be noted that Oakland County altered its position slightly in its supplemental comments submitted on February 5, 2001. Citing a December 29, 2000 order in In

⁴Based on a recent amendment to its rules concerning the assignment of NXX codes, as set forth in 47 CFR § 52.15(i), the FCC provided state commissions an opportunity to investigate and determine whether service providers have activated the NXX codes assigned to them within the required time frame, and to seek the release of codes that were not activated in a timely manner. The Commission issued a November 2, 2000 order in Case No. U-12703, which established a process for reclaiming unused NXX codes in Michigan.

the Matter of Numbering Resource Optimization, CC Dockets Nos. 96-98 and 99-200 (the NRO Order), it asserted that the FCC has reconsidered its ban on technology-specific overlays and has indicated that it would allow their use, on a temporary basis, as part of a transition to all-services distributed overlays. As a result, Oakland County ultimately requested that if the Commission determines that some form of area code relief must be provided by this order, it should be limited at this time to a technology-specific overlay covering only cellular services that will be “transitioned” to an all-services distributed overlay at a later date. Oakland County’s supplemental comments, p. 6.

Conclusion

Notwithstanding their proponents’ respective assertions to the contrary, three of the proposals offered in this case must be rejected on legal or practical grounds.

First, although their implementation (both in the past and the present) may well have been the best, least-disruptive method for dealing with the exhaustion of NXX codes throughout the country, the use of technology-specific overlays is currently banned by the FCC. Specifically, FCC regulations concerning area code relief state, in pertinent part, that:

No area code overlay may be implemented unless all central office codes in the new overlay area are assigned to those entities requesting assignment on a first-come, first-serve basis, regardless of the identity of, technology used by, or type of service provided by that entity. No group of telecommunications carriers shall be excluded from assignment of central office codes in the existing area code, or be assigned such codes only from the overlay area code, based solely on that group’s provision of a specific type of telecommunications service or use of a particular technology.

47 CFR § 52.19(c)(3)(i) [Emphasis added]. Thus, the Commission is legally precluded from establishing a technology-specific overlay to be applied exclusively to the providers of cellular telephone or paging services, as was recommended by several of the commentors.

Second, the Commission is likewise precluded from imposing a transitional overlay like that proposed in Oakland County's supplemental comments. Although the NRO order cited in support of that proposal shows that the FCC may be reconsidering its prohibition on technology-specific overlays, it neither reverses nor suspends that ban. Rather, the NRO order merely requests comments on, among other things, (1) the relative advantages--from a competitive, customer convenience, and numbering resource optimization perspective--of technology-specific overlays as opposed to all-services distributed overlays, (2) what, if any, conditions should be imposed upon state commissions seeking to implement transitional overlays, (3) whether, in all cases, transitional overlays should be limited to the geographic boundaries of a single area code, (4) if and how the FCC's mandatory 10-digit dialing requirement should be applied in the context of transitional, technology-specific overlays, and (5) whether transitional overlays should be restricted to use by carriers that currently provide local number portability. Thus, because FCC regulations continue to ban the use of technology-specific overlays, even on a temporary basis, the Commission is not currently at liberty to impose a transitional overlay like that proposed by Oakland County.

Third, various commentors' proposals to reject all forms of area code relief and rely exclusively on numbering resource optimization efforts, such as rate center consolidation, thousands-block number pooling, and number reclamation, are not practical in this particular case. For example, rate center consolidation is a complex process that, because it requires the resolution of myriad technical and revenue-related issues, could take years to implement. Moreover, its benefits are primarily forward-looking (i.e., reducing future demand for NXX codes within a geographic area), instead of providing for the quick recapture of stranded codes. As for number pooling, the Commission has already filed a petition with the FCC seeking additional delegated authority to implement mandatory thousands-block number pooling for both the Detroit and Grand Rapids

areas. Nevertheless, it will likely be several months before the FCC rules on that petition, a pooling administrator is selected, and the program is implemented. Finally, number reclamation is also a relatively slow process. This is reflected by the fact that, despite extensive Commission efforts, only six additional NXX codes have been recovered to date in the 248 area code. Therefore, because the exhaustion of NXX codes within the 248 area code could occur as early as the second quarter of this year, these numbering resource optimization efforts do not, by themselves, constitute an adequate response.

Thus, the Commission is effectively required to choose between ordering a geographic split or imposing an all-services distributed overlay. Based on the facts of this case, the Commission finds that the area code relief plan recommended by NeuStar and the industry (namely, an all-services distributed overlay covering only the 248 area code) should be approved. It reaches this conclusion for the following six reasons.

First, as noted earlier in this order, customers within the 248 area code have already had their area code changed twice, once from 313 to 810 during 1993 and again from 810 to 248 during 1997. Requiring these customers to endure yet another geographic split, and thus forcing them to change their respective telephone numbers for the third time in eight years, should be avoided if at all possible.

Second, the previous geographic splits in this region have resulted in a very compact area code. Thus, as NeuStar correctly pointed out in the petition, the region covered by the 248 area code has already been divided into the smallest practical area without dividing communities of interest.

Third, research indicates that overlays have become much more accepted throughout the country over the last few years. As of February 2001, nearly 75% of the pending area code relief

plans approved by state commissions have been in the form of overlays. This is due to the fact that overlays are generally faster to implement than geographic splits and serve to make future area code relief efforts much less disruptive.

Fourth, overlays can accentuate the benefits derived from various numbering resource optimization programs. As correctly noted by Verizon Wireless, numbers that are ultimately freed-up through either NXX code reclamation or thousands-block number pooling can be utilized throughout the 248 area code. Thus, keeping the region covered by the 248 area code as large as possible should reduce the number of stranded NXX codes. Moreover, it increases the opportunity for customers who are assigned numbers in the new overlaid area code to switch back to a subsequently freed-up 248 number, should they so desire. If a geographic split is implemented, however, customers who have had their area code changed will no longer have access to any 248 numbers that reclamation and pooling efforts ultimately make available for use.

Fifth, the alternative recommended by NeuStar and the industry is expected to provide the longest-term relief to all customers currently located within the 248 area code. Specifically, the best estimate available at this time indicates that by adopting an overlay that adheres to the current boundaries of the 248 area code, further NXX code exhaustion should be avoided for seven years.

Sixth, the Commission further finds that, as pointed out by Ameritech Michigan and Verizon, it is neither technically nor economically feasible to split or otherwise reconfigure the 248 area code precisely along county lines. Therefore, the alternative recommended in the petition complies with Section 303(5) of the Act. To conform to county lines, providers along the boundary would have to reconstruct their networks and reconfigure their exchange boundaries. The required changes would likely be too expensive and time-consuming, as well as disruptive to customers, to justify their adoption in this instance.

For all of these reasons, the Commission concludes that the area code relief alternative recommended in the petition should be adopted.⁵ In reaching this conclusion, the Commission is keenly aware of the inconvenience and confusion that area code relief can entail. The Commission will therefore continue to aggressively exercise the legislative authority it was granted last summer to minimize the need for, as well as the adverse consequences arising from, future area code relief. For example, it will continue the NXX code reclamation efforts that, following issuance of its November 2, 2000 order in Case No. U-12703, have resulted in the Commission reclaiming approximately two dozen formerly-stranded codes (each containing 10,000 telephone numbers). Furthermore, assuming the FCC grants the January 26, 2001 request for authority to implement thousands-block number pooling,⁶ the Commission will work as expeditiously as possible to select a pooling administrator and implement the program. In addition, the Commission will investigate the potential use of rate center consolidation to reduce the need for future area code relief, and pursue the possibility of using either transitional or technology-specific overlays (assuming their use is ultimately approved by the FCC) to reduce the adverse effect that area code relief may have on customers.

To reduce the likelihood of customer confusion, the Commission also concludes that the industry should rely solely on 10-digit dialing (rather than a combination of 10- and 11-digit dialing) for local calls placed both within and between the 248 area code and the new overlay area

⁵The Commission has previously approved geographic splits for the 517 and 810 area codes, but many of the factors present in this case (e.g., compact area code, number of recent area code changes, etc.) were not present in those proceedings.

⁶On March 13, 2001, Oakland County submitted comments to the FCC in support of the Commission's petition. The Commission appreciates this support and looks forward to working with Oakland County and others to promptly implement thousands-block number pooling and other number conservation measures.

code. Relying exclusively on 10-digit dialing for local calls should help make clear to customers that they will not be assessed toll charges unless they dial 11 digits.

Due to the estimated date of NXX code exhaustion within the 248 area code, the Commission also finds that the implementation dates initially proposed by Ameritech Michigan and Verizon should not be approved. Instead, based on more recent information provided by these ILECs, the Commission directs that the industry implement permissive dialing by January 26, 2002 and mandatory dialing by June 8, 2002. Moreover, the industry should file monthly progress reports with the Commission, beginning May 1, 2001, until the area code relief plan is fully implemented.

Finally, to facilitate implementation of this area code relief plan, the Commission directs the industry to file, within 30 days, a detailed plan for customer education. The plan should include training for company personnel in dealing with customer inquiries related to the area code relief plan, as well as examples of training materials that will be used to educate company personnel involved in customer relations. Moreover, the plan should address such items as billing inserts, press kits, public service announcements, and other resources that will be used to respond to customer education needs and inquiries. The plan should also identify primary contacts within each company to address area code questions. Due to the significant level of customer confusion expressed both in this case and others, the Commission further finds that the industry's education plan should be more comprehensive than those implemented over the last 12 to 18 months.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101)

et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.

b. The 248 area code relief plan recommended in the petition should be approved, with certain restrictions and requirements as set forth in this order.

c. Permissive dialing should commence by January 26, 2002, and mandatory dialing should commence on June 8, 2002.

d. The industry should file monthly progress reports until the area code relief plan is fully implemented.

e. The industry should file, within 30 days, a comprehensive plan for customer education consistent with this order.

THEREFORE, IT IS ORDERED that:

A. The 248 area code relief plan recommended in the petition filed by NeuStar, Inc., namely the implementation of an all-services distributed overlay, is approved with certain restrictions and requirements as set forth in this order.

B. Permissive dialing shall commence by January 26, 2002, and mandatory dialing shall commence on June 8, 2002.

C. Beginning May 1, 2001, the industry shall file monthly progress reports until the area code relief plan is fully implemented.

D. The industry shall file, within 30 days, a comprehensive plan for customer education.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of April 17, 2001.

/s/ Dorothy Wideman
Its Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of April 17, 2001.

Its Executive Secretary

In the matter, on the Commission’s own motion,)
to consider implementation of a 248 area code)
relief plan)
_____)

Case No. U-12721

Suggested Minute:

“Adopt and issue order dated April 17, 2001 approving, with certain restrictions and requirements, the petition filed by NeuStar, Inc., to provide 248 area code relief through the implementation of an all-services distributed overlay, as set forth in the order.”