

THE 847 NPA

**A Report and Recommendations Regarding
Carrier Telephone Number Utilization**

Presented by:

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on behalf of

**The Citizens Utility Board
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February 13, 2001

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I. EXECUTIVE SUMMARY

Last month, the North American Numbering Plan Administrator ("NANPA") notified the Commission that the supply in the 847 Number Planning Area ("NPA" or "area code") of assignable telephone number prefixes, or blocks of 10,000 numbers known as NXX codes, had exhausted. The NANPA further informed the Commission that it had received a request for the first NXX code in the new, 224 overlay area code. According to past Commission order, the assignment of an NXX code in the new overlay NPA irreversibly triggers the implementation of this new area code and, unless a waiver is received from the FCC, mandatory 11-digit dialing for all telephone calls by customers residing within the 847 NPA boundaries.

From the consumer perspective, the NANPA notification is particularly unwelcome given that a CUB analysis of industry data indicates that less than one-half of all the telephone numbers in the 847 NPA sit unused. Today, by CUB's calculation, there are no more than 3.8 million phone numbers in use in the 847 NPA out of a total of 7.7 million numbers, including 7.2 million now in the possession of carriers and about 500,000 in the number pool. That leaves 3.9 million unused numbers. One million of these are held by wireless carriers and 1.9 million by wireline carriers.

More relevant, a review of publicly available NANPA data reveals that 8 NXX codes currently designated as "protected" or "unassignable" can be activated for use in the 847 NPA, thereby prolonging its life. The NANPA, NeuStar Inc., on behalf of the industry, has filed information with the Commission acknowledging that no technical reason exists for not making these codes available for assignment.

In addition, a review of the carrier-specific number utilization data filed with the NANPA last September reveals that *scores* of NXX codes in the possession of certified carriers had few if any numbers assigned to customers, thereby driving the current state of exhaust of the 847 NPA. There are between 35 and 51 full NXX codes in the 847 NPA without a single working phone number. Anywhere from 83 to 105 NXX codes have a utilization rate of one percent or less. These figures do not take into account the fact that the carriers did not file utilization data for 39 NXX codes. While the low utilization rate for some of the codes is due to the fact that approximately 36 NXX codes were assigned during the year preceding the collection of this data, the remainder of the codes have been in the possession of the carriers for a year or more, in violation of state and federal conservation rules.

AT&T Communications of Illinois is *the* major offender when it comes to hoarding numbers and maintaining low utilization rates. For example, AT&T has 75 NXX codes from the 847 NPA in its possession, but a paltry 8% NPA-wide fill rate. Sixty-three of these NXX codes were activated before April 1998. While AT&T has donated 182 thousand-blocks to the number pool, it has taken 17 back, leaving it with 585 thousand-blocks. The 539,000 unused numbers AT&T has represents 28% of all the unused wireline numbers.

MCI WorldCom ("WorldCom") has 42 NXX codes from the 847 NPA in its possession, but a meager 22% NPA-wide fill rate. In 10 of these NXX codes, WorldCom had no assigned numbers when they filed their NANPA data last September. Unfortunately, WorldCom has donated one or more thousand-blocks from each of these NXXs to the number pool, thereby complicating reclamation. Those portions of these

codes that WorldCom retained nevertheless show a 0% fill rate. WorldCom's unused numbers totaled about 165,000, or 9% of all unused wireline numbers.

Moreover, many carriers either failed to file the requisite number utilization data with the NANPA, in violation of FCC orders, or filed incomplete data. As a result, it is unclear as to how many more unused NXXs may exist.

The FCC last year specifically recognized and expanded state commissions' role in overseeing carrier number utilization behavior in order to extend the life of area codes across the country. For example, it directed state commissions to order the NANPA to reclaim unused NXX codes from carriers if they are satisfied that the code holder has not activated the code within six months -- a grant of authority the FCC calls "a number optimization measure that may be one of the quickest and easiest measures to implement."¹ Assessing the carriers' utilization rate of the 847 NXX codes is essential to any assessment of carrier adherence to number conservation directives and NPA exhaust timetables, as well as reclamation efforts.

In addition, the remedies outlined in the industry's own code assignment guidelines support the use of Commission reclamation of codes held by offending carriers who contaminated unused NXX codes by returning only portions of unused codes to the Pooling Administrator. These guidelines specifically require the reclamation of assigned codes that are not used in conformance with code assignment guidelines, and direct the code administrator to contact the pooling administrator about return of NXXs that are in a thousand-block number pool.

¹ *In the Matter of Number Resource Optimization*, FCC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking ("NRO Order"), released March 31, 2000, par. 67.

In recent days, representatives from the Commission Staff and CUB met with carriers AT&T and WorldCom to investigate their number utilization of those codes showing utilization levels of less than one percent. The AT&T representative stated that the company is investigating the status of many of the NXXs brought to their attention by the Commission Staff. However, AT&T also stated that the company would not return a single NXX. WorldCom is reviewing the situation. However, it also continued to donate portions of otherwise unused NXX codes to the number pool in January of 2001.

CUB's review of the number utilization data not only sheds light on the number hoarding practices of these carriers, but also points to possible violations of both this Commission's and the FCC's number conservation rules, including (1) the FCC's sequential numbering assignment rule provision that requires all carriers to assign available telephone numbers within an opened thousand-block before assigning telephone numbers from an uncontaminated thousand-block, (2) a rule in effect since May of 1998 as a result of this Commission's Number Pooling and Conservation Order that requires carriers to refrain from requesting an additional NXX code or blocks of 1000 numbers until its existing numbering resources are at least 75% utilized per rate center, (3) the FCC rule that codes not activated within six months of assignment must be returned to the NANPA, and (4) the FCC rule that all carriers submit number utilization and forecast data.

The Commission can take action today to (1) extend the life of the 847 area code long enough to obtain the anticipated FCC extension of the 10-digit dialing waiver for the 847 and new 224 NPAs and further investigate the reclamation of unused codes, (2) prevent rogue carriers from obtaining additional numbering resources, and (3) send a

clear signal to carriers operating in Illinois that violations of state and federal number conservation rules will not be tolerated, thereby dissuading carriers from similarly polluting NXX codes in other Illinois NPAs.

Specifically, the Commission should first reject the letter filed by the NANPA advising it of the exhaust of the 847 NPA and order the NANPA to release the protected and adjacent-NPA NXX codes listed in this report, which may delay the assignment of the last 847 NXX code long enough for the FCC to act on Illinois' request to extend the 10-digit dialing waiver. In addition, such action would give the Commission the time it needs to obtain the next set of carrier utilization data filed with the NANPA on February 1, 2001. Review of this data, along with the September 15, 2000 filing, will give the Commission additional information to determine whether additional unused codes referenced above can be reclaimed.

Second, the Commission should order the NANPA to reclaim all unused NXX codes and advise the Number Pooling Administrator that designated thousand-blocks returned by carriers who should have returned the full NXX code may be reclaimed to re-assemble what is actually an unused NXX for purposes of reclamation.

Third, the Commission should file a request with the Common Carrier Bureau of the FCC for a "for cause" audit of the number utilization practices of AT&T, whose number utilization data and follow-up interviews reveal a pattern of hoarding unused telephone numbers, and possible violations of the number conservation rules enacted by this Commission and the FCC. Fourth, the Commission should notify the NANPA to withhold additional numbering resources from carriers that failed to provide utilization and forecast data with the NANPA, as required by the FCC.

Notification of the NANPA regarding the release of the previously unassignable codes must occur prior to February 16, the date currently scheduled for the assignment of the first 224 NPA. Only then can the life of the 847 NPA be extended long enough for the Commission to obtain a 10-digit dialing waiver from the FCC and initiate possible reclamation of additional codes.

Finally, voluntary action by the offending carriers could have an immediate impact that would significantly extend the life of the NPA. The Commission should call upon all carriers serving the 847 NPA to review their number holdings to determine whether full NXXs can be returned to the NANPA.

NPA 847 Carrier Utilization Data

from North American Numbering Plan Administration
Number Resource Utilization and Forecast Report September 15, 2000

Carrier	Utilization	Service
2nd Century	0%	Wireline
Adelphia	0%	Wireline
AirTouch	0%	Paging
Allegiance	1%	Wireline
AT&T Local	8%	Wireline
AT&T Wireless	62%	Cellular
ConXus	0%	Cellular
CoreComm	0%	Wireline
Focal	17%	Wireline
Global Crossing	24%	Wireline
Heartland	24%	Paging
ICG	0%	Wireline
Intermedia	1%	Wireline
Level 3	0%	Wireline
Map Mobile	62%	Paging
McLeod	0%	Wireline
MetroCall	100%	Paging
MPower	0%	Wireline
Net-Tel	0%	Wireline
Nextel	55%	Cellular
Ovation	0%	Wireline
PageMart	48%	Paging
PageNet	36%	Paging
Preferred Networks	6%	Paging
PrimaCo	72%	Cellular
Prism	0%	Wireline
RCN/21st Century	0%	Wireline
SBC Ameritech	72%	Wireline
SBC Wireless	47%	Cellular
Source One	20%	Paging
Sprint	35%	Cellular
TDS	0%	Wireline
Telgent	0%	Wireline
TSR	33%	Paging
Verizon	54%	Cellular
WinStar	0%	Wireline
WorldCom	22%	Wireline
XO	26%	Wireline

Prepared by the Citizens Utility Board

February 13, 2001

II. Background and Overview

The principle that telephone numbering resources shall be assigned to permit the most effective and efficient use of a finite resource in order to prevent the premature exhaust of area codes and delay the need to develop and implement costly new numbering plans is the cornerstone for this Commission's and the FCC's recent decisions implementing number conservation and pooling. Both FCC decisions and the industry's own NXX code assignment guidelines specifically state that numbering resources are a *public* resource and are not owned by the carriers who obtain them.

This Commission has displayed its sensitivity to the notion that every NXX code available for assignment in an NPA should be utilized prior to declaring an NPA at exhaust and permitting the creation of a new NPA. According to this Commission's Order in ICC Docket No. 98-0497, "the irreversible act which will trigger final implementation of the all service overlay is the assignment by the local number administrator of the first NXX code from the 224 overlay NPA." ICC Docket No. 98-0497, Order of December 16, 1998 at 27. The assignment of the first 224 code occurs after all remaining NXX codes in the 847 NPA are depleted. ICC Docket No. 98-0497, Order on Rehearing of February 3, 1999 at 1-2. Under the Commission's Order on Rehearing, the NANPA must give the Commission, the industry and other interested parties at least thirty days advance notice before the first assignment of a 224 NXX code, and the notice shall include the effective date of that code. *Id.* at 2. Thereafter, a minimum three-month customer education period may begin.

On January 17, 2001, the North American Numbering Plan Administrator ("NANPA") sent a formal notification to the Commission that the 847 Numbering Plan Area ("NPA" or "area code") was exhausted of its supply of assignable Central Office ("CO") codes, or blocks of 10,000 numbers otherwise known in the industry as NXX codes², and that it had received a request for the first NXX code in what is to be the new 224 overlay NPA. The NANPA letter stated that the first 224 NXX code will be assigned on February 16, 2001, 30 days from the date of the letter, in accordance with the Commission's 98-0497 Order. The effective date of the new 224 code is listed as May 17, 2001, or 90 days after the assignment date. Telecommunications carriers are scheduled to begin customer education no later than February 16, 2001, according to the NANPA letter.

The NANPA notification is particularly unwelcome given that a CUB analysis of industry data indicates that less than one-half of all the telephone numbers in the 847 NPA sit unused. Today, by CUB's calculation, there are no more than 3.8 million phone numbers in use in the 847 NPA out of a total of 7.7 million numbers, including 7.2 million now in the possession of carriers and about 500,000 in the number pool. That leaves 3.9 million unused numbers. One million of these are held by wireless carriers and 1.9 million by wireline carriers.

As a backdrop to these events, the Commission last month filed a petition with the FCC seeking an extension of the temporary waiver of the ten-digit dialing requirement codified in 47 C.F.R. §52.19(c)(3)(ii). Under federal rules, ten-digit dialing is required in both the relieved and the new NPA when an all-service overlay is implemented as area code relief. *Second Report and Order* at par. 100. The

² CO or NXX code refers to the first three digits, or prefix, in a seven-digit telephone number.

Commission's first request for a 10-digit dialing waiver was filed on August 10, 1999. The FCC issued an Order granting the temporary waiver on March 2, 2000 – nearly seven months later. Acknowledging “the need of the Illinois Commission to conduct an efficient, one-time customer education campaign for as many of the customers in the five affected area codes as possible”, the FCC concluded that 10-digit dialing should begin in the Chicago area in all areas where overlay area codes have been activated “at the time the fourth planned area code overlay is activated, but in no event later than April 1, 2001.”³

Given the length of time it took for the FCC to rule on the Commission's first request for a 10-digit dialing waiver, it is unlikely that the Commission could expect a ruling from the FCC on the ICC's second request before Friday, February 16, 2001, the date the first 224 NXX code is assigned and the date upon which customer education is scheduled to begin. This uncertainty leaves carriers in the difficult position of not knowing whether to instruct customers that 10-digit dialing for all intra-NPA calls shall begin on May 17, 2001, the effective date of the new 224 area code or to indicate that seven-digit dialing will still be permitted for intra-NPA calls in the 847 and 224 area codes.

Last month, the Commission issued an Order, following the Commission Staff's recommendation, to grant the Citizens Utility Board (“CUB”), the Attorney General's Office and the City of Chicago (“Governmental and Consumer Intervenors”) access to individual and aggregate carrier number utilization data for all Illinois area codes filed with the NANPA on a bi-annual basis. Carriers are required to file such data as a result

³ In re Illinois Commerce Commission – Petition for Expedited Waiver of 47 CFR Section 52.19 (c)(3)(ii), NXD File No. L-99-65, CC Docket No. 96-98, Order of March 2, 2001 (“FCC Waiver Order”).

of last year's FCC ruling that monitoring individual carriers' use of numbering resources is necessary to ensure that numbers are efficiently used and that the area codes are not prematurely exhausted. In permitting GCI access to the data, the Commission recognized CUB's previous efforts in analyzing carrier number utilization data for the Chicago-area NPAs, and stated that "CUB assisted Staff and was of significant value to the Commission in monitoring number utilization in those NPAs." *Order Designating An Entity For The Processing of Data Received by the Commission*, dated January 24, 2001 at 3. A short history of the conservation and pooling directives enacted by both this Commission and the FCC follows.

A. Number Conservation Mandates and the Duties of Carriers

1. The ICC's Groundbreaking Decisions

In three separate orders issued since May of 1998, the ICC has led the nation in attempting to curb the wasteful distribution and hoarding of telephone numbering resources by telecommunications and paging companies through the issuance of number pooling and conservation mandates. In April of 1997, the Citizens Utility Board ("CUB") filed a petition that asked the Commission to adopt telephone number pooling and number conservation in the 847, 630, 773, 312 and 708 Chicago-area NPAs as a means of forestalling area code exhaust within the region. After contentious hearings were conducted, in which carriers opposed the implementation of number pooling and conservation, the ICC issued its groundbreaking Order mandating the immediate implementation of number pooling by wireline carriers in the 847 NPA and number

conservation measures by both wireline and wireless carriers in all five area codes.⁴

The mandated conservation measures require all carriers to, among other duties:

- (1) refrain from assigning numbers from any thousand block in an NXX with 50 or fewer numbers currently in use until the carriers has used at least 90% of the numbers in the other thousand-blocks in that NXX;
- (2) open only one thousand-block at a time in an NXX and utilize 90% of those numbers before opening an additional thousand;
- (3) refrain from requesting an additional NXX code or blocks of 1000 numbers until its existing numbering resources are at least 75% utilized per rate center; and
- (4) refrain from using numbers from a newly assigned NXX code until a carrier's existing NXX codes in the same rate center are at least 90% utilized.

Number Pooling and Conservation Order at 23, 24.

In an effort to monitor carrier compliance with the ordered number pooling and conservation directives discussed above, the Commission initiated Docket No. 98-0497, *Illinois Commerce Commission - On its Own Motion vs. All Telecommunications Carriers holding 847 NXX Codes and Illinois Bell Telephone Company d/b/a Ameritech Illinois in its Capacity as Number Administrator*, in order to:

- (1) ensure that all 847 NXX code holders subject to the Number Pooling and Conservation Order were complying with the conservation measures of that Order;
- (2) specifically identify the irreversible action and determine when it will occur; and
- (3) investigate the possibility of: a mandatory NXX-X thousand block return to the number pooling administrator; raising the contamination threshold for any NXX-X thousand blocks to be returned; and the number administrator releasing the reserve of NXX codes for new carriers.

⁴ *Citizens Utility Board - Petition to implement a form of telephone number conservation known as number pooling with the 312, 773, 847, 630 and 708 area codes, ICC Docket No. 97-0192, and Illinois Bell Telephone Company - Petition for Approval of an NPA Relief Plan for the 847 NPA, ICC Docket No. 97-0192/97-0211 (Consolidated) ("Number Pooling and Conservation Order"), Order of May 11, 1998 at 20.*

ICC Docket No. 98-0497, Initiating Order at 3. On December 14, 1998, the Commission issued its Order in ICC Docket No. 98-0497, which, among other provisions, directed all wireline and wireless carriers serving the 847, 630, 773, 312 and 708 area codes to file quarterly reports of individual carrier number utilization rates for all five area codes by thousand-block to be filed with the ICC until March, 1999, and thereafter with the new Local Number Administrator, Lockheed Martin (now NeuStar). Docket No. 98-0497 Order at 19, 22 (emphasis added). Thereafter, Lockheed Martin was directed to submit quarterly reports detailing both individual carrier and aggregate fill rate information to the Commission to assist it in monitoring the industry's compliance with its Number Pooling and Conservation Order⁵. Docket No. 98-0497 Order at 19. The Order also modified the Number Pooling and Conservation Order to require 1) the mandatory return of all thousand blocks that are 10% or less contaminated by the wireline carriers to the number pooling administrator; 2) all wireless carriers to participate in number pooling as soon as technically feasible after they become number portability capable; and 3) a delay in the implementation of number pooling for the 773, 312, 708 and 630 NPAs until the SCP capacity issue is resolved to the ICC's satisfaction. Order of Docket No. 98-0497 at 24, 25.

In January of 1999, the local number administrator filed a petition with the ICC requesting implementation of all-service overlays in the 773, 312, 630 and 773 NPAs.⁶ Pursuant to a Hearing Examiner's ruling, parties were directed to address in testimony the

⁵ *Citizens Utility Board -- Petition to implement a form of telephone number conservation known as number pooling with the 312, 773, 847, 630 and 708 area codes, ICC Docket No. 97-0192, and Illinois Bell Telephone Company -- Petition for Approval of an NPA Relief Plan for the 847 NPA, ICC Docket No. 97-0211 (Consolidated).*

⁶ *Lockheed Martin IMS B Petition for Approval of NPA Relief Plans for the 312, 630, 708 and 773 NPAs, ICC Docket No. 98-0847.*

issue of whether any SCP capacity problems exist in their respective networks and, further, whether number pooling as implemented in the 847 NPA should be extended to the 773, 312, 630 and 708 NPAs. After hearings were held on the SCP capacity issue, the Commission issued an Interim Order dated June 30, 1999, in which it adopted the implementation of number pooling in the remaining four Chicago-area NPAs. The Commission specifically concluded that the 98-0847 docket should remain open until all issues involving the implementation of number conservation and pooling were settled. Interim Order of June 30, 1999, ICC Docket No. 98-0847 at 16.

2. The FCC's Decisions

In a decision released March 31, 2000, the FCC followed the lead of this Commission on the issues of number conservation and pooling and issued its *Report and Order* in FCC Docket No. 99-200, *In the Matter of Numbering Resource Optimization ("First Report and Order")*. Like the Commission's prior rulings, the FCC's decision promotes the more efficient allocation and use of NANP resources by tying a carrier's ability to obtain numbering resources to its actual need for numbers. Specifically, the FCC's decision adopts a mandatory number pooling and number conservation system, modeled after number pooling and number conservation initiatives begun in Illinois, by requiring carriers to: 1) disclose utilization and forecast data; 2) account for numbers by thousand block; 3) use numbers efficiently before applying for new numbering resources; 4) return, or have reclaimed, unused and underused blocks of numbers; 5) open only one thousand block at a time; and 6) pool thousand blocks of telephone numbers where Local Number Portability exists. The FCC decision also adopts a mandatory number

utilization-reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and incentives to use numbers efficiently.

a. Rules for Initial Numbering Resources Requests

In its effort to ensure that numbering resources are allocated efficiently in the first instance, the FCC ruled in its *First Report and Order* that all carrier applicants for initial numbering resources provide to the NANPA documented proof that (1) the applicant is authorized to provide service in the area for which the numbering resources are requested and (2) the applicant is or will be capable of providing service within 60 days of the numbering resources activation date. *First Report and Order* at par. 96, 97. These requirements apply equally to carriers requesting an initial NXX code and those requesting an initial thousand-block pursuant to the pooling requirements established in the *First Report and Order*. This FCC rule took effect in July of 2000.

Also, under the Industry Numbering Committee ("INC") Central Office (NXX) Code Assignment Guidelines, carriers must place assigned NXX codes "in service" within six months of receiving the code. *First Report and Order* at pars. 237, 240. Codes not activated within this time frame are eligible for reclamation by the state commissions. *Id.* (See Part V.A below, for a further discussion of NXX code reclamation authority.) Although this code-activation rule pre-dated the FCC's *First Report and Order*, the FCC decision strengthened the requirement by redefining "in service" as when a carrier has begun to activate and assign to customers numbers within the NXX code. *First Report and Order* at par. 240.

b. Growth Numbering Resources

Addressing the need to prevent carrier stockpiling of unused telephone numbers, the FCC concluded in its *First Report and Order* that the Months-to-Exhaust ("MTE") Worksheet carriers fill out prior to applying for additional numbering resources provides limited information by which to evaluate a carriers' need for numbers. The FCC concluded that (1) much of the data on the worksheet cannot be verified until after the carriers has already obtained the requested NXX code, (2) the forecast is largely subjective and dependent on good faith projections by each carrier, and (3) there is no retrospective accountability to which carriers are held regarding forecasts. *First Report and Order* at 104. Initially, the FCC ordered that all non-pooling carriers seeking growth resources must report their utilization level, calculated by dividing all *assigned numbers*⁷ by the total numbering resources assigned to that carrier in the appropriate geographic region and multiplying the result by 100. In its *Second Report and Order*, issued December 29, 2000, the FCC established a 60% utilization threshold before receiving additional numbering resources in a given rate center. The 60% utilization benchmark shall be increased by 5% on June 30, 2002, and annually thereafter until the utilization threshold reaches 75%. Most notably, the FCC concluded that the utilization threshold requirement shall also apply to pooling carriers attempting to obtain growth numbering resources. *Second Report and Order* at pars. 22-26.

Although carriers have until three months after the release of the FCC's *Second Report and Order*, to comply with these conservation requirements, Illinois carriers, .

⁷ The FCC defined *assigned numbers* as numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific customers for their use, or as numbers not yet working but having a customer service order pending. The FCC also adopted a five-day limit on the time that a number may be held in pending status in the assigned category. NRO Order at pars. 16-19.

however, have had to abide by this Commission's 75% utilization threshold rule since May of 1998. As noted above, this Commission established utilization thresholds for carriers attempting to obtain growth numbering resources back in 1998, when it ordered that carriers refrain from requesting an additional NXX code or blocks of 1000 numbers until its existing numbering resources are at least 75% utilized per rate center. The 75% threshold requirement continues in effect for *all* carriers until the FCC's utilization threshold requirement takes effect later this spring.

Although Illinois' 75% threshold level appears to be stricter than the FCC's initial 60% threshold level, the federal standard is in fact more stringent because of the way the FCC defines "assigned numbers". Unlike the Illinois definition, the federal standard does not include a category known as "otherwise unassignable" within its uniform definitions of numbering resources.

c. The Sequential Number Assignment Rule

In its NRO Order, the FCC ruled that all service providers shall assign all available telephone numbers within an opened thousand-block before assigning telephone numbers from an uncontaminated thousand-block, unless the available numbers in the opened thousand-block are not sufficient to meet a specific customer request. *First Report and Order* at par. 244. This requirement applies to a service provider's existing numbering resources as well as any new numbering resources it obtains in the future. *Id.*

Noting the important oversight role state commissions play in ensuring that number conservation rules are followed, the FCC also ruled that any service provider that opens an uncontaminated thousand-block prior to assigning all available telephone

numbers within an opened thousand-block should be prepared to demonstrated to a state commission:

(1) a genuine request from a customer detailing the specific need for telephone numbers; and

(2) the service provider's inability to meet the specific customer request for telephone numbers from the available numbers within the service provider's opened thousand-blocks.

First Report and Order at par. 245. Most notably, the FCC further ruled that upon a finding by a state commission that a service provider inappropriately assigned telephone numbers from an uncontaminated thousand-block, the NANPA or Pooling Administrator shall suspend assignment or allocation of any additional numbering resources to that service provider in the applicable NPA until the service provider demonstrates that it does not have sufficient numbering resources to meet a specific customer request. 47 CFR Section 52.15(g)(iv).

State commissions were ordered to conform their existing sequential number assignment requirements (in Illinois' case, the previous 90% threshold utilization level per thousand-block, established in May of 1998, was modified to a 100% level) by January 1, 2001. *First Report and Order* at par. 246. Accordingly, the FCC's sequential numbering rule currently applies.

B. Number Pooling Mandates and the Duties of Carriers

1. Duties of Wireline Carriers

As noted above, the FCC followed the lead of this Commission when it adopted number pooling for all LNP-capable carriers as a nationwide numbering resource optimization strategy. Thousand-block number pooling is the process by which the

10,000 numbers in an NXX code are separated into 10 sequential blocks of 1,000 numbers each (thousand-blocks), and allocated separately to service providers within a rate center. Under the FCC's plan, all carriers required to be local number portability ("LNP") capable, either because they provide service in one of the largest 100 metropolitan statistical areas ("MSAs"), or pursuant to a request from another carrier, must participate in thousand-block number pooling in accordance with a national roll-out plan. Id. at par. 125. That plan calls for nationwide thousand-block number pooling to begin in the 100 largest MSAs. *First Report and Order* at par. 158. The FCC established a national rollout schedule divided in three-month segments, with the first round of implementation beginning nine months after the selection of a pooling administrator. Id. at par. 161. To date, no national Pooling Administrator has been selected.

Petitions to have NPAs not located in the 100 largest MSAs opt in to the national pooling rollout schedule will be accommodated if the state can demonstrate that (1) an NPA in its state is in jeopardy, (2) the NPA in question has a remaining life span of at least a year, and (3) the majority of wireline carriers in the NPA are LNP-capable. *First Report and Order* at par. 164. States demonstrating other undefined "special circumstances" for opting into the pooling rollout will be heard by the FCC on a case-by-case basis. Id.

States like Illinois that have number pooling in place were given until September 1, 2000 to bring their programs into conformity with the national guidelines laid out in the FCC's *First Report and Order*. Id. at par. 169. Under the new FCC guidelines, both individual carriers and the Pooling Administrator can maintain a maximum six-month inventory of thousand-blocks, which is the standard in use in Illinois' number pooling

guidelines. *First Report and Order* at par. 189. In addition, the FCC rules, like Illinois', require carriers to donate all thousand-blocks that have a less than 10% percent contamination level to the number pool for the rate center from which the numbering resources are assigned. *Id.* at 191. However, carriers participating in number pooling are permitted to retain at least one thousand-block per rate center, even if the thousand-block is less than 10% contaminated, as an initial block or "footprint" block in order that carriers can provide service to its customers in that rate center.

2. Wireless Carriers' Future Participation

In its *First Report and Order*, the FCC concluded that covered CMRS (wireless) service providers must participate in thousand-block number pooling once they acquire LNP capability. Currently, wireless carriers must be LNP-capable by November 24, 2002. In its *Second Report and Order*, the FCC specifically rejected wireless carriers suggestions that after that date, an additional transition period should be permitted before wireless carriers are required to participate in pooling. *Second Report and Order* at par. 50.

While wireless carriers are not yet required to participate in number pooling, it is important to note that the same sequential number utilization and growth code conservation requirements that apply to wireline carriers likewise apply to wireless carriers.

III. The Pending ICC Request For An FCC Waiver of Mandatory 11-Digit Dialing

Last month, the Commission filed a petition with the FCC seeking an extension of the temporary waiver of the ten-digit dialing requirement codified in 47 C.F.R. §52.19(c)(3)(ii). Under federal rules, ten-digit dialing is required in both the relieved and the new NPA when an all-service overlay is implemented as area code relief. *Second Report and Order* at par. 100. The Commission's first request for a 10-digit dialing waiver was filed on August 10, 1999. The FCC issued an Order granting the temporary waiver on March 2, 2000 -- nearly seven months later. Acknowledging "the need of the Illinois Commission to conduct an efficient, one-time customer education campaign for as many of the customers in the five affected area codes as possible", the FCC concluded that 10-digit dialing should begin in the Chicago area in all areas where overlay area codes have been activated "at the time the fourth planned area code overlay is activated, but in no event later than April 1, 2001."⁸

Given the length of time it took for the FCC to rule on the Commission's first request for a 10-digit dialing waiver, it is unlikely that the Commission could expect a ruling from the FCC on the ICC's second waiver request before Friday, February 16, 2001, the date the first 224 NXX code is assigned and the date upon which customer education is scheduled to begin. This dilemma leaves carriers in the position of not knowing whether to instruct customers that 10-digit dialing for all intra-NPA calls shall begin on May 17, 2001, the effective date of the new 224 area code.

In order to extend the time available for the FCC to issue its decision regarding Illinois' request for a 10-digit dialing waiver prior to the assignment of the first 224 code,

⁸ *In re Illinois Commerce Commission - Petition for Expedited Waiver of 47 CFR Section 52.19 (c)(3)(ii)*, NXD File No. L-99-65, CC Docket No. 96-98, Order of March 2, 2001 ("FCC Waiver Order"), par. 14.

GCI urges the Commission to release several NXX codes that are currently labeled "unassignable", as discussed below.

IV. Activation of "Unassignable" Codes

On February 1, 2001, the NANPA and industry members met via telephone conference call to discuss whether 29 NXX codes in the 847 NPA designated as "unassignable" could be released for assignment to carriers. At a previous meeting with NANPA in January, carriers agreed to forward information to Seamus Glynn of CUB, Harvey Nelson of the Commission Staff and a NANPA representative, detailing whether technical impediments prevented the activation of any of these codes.

The information provided by Ameritech Illinois, Focal Communications, AT&T and WorldCom revealed that two previously designated "test codes", the 340 and 770 NXXs, are assignable and no longer required for testing. The industry reached consensus at the February 1, 2001 meeting to release these codes for assignment in the 847 NPA. The industry also reached consensus to notify the Commission that 17 of the investigated codes cannot be assigned. The 200, 211, 300, 311, 411, 500, 511, 555, 611, 711, 811, 900, 911, 950, 958, 959 and 976 NXX codes remain unassignable because they are: 1) N11 codes reserved for special uses such as local directory assistance and emergency services; 2) reserved for interexchange access service; 3) reserved for information services; 4) reserved for testing purposes; or 5) service access codes that cannot technically be translated into NXX codes.⁹

⁹ See February 5, 2001 Comments of NANPA, ICC Docket No. 01-0066, p. 4.

The industry further decided to notify the Commission that the assignment of the five "adjacent NPA" NXXs (219, 312, 630, 708 and 815), and the "home"-NPA NXXs (847, 224 and 668) NXXs – is technically possible, but not recommended. The industry pointed to possible customer confusion as a basis for advising against activation of these codes in its report to the Commission.¹⁰ However, NANPA reported that "in the event that the Commission orders the assignment of these NXXs prior to the implementation of 11-digit dialing in the 847 NPA, the Industry will comply with the Commission's directive."¹¹

GCI urges the Commission to order the NANPA to release these codes for assignment. First, GCI believes that the alleged customer confusion related to using these codes, if any, would be significantly less than the inevitable confusion that surrounds the implementation of a new overlay area code. Unless a customer inadvertently dials a "1" before the seven digit phone number beginning with any of these prefixes, the use of these codes will unlikely lead to misdialed numbers. Second, the only technical glitch that accompanies the use of these NXX codes in the 847 NPA is a "post-dial" delay of three to four seconds. This should not dissuade the Commission from releasing these codes. In fact, Ameritech customers already occasionally experience post-dial delays on calls not involving adjacent or home NPA prefixes. Moreover, Ameritech Illinois reported that technical workarounds could be easily accomplished over a few hours during an off-peak period in the middle of a Sunday night, for example. Finally, the INC Central Office Code (NXX) Assignment Guidelines lists delaying NPA exhaust and the need for NPA relief "for as long as possible" as an objective of

¹⁰ *Id.* at 5.

¹¹ *Id.*

numbering resource assignment, requires the use of NXX codes for purposes other than assignment (e.g., test codes) to be minimized, and specifically permits the use of home NPA and adjacent NPA codes. INC Central Office Code (NXX) Assignment Guidelines, Section 9.0, 9.2.2, 9.2.3.

Most importantly, release of these 8 codes, along with the 340 and 770 codes, will buy a few months' time for the FCC to act on Illinois' request for an extension of the 10-digit dialing waiver. It also would permit CUB and the Commission Staff additional time to analyze the most recent filing of carrier number utilization data on February 1, 2001, which can be obtained from the NANPA in early March. Comparison of this data with the September 15, 2000 data now in CUB's and Staff's possession will permit a more detailed picture to emerge of carrier number utilization behavior since the establishment of the FCC-ordered conservation rules, and possibly lead to the reclamation of unused NXX codes, a number optimization method discussed below.

V. Remediating Carrier Noncompliance With Conservation Mandates

A. The FCC's Delegation of Reclamation Authority to State Commissions

Under FCC and industry rules, carriers are required to activate an NXX code within six months of receiving the code. The FCC ruled that the definition of placing an NXX code in service should be clarified to mean that the carrier has begun to activate and assign to customers numbers within the code. Carrier confirmation with the NANPA that codes have been placed in service through the filing of a "Part 4" form is mandatory. In addition, the industry's own guidelines for assigning numbering resources make clear that

it is the responsibility of the carrier to seek an extension from the state commission if they hope to retain a code beyond the six-month deadline.¹²

As noted above, the FCC granted specific authority to state commissions to investigate carrier utilization of numbering resources, and direct the NANPA to reclaim unactivated codes or unused thousand-blocks. *First Report and Order* at par. 237, 238. In doing so, the FCC concluded, "Reclamation and reuse of unused NXX blocks is a numbering optimization measure that may be one of the quickest and easiest measures to implement. *Id.* at par. 237. The FCC concluded that reclaiming NXX codes that are not in use can prolong the life of an area code because these codes are added to the total inventory of assignable NXX codes in the area code.

The Industry Numbering Committee's ("INC") Central Office (NXX) Assignment Guidelines, which incorporate the FCC's rulings on number conservation and reclamation, make clear that the state commission is in charge when it comes to determining whether NXX codes need to be reclaimed. Section 8.0, for example, states:

A state commission may request proof from all code holders that NXX codes have been activated and assignment of the numbers has commenced. *NANPA will abide by the state commission's determination.*

INC CO Assignment Guidelines, Section 8.0. Moreover, the INC Guidelines make clear that it is the carrier's responsibility to seek an extension *from the state commission* of the six-month deadline for activation. *Id.* at Section 8.1. No carrier possessing unused codes or thousand-blocks has made such a request to the Commission to GCI's knowledge.

As noted above, further investigation of the September 15, 2000 utilization data, along with the upcoming February, 1, 2001 data, may reveal codes that are subject to reclamation due to a carrier's failure to activate the code within six months of

¹² See Industry Numbering Committee Central Office (NXX) Code Assignment Guidelines, Section 8.0, 8.1.

assignment. The data now in the possession of CUB and the Staff reveal the existence of between 35 and 51 full NXX codes in the 847 NPA without a single working phone number. Anywhere from 83 to 105 NXX codes have a utilization rate of one percent or less. Other codes may be eligible for reclamation given the fact that the carriers did not file utilization data for 39 NXX codes.

A couple of the larger carriers stand out as candidates for having codes reclaimed. AT&T, for example, has 75 NXX codes from the 847 NPA in their possession, but a paltry 8% NPA-wide fill rate. Sixty-three of these NXX codes were activated before April, 1998. While AT&T has donated 182 thousand-blocks to the number pool, it has taken 17 back, leaving it with 585 thousand-blocks. The 539,000 unused numbers AT&T has represents 28% of all the unused wireline numbers.

MCI WorldCom has 42 NXX codes from the 847 NPA in its possession, but a meager 22% NPA-wide fill rate. In 10 of these NXX codes, WorldCom had no assigned numbers when they filed their NANPA data last September. Unfortunately, WorldCom has donated one or more thousand-blocks from each of these NXXs to the number pool, thereby complicating reclamation. Those portions of these codes that WorldCom retained nevertheless show a 0% fill rate. WorldCom's unused numbers totaled about 165,000, or 9% of all unused wireline numbers.

The remedies outlined in the industry's own code assignment guidelines for carrier violations of the guidelines support the use of Commission reclamation of codes held by offending carriers who contaminated unused NXX codes by returning only portions of what otherwise is an unused code to the Pooling Administrator. For example, Section 8.2.1 of the INC Code Assignment Guidelines require the reclamation of

assigned codes that are "not used in conformance with these assignment guidelines." The guidelines also state that the code administrator (NANPA) shall contact the Pooling Administrator for inquiries about return of NXXs that are in a thousand-block number pool. INC CO Code Assignment Guidelines, Section 8.2.1.

In recent days, representatives from the Commission Staff and CUB met with carriers AT&T and WorldCom. The AT&T representative stated that the company is investigating the status of many of the NXXs brought to their attention by the Commission Staff. However, AT&T also stated that the company would not return a single NXX. WorldCom is reviewing the situation. However, it also continued to donate portions of otherwise unused NXX codes to the number pool in January of 2001.

The Commission should direct the NANPA to reclaim empty NXX codes held by carriers longer than six months from assignment. A review of the number utilization data filed with the NANPA on February 1, 2001 will assist the Commission in determining whether additional NXX codes can be reclaimed. In addition, the Commission should advise the Number Pooling Administrator that designated thousand-blocks returned by carriers who should have returned the full NXX code may be reclaimed to re-assemble what is actually an unused NXX for purposes of reclamation.

Accordingly, reclamation of unused codes remains a viable option for the Commission to extend the life of the 847 NPA, and should be pursued now and upon receipt of the next round of number utilization data.

B. Requests for "For Cause" Audits

In its *Second Report and Order*, the FCC recognized that the ability to monitor numbering resource use and accurately predict NPA exhaust is dependent on the quality of the data submitted by the carriers. The FCC noted,

The mere possibility of an audit, we believe, will prevent behavior that is contrary to numbering resource optimization goals, such as stockpiling of unneeded resources.

Second Report and Order at par. 83. With that in mind, the FCC created a comprehensive audit program, consisting of "for cause" and random audits. "For cause" audits can be conducted if there is a reason to believe that the information a carrier provided is inaccurate or misleading, or that a carrier has violated the Commission's rules or orders or applicable industry guidelines. *Id.* at par. 84. Among the entities listed as sources for initiating "for cause" audits are state commissions that have reasons to believe that a carrier may have violated the FCC's rules or orders, or applicable industry guidelines. *Id.* at par. 86.

To request such an audit, the commission must make a written request to the Audits Branch of the Accounting Safeguards Division in the Common Carrier Bureau of the FCC. *Id.* at par. 90. The request must state the reason for which a "for cause" audit is being requested and shall include documentation of the alleged anomaly, inconsistency, or violation of the FCC rules, orders or applicable guidelines. It is within the Auditor's discretion to grant the audit and conduct follow-up audits of carriers that previously were subject to "for cause" audits. *Id.* at par. 87.

The initial review of the number utilization data filed with the NANPA on September 15, 2000, and released to the Staff and GCI suggests that carriers have hoarded numbering resources by failing to (1) follow sequential numbering assignment

and other conservation rules, and (2) turn in unused NXX codes within six months of assignment, and points to the need for an FCC audit of certain carriers' number utilization practices.

Given AT&T's large reservoir of unassigned telephone numbers and its paltry 8% NPA-wide fill rate, the Commission should request an FCC audit of the company's number utilization practices. The FCC permits state commission representatives to participate on FCC audit teams if they wish to do so. *Second Report and Order* at par. 92. GCI urges the Commission to request an FCC audit of AT&T's numbering assignment practices.

VI. Conclusion

CUB's review of the number utilization data not only sheds light on the number hoarding practices of these carriers, but also points to possible violations of both this Commission's and the FCC's number conservation rules, including (1) the FCC's sequential numbering assignment rule provision that requires all carriers to assign available telephone numbers within an opened thousand-block before assigning telephone numbers from an uncontaminated thousand-block, (2) a rule in effect since May of 1998 as a result of this Commission's Number Pooling and Conservation Order that requires carriers to refrain from requesting an additional NXX code or blocks of 1000 numbers until its existing numbering resources are at least 75% utilized per rate center, (3) the FCC rule that codes not activated within six months of assignment must be returned to the NANPA, and (4) the FCC rule that all carriers submit number utilization and forecast data.

The Commission can take action today to (1) extend the life of the 847 area code long enough to obtain the anticipated FCC extension of the 10-digit dialing waiver for the 847 and new 224 NPAs and further investigate the reclamation of unused codes, (2) prevent rogue carriers from obtaining additional numbering resources, and (3) send a clear signal to carriers operating in Illinois that violations of state and federal number conservation rules will not be tolerated, thereby dissuading carriers from similarly polluting NXX codes in other Illinois NPAs.

Specifically, the Commission should:

1. Reject the letter filed by the NANPA advising it of the exhaust of the 847 NPA and order the NANPA to release the protected and adjacent-NPA NXX codes listed in this report. This action may delay the assignment of the last 847 NXX code long enough for the FCC to act on Illinois' request to extend the 10-digit dialing waiver. In addition, such action would give the Commission the time it needs to obtain the next set of carrier utilization data filed with the NANPA on February 1, 2001. Review of this data, along with the September 15, 2000 filing, will give the Commission additional information to determine whether additional unused codes referenced above can be reclaimed.

2. The Commission should order the NANPA to reclaim all unused NXX codes and advise the Number Pooling Administrator that designated thousand-blocks returned by carriers who should have returned the full NXX code may be reclaimed to re-assemble what is actually an unused NXX for purposes of reclamation.

3. The Commission should file a request with the Common Carrier Bureau of the FCC for a "for cause" audit of the number utilization practices of AT&T, whose number utilization data and follow-up interviews reveal a pattern of hoarding unused telephone numbers, and possible violations of the number conservation rules enacted by this Commission and the FCC. Fourth, the Commission should notify the NANPA to withhold additional numbering resources from carriers that failed to provide utilization and forecast data with the NANPA, as required by the FCC.

Notification of the NANPA regarding the release of the previously unassignable codes must occur prior to February 16, the date currently scheduled for the assignment of the first 224 NPA. Only then can the life of the 847 NPA be extended long enough for the Commission to obtain a 10-digit dialing waiver from the FCC and initiate possible reclamation of additional codes.

4. Voluntary action by the offending carriers could have an immediate impact that would significantly extend the life of the NPA. The Commission should call upon all carriers serving the 847 NPA to review their number holdings to determine whether full NXXs can be returned to the NANPA.