

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to consider implementation of a 313 area code)	Case No. U-12880
relief plan.)	
_____)	

At the September 7, 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 313 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 313 area code, the North American Numbering Plan (NANP) Administrator, which is currently NeuStar, Inc.,¹ notified the Commission and the telecommunications industry, on May 28, 1999, that relief planning for the 313 area code needed to be addressed as soon as possible. Following discussions both among its members and with NeuStar, the industry determined that, based on changes in the

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

rate of assignment of central office codes and updated forecasts, the exhaustion of NXX codes within the 313 area code could be delayed until the first quarter of 2002.

On July 14, 1999, members of the industry met with NeuStar to discuss long-term relief alternatives for the 313 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 313 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 April 20, 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. (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 313 area code relief plan--to the Commission for its consideration by letter dated July 28, 2000.

On March 29, 2001, having dealt with even more time-sensitive requests for area code relief in other parts of Michigan, the Commission issued an order in this case setting public hearings on the 313 area code relief plan for April 30, 2001 in Detroit and May 31, 2001 in Grosse Pointe. The Commission's order also provided an opportunity for interested persons to file written comments.

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 a new area code covering the same geographic area as the area code requiring relief.

II.

DISCUSSION

The Petition

In its petition, NeuStar explained that the industry examined five alternatives for 313 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 313 area code. Under this proposal, all existing customers would retain their existing telephone numbers, including their 313 area code. Once any still-available NXX codes in the 313 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

The second alternative involved a geographic split of the existing 313 area code. Under this alternative, the two zones comprising the northwestern corner of the 313 area code (designated in the petition as “Area A”) would be separated from the other four zones lying to their south and east (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 would require existing customers located in one of those areas to change their phone numbers in recognition of their new area code.

The third and fourth alternatives consisted of proposals to establish an all-services distributed overlay that would simultaneously cover more than one area code. According to the petition, the

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.

third alternative could be used to concurrently solve all NXX code exhaustion problems then existing in the 248 and 313 area codes by superimposing one new area code on both of those regions. The petition went on to indicate that the fourth alternative, which would cover the 248, 313, and 734 area codes with a single overlay, would produce a similar result, albeit over a larger region.⁴ However, the Commission's April 17, 2001 order in Case No. U-12721 subsequently established a separate overlay for the 248 area code. Thus, the multiple-area overlay proposed as the third alternative now duplicates the first alternative (an overlay encompassing only the 313 area code) and the fourth alternative would cover only the 313 and 734 regions.

Finally, the fifth alternative mentioned in the petition was to establish a new area code within the 313 region that would apply only to wireless customers. Nevertheless, the petition indicated that NeuStar and the industry members promptly eliminated this alternative from consideration on the grounds that current FCC regulations ban the use of technology-specific overlays.

The petition went on to recommend adopting the first alternative, namely the all-services distributed overlay covering only the 313 area code. According to NeuStar, this recommendation was based on the fact that, having been split to the point where it now covers little more than the City of Detroit, the 313 area code "currently is divided into the smallest practical area without dividing communities of interest." Petition, p. 5. Moreover, NeuStar continued, implementing an overlay in this situation will "minimize customer confusion and [will] not require customers to change their telephone numbers." Id.

⁴The 248 area code covers the area adjacent to and northwest of the 313 region, while the 734 area code is located directly west of the 313 area code.

Comments

A total of four parties made statements at the April 30 and May 31, 2001 public hearings. In addition, 13 written comments were submitted for the Commission's consideration.

Among the members of the industry that provided comments in this proceeding, as well as a handful of the private citizens and associations that weighed in on this issue, there was strong support for implementing one of the all-services distributed overlays described in the petition. This support was based largely on the fact that overlays (1) are easier, and thus substantially 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. 5. Finally, Ameritech Michigan asserted that Section 303(5) of the Act, MCL 484.2303(5), does not require adjusting the 313 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.

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). Some even indicated that it might be best to reject all overlay and split proposals, thus leaving the Commission to rely solely on such

things as thousands-block number pooling and rate center consolidation to remedy the current NXX code exhaustion problem in the 313 area code.

Conclusion

Notwithstanding their proponents' respective assertions to the contrary, two 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 three of the commentators.

Second, proposals to reject all forms of area code relief and rely exclusively on numbering resource optimization efforts, such as rate center consolidation, number reclamation, and thousands-block number pooling, are neither practical nor allowed by the FCC as the sole remedy 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. Likewise, number reclamation is a relatively slow process. This is reflected by the fact that, despite extensive Commission efforts, only nine additional NXX codes have been reclaimed to date in the 313 area code. Finally, although the FCC recently granted the Commission's request for additional delegated authority to implement mandatory thousands-block number pooling for both the Detroit and Grand Rapids areas, it went on to reassert that the Commission cannot use pooling (either alone or in conjunction with other numbering resource optimization measures) in lieu of timely area code relief. Rather, the FCC indicated that wherever an area code is either in or approaching jeopardy (as is the case with the 313 area code), the Commission must, at a minimum, approve an area code relief proposal to serve as a "back-up [plan] . . . in the event that the pooling trial fails to alleviate the need for area code relief." Numbering Resource Optimization Order, __ FCC Rcd __, DA 01-2013 (rel. Aug. 24, 2001). For these reasons, the numbering resource optimization efforts discussed above do not, by themselves, constitute an adequate response.

Thus, the Commission is effectively required to choose between ordering a geographic split or imposing some type of an all-services distributed overlay. Based on the facts of this case, the Commission finds that an overlay should be used to provide relief, if and when it is ultimately needed, in the 313 area code. It reaches this conclusion for the following three reasons.

First, the previous geographic splits undertaken in this region have resulted in a very compact area code. Specifically, although the 313 area code originally covered the entire southeastern third of Michigan's lower peninsula, that region has already been divided into four separate area codes (namely, 248, 313, 734, and 810) and will be split again to add a fifth (the 586 area code) effective September 22, 2001. As a result, the 313 area code now covers less than half of a single county and its boundaries are essentially limited to the City of Detroit. Thus, as NeuStar correctly pointed

out in the petition, the region encompassed by the 313 area code has already been separated into the smallest practical area without dividing communities of interest.

Second, research indicates that overlays have become much more accepted throughout the country over the last few years. As specifically noted in the Commission's April 17, 2001 order in Case No. U-12721, "nearly 75% of the pending area code relief plans approved by state commissions have been in the form of overlays." April 17, 2001 order, pp. 10-11. 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.

Third, 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 313 area code. Thus, keeping the region covered by the 313 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 313 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 313 numbers that reclamation and pooling efforts ultimately make available for use.

Having found that an all-services distributed overlay should be approved, the Commission must next determine which type of overlay (one covering only the 313 region or one concurrently applied to both the 313 and 734 area codes) makes the most sense. In resolving this issue, the Commission concludes that the best course of action is to impose a single overlay over both the 313 and 734 area codes. This conclusion, which mirrors that reached in today's order in Case No. U-12743 (concerning the 734 area code relief plan), is based on the fact that establishing a

multiple-region area code will allow for the most efficient use of numbering resources. This is because it allows the NXX codes from the new area code to be assigned to the areas of greatest need without being constrained by the boundary that currently separates the 313 and 734 area codes.

For all of these reasons, the Commission finds that the fourth area code relief alternative described in the petition, adjusted to remove the 248 region from the scope of the multiple-area overlay, should be adopted. In reaching this conclusion, the Commission is keenly aware of the inconvenience and confusion that area code relief can entail. It 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 formerly stranded codes (each containing 10,000 telephone numbers). Furthermore, in light of the FCC's recent grant of authority to this Commission to implement thousands-block number pooling, the Commission will work as expeditiously as possible to get a pooling trial under way in the 313 area code. In addition, the Commission will continue to investigate the potential use of rate center consolidation to reduce the need for future area code relief and pursue the possibility of getting the FCC to lift its ban on technology-specific overlays, all in hopes of limiting the adverse effect that future area code relief may have on customers.

Miscellaneous Issues

In addition to the question of which form of relief should be approved for use in the 313 area code, several related issues have arisen in this case.

First, Section 303(5) of the Act requires the Commission to determine whether, in the context of granting area code relief or otherwise, it can somehow modify area code boundaries to make them better conform to county lines. In this instance, the Commission agrees with assertions by Ameritech Michigan to the effect that it is neither technically nor economically feasible to split or otherwise reconfigure the 313 area code precisely along county lines. To conform to county lines, providers along the area code's 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.

Second, the Commission must address the issue of when, if ever, the 313 area code relief plan approved in this order should be put into operation. In each of its previous orders approving area code relief, the Commission resolved this issue by establishing specific implementation dates for permissive and mandatory dialing. Those dates were based, in significant part, upon NeuStar's long-range projections regarding the rate of usage of NXX codes in the respective area codes. Nevertheless, the Commission finds that it should depart from that past practice. This is due to the FCC's recent grant of additional delegated authority to implement mandatory thousands-block number pooling in the 313 area code.

As noted earlier, the implementation of a new area code forces customers to go through the trouble, expense, and dislocation of changing their telephone numbers or dialing patterns, or both. Thus, traditional area code relief, in the form of geographic splits or overlays, should never be implemented until it is absolutely necessary. Moreover, based on the success of pooling tests conducted in states like Illinois, New York, and Florida, it appears that the FCC's decision to allow the Commission to commence thousands-block number pooling could significantly delay the date upon which such necessity arises with regard to the 313 area code. Thus, rather than

establishing specific implementation dates at this time based on NeuStar's long-range projections (which do not account for the potential effect of pooling in the 313 area code), the Commission finds that a more flexible implementation procedure should be adopted.

Specifically, the Commission concludes that (1) NeuStar should continue to monitor both the number of available NXX codes in the 313 area code and their rate of usage, (2) if and when NeuStar determines that the 313 area code is within 12 months from actual NXX code exhaust, it should notify the Commission of that fact and meet with relevant members of the industry to establish a schedule for the implementation of permissive and mandatory dialing, (3) any implementation schedule established by NeuStar and the industry should provide for the activation of the new overlay and the commencement of permissive dialing in the 313 area code six months prior to NXX code exhaust, and (4) absent a future Commission order setting specific implementation dates, the schedule established by NeuStar and the industry should neither initiate permissive dialing before September 7, 2002 nor commence mandatory dialing prior to March 8, 2003. The Commission also concludes that all calculations of time to NXX code exhaust should be based on actual carrier usage of numbers and that NeuStar and the industry should take all reasonable steps--including the use of code rationing, if necessary--to ensure that the 313 area code does not run out of NXX codes before the new overlay has become operational. The Commission further concludes that the industry should file monthly progress reports from the time that an implementation schedule is established to the date upon which the area code relief plan is fully implemented. Moreover, the Commission directs that NeuStar's central office code administrator should refrain from issuing numbers from the new overlay area code to customers in the 313 region until all available NXX codes in the 313 area code have been assigned.

Third, comments received in this case and others indicate that a high level of confusion exists among customers concerning the effects of area code relief. Thus, to better 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. It should likewise address such items as bill inserts, press kits, public service announcements, and other resources that will be used to respond to customer education needs and inquiries. In addition, the plan should also identify primary contacts within each company to address area code questions. Moreover, the industry should notify the Commission of any relevant changes to the customer education plan prior to the plan's implementation.

Fourth, to further reduce the likelihood of customer confusion, the Commission also finds 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 313 area code and the new overlay area 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.

Fifth and finally, parties ranging from alarm service providers to 9-1-1 emergency dispatch operators expressed concern about the harmful effect that area code relief could have on public safety, as well as on their own economic well-being. However, without knowing what form of area code relief would be adopted in this order, these parties were unable to determine the exact effect that the approved relief would have and what steps could be taken to avoid or reduce any resultant harm. The Commission therefore directs all telecommunications providers within the 313 area code to enter into informal discussions with the alarm service providers and emergency

dispatch operators with which they do business, and to attempt to resolve any unique concerns or problems that may arise for those customers. If necessary, those customers may file, not less than 60 days after the issuance of this order, separate applications proposing transitional arrangements tailored to their particular circumstances.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.
- b. The fourth alternative 313 area code relief plan described in the petition should be approved, with certain restrictions and requirements as stated in this order, including the removal of the 248 area code from the region covered by the multiple-area overlay.
- c. If and when NeuStar determines that the 313 area code is within 12 months of actual NXX code exhaust, it should notify the Commission of that fact and meet with relevant members of the industry to establish a schedule for the implementation of permissive and mandatory dialing.
- d. Any implementation schedule established by NeuStar and the industry should provide for the activation of the new overlay and the commencement of permissive dialing in the 313 area code six months prior to NXX code exhaust. Absent a future Commission order setting specific implementation dates, that schedule should neither initiate permissive dialing before September 7, 2002 nor commence mandatory dialing prior to March 8, 2003.
- e. The industry should file monthly progress reports from the time that the implementation schedule is established until the date upon which the area code relief plan is fully implemented.
- f. The industry should file, within 30 days, a comprehensive plan for customer education consistent with this order, and should further provide updates to that plan as necessary.

g. Telecommunications service providers within the 313 area code should enter into informal discussions with all alarm service providers and emergency dispatch operators with which they do business, and should attempt to resolve any unique concerns or problems that may arise for those customers due to the potential implementation of the area code relief plan approved in this order.

THEREFORE, IT IS ORDERED that:

A. The 313 area code relief plan set out as the fourth alternative in the petition filed by NeuStar, Inc., namely the implementation of a multiple-area all-services distributed overlay, is approved with certain restrictions and requirements as described in this order, including the removal of the 248 area code from the region covered by the multiple-area overlay.

B. If and when NeuStar, Inc., determines that the 313 area code is within 12 months of actual central office code exhaust, it shall notify the Commission of that fact and meet with relevant members of the industry to establish a schedule for the implementation of permissive and mandatory dialing.

C. Any implementation schedule established by NeuStar, Inc., and the industry shall provide for the activation of the new overlay and the commencement of permissive dialing in the 313 area code six months prior to central office code exhaust. Absent a future Commission order setting specific implementation dates, that schedule shall neither initiate permissive dialing before September 7, 2002 nor commence mandatory dialing prior to March 8, 2003.

D. The industry shall file monthly progress reports from the time that the implementation schedule is established until the date upon which the area code relief plan is fully implemented.

E. The industry shall file, within 30 days, a comprehensive plan for customer education consistent with this order, and shall further provide updates to that plan as necessary.

F. Telecommunications service providers within the 313 area code shall enter into informal discussions with all alarm service providers and emergency dispatch operators with which they do business, and shall attempt to resolve any unique concerns or problems that may arise for those customers due to the potential implementation of the area code relief plan approved in this order.

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.

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 September 7, 2001.

/s/ Dorothy Wideman

Its Executive Secretary

F. Telecommunications service providers within the 313 area code shall enter into informal discussions with all alarm service providers and emergency dispatch operators with which they do business, and shall attempt to resolve any unique concerns or problems that may arise for those customers due to the potential implementation of the area code relief plan approved in this order.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of September 7, 2001.

Its Executive Secretary

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to consider implementation of a 313 area code)
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Suggested Minute:

“Adopt and issue order dated September 7, 2001 approving, with certain restrictions and requirements, the petition filed by NeuStar, Inc., to provide future 313 area code relief through the implementation of an all-services distributed overlay, as set forth in the order.”