

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

OPINION NO. 99-11

CASE 99-C-0800 - In the Matter of an Investigation of the
Efficient Usage of Telephone Numbering
Resources and Evaluation of the Options for
Making Additional Central Office Codes and/or
Area Codes Available in New York State

OPINION AND ORDER DIRECTING A
GEOGRAPHIC SPLIT OF THE 914 NPA

Issued and Effective: November 4, 1999

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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BY THE COMMISSION:

INTRODUCTION AND PROCEDURAL HISTORY

By order issued July 13, 1998 in Case 98-C-0689,¹ we instituted a proceeding to consider, among other things, how best to introduce new area codes when and where they proved necessary.² In a ruling issued in early December in that case,³ Administrative Law Judge Joel A. Linsider noted that the need for specific area code relief was becoming more pressing; that jeopardy conditions had been declared in the 516 (Nassau and Suffolk counties), 914 (lower Hudson Valley

¹ Case 98-C-0689, Omnibus Telephone Numbering Resources Proceeding, Order Instituting Proceeding (issued July 13, 1998).

² Although the FCC has jurisdiction over those portions of the North American Numbering Plan that pertain to the United States, it is permitted to delegate to the states all or any part of that jurisdiction (47 U.S.C. '251(e)(1)). Among the matters within the states' authority (subject to certain restrictions) is the manner in which a new area code, when needed, should be provided.

³ Case 98-C-0689, Ruling Concerning Future Course of Proceeding (issued December 2, 1998).

and Catskills),¹ and 716 (western New York) numbering plan areas (NPAs); and that the 516 region required the speediest action. On April 29, 1999, we issued an opinion and order² in that case, which geographically split the 516 NPA into two NPAs.

The instant proceeding was established to address the 914 and 716 NPAs. This opinion and order considers only the 914 NPA, which, since the early 1950's, has served portions of the Hudson Valley and the Catskills (i.e., all or most of Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester counties and small portions of Columbia, Delaware, and Greene counties, as shown in the appended map).

Throughout the nation, the demand for central office codes has increased drastically in recent years and NPAs have had to be added much more frequently than in the past. The increased demand stems in part from greater use of new telecommunications services such as cellular phones, facsimile machines, and internet connections. It also reflects the growth of competition in the local exchange market: there are more and more carriers who were assigned blocks containing 10,000 numbers according to guidelines promulgated by the Industry Numbering Committee (INC), a private organization representing all sectors of the telephone industry.

More specifically, the INC's Central Office Code Assignment Guidelines³ had required that each competitive local exchange carrier (CLEC) be allowed at least one central office code, which contains 10,000 numbers, in each rate center.⁴ Consequently, new CLECs with relatively few

¹ On February 24, 1998, the code administrator declared an "extraordinary jeopardy" for the 914 area code, which means that relief cannot be provided before the projected exhaust date.

² Case 98-C-0689, Omnibus Telephone Numbering Resources Proceeding, Opinion No. 99-6 (issued April 29, 1999).

³ INC 95-0407-008.

⁴ A rate center is a geographic area used to calculate

customers may have a claim on many phone numbers that cannot be otherwise assigned. Last month, the FCC granted, in part our petition to implement number conservation measures, including thousand-block pooling trials.¹ Our exercise of that authority will not affect the current shortage of numbers, but should forestall the need for future relief.

In order to give users of telecommunications services and the public at large an opportunity to be heard and play an important part in shaping the decisions to be reached in this case, Staff undertook to prepare an options paper for the 914 region (the Staff Paper). In a process similar to that used in the 516 NPA proceeding, the Staff Paper was issued June 14, 1999² for written comment on and for consideration at informal public forums and formal public statement hearings in the 914 region. The public statement hearings and forums were convened at seven locations in the affected counties during the latter half of August, 1999. On the basis of all the information compiled through those processes, we have decided to use a geographic split to provide area code relief.

This opinion and order begins with an overview of the Staff Paper and reports on the written comments submitted by the parties and on the results of the public statement hearings and forums. Finally, it presents and explains our conclusions.

distances between points of origin and termination for purposes of pricing calls.

¹ In the Matter of New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98; NSD File No. L-99-21; Order, rel Sept. 15, 1999.

² Case 99-C-0800, Ruling Inviting Comments on Staff Paper (issued June 14, 1999).

THE STAFF PAPER

Need for Relief
and Options Presented

The Staff Paper observes that about 732 of the 800 assignable central office codes (NXX codes) in the 914 NPA had already been allocated to carriers, leaving only 68 NXX codes available for assignment, as of May 28, 1999. The Staff Paper sets forth three options to relieve the shortage of NXX codes for our consideration--a single overlay and two geographic splits-- but dismisses one of the geographic splits.

1. The Overlay

An overlay would augment the numbering resources by adding a second area code throughout the geographic area of the 914 NPA. Central office codes from the new area code would then be assigned on a carrier-neutral, first-come, first-served basis. A single overlay for the 914 NPA, it is estimated, would provide relief until 2006.

If an overlay were adopted, current FCC rules would require ten-digit dialing within each NPA. The requirement is intended to limit the advantage incumbent LECs are alleged to derive from their customers being more likely to receive a number in the existing area code and, therefore, being able to use seven-digit dialing for a greater percentage of their calling. We believe that there is no such advantage due to other pro-competitive steps including number portability and non-discriminatory number assignment rules, and we are seeking reversal of that requirement. A decision rendered by the United States Court of Appeals for the Second Circuit¹ has stayed enforcement of the requirement in New York for approximately one year (October 21, 2000).

¹ PSC v. FCC, Docket No. 99-3015, untitled order (2d Cir., March 26, 1999).

2. Geographic Split

The dividing line between NPAs has usually followed an easily recognized political or natural boundary. The Staff Paper presents two alternative geographic splits. Geographic Split "A" would divide the area into two regions, along the Westchester County boundary. Under this alternative, Westchester County would be separated from the other counties in the 914 area code. However, this split would require bisecting five central offices, including Peekskill, Purdy's (Croton Falls), North Salem, Putnam Valley (Lakeland) and Mahopac. In order to estimate exhaust dates, the first three were included in the area code for Westchester County, and the other two were grouped with the rest of the region. Under this division, current projections indicate that Westchester County would not need additional relief until 2005, and the rest of the counties would need relief in 2007.

In Staff's view, the county boundaries represent a readily recognizable divisions for an area code split, minimize the separation of local communities into two area codes when compared to Geographic Split "B," and, in light of newer network technology, would not require changes in customers' seven-digit numbers.

Geographic Split "B" would divide the existing 914 area code roughly along the Interstate 287 corridor in central Westchester. Under this alternative, southern Westchester County would be assigned to one area code and northern Westchester and all of the other counties would be assigned to another area code. Under this alternative, Westchester Zones 1 through 9, along with the Pleasantville and Armonk Village central office districts, would be grouped on one side and the remaining portion of Westchester County along with all of the other counties in the current 914 area on the opposite side. Current projections indicate that this plan would provide area code relief until 2007 for the southern area of

Westchester County and until 2005 for the northern Westchester and other counties. The Staff Paper opposes Geographic Split "B" because its irregular boundaries are likely to create greater customer confusion.

Staff's Evaluation of the Options

As noted, the Staff Paper dismisses Geographic Split "B" on the grounds that its potential for confusion outweighs the added longevity of the relief it would afford.

As for Geographic Split "A" vis a vis the single overlay, Staff notes that the advantages and disadvantages of each mirror those of the other. Briefly, they are as follows:

1. Geographic Split "A"

a. Advantages

- retains familiar identification between an area code and a specified territory
- avoids any possible need for intra-NPA ten-digit dialing

b. Disadvantages

- requires more than two million numbers on one side of the line or the other to change their area code, including wireless customers who would have to have their equipment reprogrammed¹
- implies that future relief entails division into progressively smaller geographic units without readily recognized boundaries

2. Overlay

a. Advantages

¹ Staff noted that existing wireless customers could be grandfathered and thus keep their area code or change to the new code.

- avoids need for more than two million numbers to change their area code
- easily "replicable"; that is, further relief could be provided by additional overlays as needed
- may spare thousands of wireless customers of the need to return cellular telephones and/or pagers to their service providers for reprogramming to accept new area code

b. Disadvantages

- may require intra-NPA ten-digit dialing (though a geographic split would itself increase ten-digit dialing for half of the numbers that were previously dialable on a seven-digit basis)
- creates confusion by having two area codes within the same locale or building

The staff paper does not suggest a preferred method of relief, i.e., split or overlay. Rather, Staff recommends that comments be sought on the proposals. As noted above, a ruling inviting comments on the Staff Paper was issued.¹

PARTIES' COMMENTS

Overview

Eleven parties submitted written comments on the Staff Paper; two of them submitted reply comments. Except for the New York State Consumer Protection Board (CPB) and Westchester and Putnam counties, all of the commenting parties are telecommunications companies.

CPB urges that all reasonable measures that might delay the need for a new area code be fully considered and implemented before adding a new area code. Other parties see

¹ Case 99-C-0800, Ruling Inviting Comments on Staff Paper

code relief as urgent to varying degrees, and none advocates delay.

Several parties (including New York Telephone Company d/b/a Bell Atlantic-New York (Bell Atlantic-New York)) favor an overlay outright; others favor a geographic split. Several parties suggest that, if a split is approved, the telephone numbers of existing wireless customers be grandfathered.

A summary of the parties' comments follows.

Initial Comments

CPB urges that the burdens of a new area code, however introduced, be imposed only after maximum use of available telephone numbers in the existing area code has been ensured. It cites our various efforts in this regard and urges that, before assessing whether a new area code is required for the 914 NPA, we conclude our examination of rate center consolidation and other efficiency measures such as thousand-block number pooling,¹ which it sees as potentially delaying the need for a new area code.

Noting that we found, in the New York City Proceeding, that approximately 80% of telephone numbers in assigned NXXs in Manhattan were in use, CPB calculates the corresponding figure for the 914 NPA to be only about 59%. It suggests that this relatively low utilization rate results, in part, from the large number of rate centers in the 914 area code. CPB points out that, while Manhattan has three rate centers and the two eastern counties of Long Island have 60,

(issued June 14, 1999).

¹ As noted above, the FCC granted, in part, our petition to implement number conservation measures, including thousand-block pooling trials. In the Matter of New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98; NSD File No. L-99-21; Order, rel Sept. 15, 1999.

the region served by the 914 area code has 120 rate centers-- apparently the most of any NPA in the State. Observing that each local exchange carrier serving a rate center must have at least one NXX code in that rate center assigned to it, CPB asserts that CLECs hold 144 NXX codes in the 914 area code. Thus, CPB claims the large number of rate centers leads to inefficient use of available telephone numbers.

CPB also sees great potential in thousand-block number pooling, noting that number pooling trials are underway in New York as well as other states.

In the event an additional area code were required, CPB would favor a geographic split with Westchester and Putnam counties retaining the 914 NPA. According to CPB, consumers outside of New York City strongly prefer that a new area code be provided through a geographic split because of their aversion to dialing ten digits to make a local call as now required by the FCC rule previously noted. Furthermore, CPB argues that a geographic split can obviate customer confusion that would be created by an overlay as a result of multiple area codes in a single neighborhood, building, or household. In addition, CPB notes that a geographic split would have no anti-competitive consequences. Finally, CPB recommends that existing wireless customers be grandfathered to avoid the need for reprogramming their cellular telephones and/or pagers.

With respect to its proposal to assign the same area code to Westchester and Putnam counties, CPB explains that they are closely associated with each other and are generally regarded as northern suburbs of New York City. Maintaining the logical association of those counties, CPB adds, would also allow the numerous communities on the Westchester and Putnam boundary to have the same area code. Thus, the central offices of Peekskill, Putnam Valley (Lakeland), Mahopac, Purdy's (Croton Falls), and North Salem would not be bisected. CPB estimates that its geographic split, per se, would

provide area code relief until approximately 2004 in the Westchester/Putnam area and until at least 2008 in the remainder of the Hudson Valley and Catskill region.

Westchester County initially supported Geographic Split "A," which it claimed would ensure the least amount of disruption and confusion by avoiding ten-digit dialing and by splitting the area code along its easily recognizable county border. This is especially important, Westchester County noted, because it is home to headquarters of a number of large international corporations and represents the largest number of people in the 914 NPA. Later, it supported grouping Westchester and Putnam counties into one area code.

Putnam County asserts that it enjoys an inseparable regional identity with its neighboring counties of Westchester and Dutchess, especially with northern Westchester County as evidenced by the existence of overlapping school districts and commuter lines. Believing that this regional identity is reinforced by the 914 area code, Putnam County opposes severing this regional identity by splitting up the 914 area code.

Accordingly, it advocates a geographic split that would allow the counties of Putnam, Westchester, and Dutchess to retain use of the 914 area code.¹

Generally, Putnam County would avoid assigning a second area code to a county as long as its population and demand for telephone numbers is small enough to fit one area code, and would preserve the regional identity for areas that have common geographic economic, and social ties. Instead, Putnam County advocates dividing existing area codes along natural boundaries such as the Hudson River.

Finally, as a practical matter, Putnam County notes

¹ Under this proposal, the tri-county region would need additional number relief in 2002, and the remaining 914 NPA would need relief in 2013.

that the business communities in the tri-county region would be economically hurt by a change in the area code because they would have to spend indeterminate amounts of money on new stationery, letterheads, billing slips, advertising, etc.

Bell Atlantic-New York emphasized the need for decision on area code relief by September, noting the shortage of telephone numbers in the region and warning that it would take at least a year to implement a split or an overlay. As between those alternatives, it strongly favors the overlay; it cites our recent use of an overlay to relieve each of New York City's NPAs, and the importance of keeping disruption to a minimum.

According to Bell Atlantic-New York, there are no 914 NXX codes remaining for existing carriers, and it is running out of numbers in specific switches. Unless relief is implemented promptly, Bell Atlantic-New York maintains, its consumers may be forced to wait for numbers, or worse, to switch their telephone service to a carrier that has available telephone numbers just because they need additional lines. This shortage of numbers when coupled with the year needed to implement either an overlay or split, Bell Atlantic-New York argues, makes it critical that we release an area code relief order by early September so it and other carriers can implement some network adjustments before restrictions related to Y2K difficulties begin.

Bell Atlantic-New York favors an overlay to relieve the shortage of NXX codes, alleging several problems with the use of the geographic split set forth in the Staff Paper. It cites, first, the complexity of the technology needed to divide the NPA along the Westchester County border, which would require many new translations to the switches and will likely increase the needed lead time. In addition, it foresees unknown impacts on customers who live along the border. For example, in the process of engineering the county

border split on Long Island, it is finding that some customers have houses and businesses located right on the county line. It regards the split as inefficient in that existing NXX codes would need to be duplicated for most carriers operating in the split rate centers. Finally, it sees a county-line split as less effective in avoiding customer confusion than it was on Long Island, where there is only one county border and a reasonably clean east/west demarcation. By comparison, the 914 NPA encompasses a much larger and more diverse geographic area, including all or parts of ten counties, with school districts and zip codes often crossing county lines.

AT&T Communications of New York, Inc. (AT&T) favors staff's Geographic Split "A" because it would be competitively neutral. AT&T urges the adoption of a geographic split that would allow retention of intra-NPA seven-digit dialing. AT&T would also grandfather the telephone numbers of existing wireless customers to spare them the burden of having their telephones reprogrammed. Since about two-thirds of the wireless NXXs in the affected area are associated with the White Plains/Westchester rate center, AT&T recommends that Westchester County retain the NPA 914 to minimize the cost and inconvenience of reprogramming the wireless telephones.

AT&T asserts that an overlay could be competitively neutral, and hence acceptable, if four conditions were met: (1) ten-digit dialing for all calls, including intra-NPA, within the overlay area; (2) allocation of all remaining NXXs within the existing NPA in accordance with FCC rules; (3) implementation of permanent wire line local number portability (LNP); and (4) application of the overlay to all carriers and services. Inasmuch as conditions (2)-(4) appear to be met, AT&T stresses the importance of ten-digit dialing, maintaining that intra-NPA seven-digit dialing would favor the incumbent carrier because of its greater stock of such numbers.

Bell Atlantic Mobile (BAM) supports an overlay on the grounds that it would spare changing the area code for over two million numbers required by a geographic split and the expense of dealing with that change. It notes in particular the burdens on wireless customers, whose equipment would have to be reprogrammed at a cost of approximately \$40 apiece, and it urges grandfathering of those customers if a geographic split is adopted.

BAM asserts as well that the longevity of an overlay is more assured than that of a split; that an overlay would be easily replicable; that an overlay would allow greater flexibility in number assignment, once number conservation measures are adopted, because freed up 914 numbers could be assigned anywhere throughout the region, and that customers in the New York City metropolitan area are already familiar with an overlay, given the 917 wireless overlay that has been in place since 1992 and the soon-to-be implemented overlays in Manhattan and the other boroughs.

Generally, BAM sees a national trend to overlays, citing decisions in other states to adopt that form of relief.

It ascribes little significance to the prospect of ten-digit dialing, noting that it already is required for calls in New York City. Thus, it reasons that ten-digit dialing is routine for many customers in the 914 region who work in, and communicate with, the five New York City boroughs or neighboring counties. To the extent that some customers find ten-digit dialing burdensome, BAM states, speed and automatic dialing can ease the transition.

BAM regards the overlay as competitively fair to customers, who would be treated alike without regard to their locations, and to CLECs because of the FCC's ten-digit dialing requirement.

Omnipoint Communications Inc. (Omnipoint) proposes a relief method not considered in the Staff Paper, i.e., a

technology-specific or wireless only overlay, in spite of the existing federal rule prohibiting such an overlay.¹ Omnipoint notes that the FCC recently released a Notice of Proposed Rule Making,² which addresses modifications to existing guidelines for area code relief. It requests that New York join several states, including California, Massachusetts and Connecticut, who have already recommended that the FCC grant authority to the individual states to investigate and implement a wireless-only overlay.

As a wireless carrier, Omnipoint asserts that service-specific or technology-specific overlays are no more discriminatory, inherently anti-competitive, or harmful to consumers than the current rate center methodology utilized by local exchange carriers. As its primary option, Omnipoint recommends that New York consider the following parameters for a wireless-only overlay in an effort to address area code exhaust and number resource conservation: (a) mandatory assignment of a new overlay code to all new wireless customers, paging customers and wireline carriers; (b) mandatory assignment of all new wireless handsets to the new overlay code; and (c) mandatory ten-digit dialing limited to dialing between NPAs. These proposed guidelines, Omnipoint contends, would ensure that a high utilization is maintained, would ease the demands placed on existing area codes by the rapid expansion of wireless services, and would ensure that, eventually, all NXXs within an old area code would be returned in a manageable fashion, thereby renewing the life of existing NPAs.

Omnipoint argues that the competition between wireless and wireline carriers for scarce NXX resources on a rate-center-by-rate-center basis unnecessarily starves

¹ 47 C.F.R. '52.9 and 47 C.F.R. '52.19(c)(3)(i).

² See Notice of Proposed Rulemaking, CC Docket 99-200, dated June 2, 1999 &250-252.

wireless carriers of the numbers they need to provide service in a competitive market. Because wireless carriers are able to spread a single NXX block over a larger service area, and because they are thereby capable of using their allocated NXX blocks more efficiently, Omnipoint maintains, a wireless-only overlay promises to free wireless carriers from the current congestion.

Nextel Communications, Inc. (Nextel) emphasizes the need for an adequate supply of telephone numbers available to carriers on a fair, equitable, and non-discriminatory basis; and it believes that an overlay would best satisfy that need.

According to Nextel, an overlay is consumer friendly because it does not force consumers to change their existing numbers, and it can be implemented more quickly than a geographic split. Implementation of an all-services overlay, Nextel asserts, should be accomplished without conditions other than those required by the FCC. Nextel reasons implementation of area code relief would be delayed while we seek authority from the FCC to impose other conditions. Nextel also urges us to act expeditiously in implementing area code relief via either an overlay or geographic split because such relief is the only remedy available that will provide the numbering resources necessary to ensure that telecommunications services remain competitive in New York.

Sprint Spectrum, LP, d/b/a Sprint PCS (Sprint) emphasizes the urgency with which area code relief is needed.

It states that the code administrator advised that the 914 NPA was in a state of extraordinary jeopardy, i.e., numbers will be exhausted before a new supply becomes available. Sprint maintains that we must implement area code relief before an area code exhausts in order to protect the public interest in obtaining needed services and to avoid allowing incumbent carriers an artificial competitive advantage by reason of their supplies of unused numbers. Because

incumbents have a greater number of NXX codes assigned to them, they have more numbers available for customers (on the premise that the utilization rate of each of these NXX codes is roughly constant among all carriers). It therefore urges us to act as soon as possible to establish the new area code.

With regard to the relief mechanism, although Sprint agrees that an overlay provides maximum relief with less disruption and inconvenience and is more easily replicable than the geographic split, it believes that adoption of a geographic split could be implemented more quickly. Inasmuch as there are only about 20 NXX codes remaining in the 914 NPA, Sprint argues that a geographic split is more appropriate in this case.

Finally, Sprint urges that if a geographic split is adopted, numbers assigned to existing wireless customers be grandfathered so that it could avoid a cost of about \$20 apiece to reprogram them.

MCI WorldCom, Inc. (MCI) endorses a geographic split. According to MCI, any area code relief entails customer confusion, but an overlay would compound that confusion by creating multiple area codes within the same geographic area and even within the same house. A geographic split, in contrast, would leave intact the association between an area code and a geographic area and permit retention of seven-digit intra-NPA dialing. MCI does not agree with Staff's proposal to follow the Westchester County line and thereby bisect five existing rate centers. Instead, MCI would follow the county boundaries only roughly, not cutting through existing rate centers, thereby avoiding an inefficient use of numbering resources¹ and forced ten-digit telephone number

¹ Inasmuch as a carrier must have a unique NXX code for each rate center in which it provides facilities-based service, it would need a unique NXX on each side of the boundary that bisects a rate center in order to serve customers. Unless carriers are assigned NXX codes on the non-914 side of the

changes for some customers along the boundary.

MCI also contends that Local Number Portability (LNP) does not completely overcome the anti-competitive efforts presented by an overlay. While LNP permits a Bell Atlantic-New York customer to retain its 914 telephone number upon changing local service providers, MCI says, it does not address the competitive advantage Bell Atlantic-New York allegedly enjoys as a result of its great inventory of unassigned 914 numbers, which makes it better able to meet the demands of a new customer requesting a 914 number or of an existing customer requesting an additional line within 914. On the other hand, if an overlay were conditioned on mandatory ten-digit dialing and unassigned number porting (UNP) as well as LNP, the competitive imbalance would be overcome because UNP would allow one carrier to port an available, non-working telephone number from another carrier's numbering resources. MCI asserts that UNP is easily implemented through the use of LNP technology and that, in addition to mitigating competitive disadvantages, it can also improve number utilization by permitting a carrier to meet requests by calling on a spare number in an existing inventory. Noting that we have asked the FCC to delegate to the states the authority to order UNP, MCI argues that because UNP is not number pooling, but, rather, number porting, we already have the authority to order it. It urges us to order UNP statewide, regardless of how we decide this case; but it insists that if an overlay is approved here, it must be accompanied by UNP.

Focal Communications Corporation (Focal) supports the use of an overlay even if it requires ten-digit dialing. It cites the overlay's avoidance of number changes, its replicability, and its lower cost of implementation; and it

boundary that are identical to the NXX codes that they currently hold in the bisected rate centers, customers on the non-914 side will be forced to change their entire

sees ten-digit dialing as only a temporary burden that customers would soon learn to overcome. It notes the prevalence of ten-digit inter-NPA calling in the New York City area and regards ten-digit dialing as a step that mitigates competitive disadvantages to new entrants. In addition, Focal urges continued pursuit of thousand-block number pooling to increase the efficiency of number usage.

Reply Comments

Bell Atlantic-New York reemphasizes the need for area code relief in the form of an overlay. It notes that there is no time to explore measures that might delay the need for relief, as CPB suggests. If a geographic split were to be adopted, Bell Atlantic-New York would urge that the split maximize the duration of relief by delineating a border that would give the two areas life spans that are as close to equal as possible. In addition, Bell Atlantic-New York asks that an exact county border not be used to split the area code because bisecting existing rate centers is complicated and could potentially delay implementation of relief as well as require duplicate NXX codes along the county border. Rather Bell Atlantic-New York believes the area code border should roughly follow county borderlines so as to avoid bisecting existing rate centers.

BAM similarly maintains that expedited action is needed to bring relief to the area so that customers can be provided with the telecommunications service they seek. According to BAM, we should resist any suggestion to delay ordering relief until conservation measures are adopted by the FCC. BAM repeats its call for an overlay of the region, and, in the event a split is ordered, for a grandfathering of numbers for wireless customers.

ten-digit phone numbers.

PUBLIC INPUT

Public Statement Hearings

As noted above, seven formal public statement hearings were held, attracting a total of 73 speakers. The hearings were held in Greenburgh, Westchester County; Mahopac, Putnam County; Poughkeepsie, Dutchess County; Kingston, Ulster County; Middletown, Orange County; Monticello, Sullivan County; and New City, Rockland County. The speakers represented a broad spectrum of residential, business, and governmental interests. In addition, at the Westchester County hearing, a petition containing approximately 250 signatures was submitted. It supported Geographic Split "A" with Westchester retaining the 914 area code. Similar petitions containing hundreds of signatures were also received in the mail.

A substantial majority of the statements favored the geographic split with the speaker's area retaining the 914 NPA. Much of the support for the split grew out of concern about ten-digit dialing, which many speakers saw as a long-term inconvenience, more onerous than the short-term dislocation that would accompany a change in existing area codes for customers in the region whose code would be changed.

Representatives of alarm companies and governmental officials were particularly concerned about the disruptive effects ten-digit dialing would have on their alarm operations and 911 emergency services, which they saw as worse than the effects of a changed area code.

Advocates of a split also stressed the link between a code and an area, alleging inconveniences in having to dial an area code in order to call a neighbor, and safety concerns especially for senior citizens and small children. Some believe that use of an overlay would lead to an increased use of 911 emergency services simply because calling a relative or neighbor would become too complicated.

Although most speakers favored a geographic split, there was far from universal agreement on which area should retain the 914 area code. Generally, each speaker supported retention of the 914 NPA for his or her county, citing the disruptive effects a new code would have on residential and business customers. Westchester County noted it would be severely impacted by a change in area code because it is home to more international corporations and Fortune 500 companies than any other county in the 914 area. In addition, Westchester County stated it has 53 Public Safety Answering Points (PSAPs) for its 911 emergency services also more than any other 914 county. When a 911 emergency fire, police, or medical call is received, the PSAP dispatches the needed emergency service personnel and equipment to the address or location of the caller. Use of an overlay or geographic split that divides the county, it was claimed, could lead to address or location errors, which would increase emergency response times.

In contrast, the Association of Rockland County Supervisors favored Geographical Split "B," which would allow approximately 400,000 more customers to retain the 914 area code if southern Westchester were assigned the new code.

Some speakers urged use of all possible means to forestall the need for area code relief. They suggested changing the 10,000 block allocation of numbers to CLECs to a much smaller block, reducing the number of rate centers, and employing more technically advanced systems that would simultaneously use one number for several purposes.

Finally, a few requested that the scope of the hearing be expanded to address other issues, including redrawing (1) the existing 914 area code boundaries to match county lines so that communities would have one area code instead of the existing two; and (2) the LATA boundaries to match the proposed geographic split boundaries so as to

minimize confusion with respect to local or long distance dialing.

Other Public Input

Staff from the Office of Consumer Education and Advocacy (OCEA) conducted a comprehensive outreach and education campaign for people in the Hudson Valley and Catskill region of the State. The goal was to provide information about the need for another area code, the options proposed by Staff, and the vehicles people could use to comment about the issue.

The OCEA Staff developed a Fact Sheet, which it disseminated, together with the Staff Paper, to all the public libraries in the Hudson Valley and Catskill region. Also, information was mailed to more than 500 government officials, consumer, and business leaders in the 914 region, and the MetroNorth Railroad for inclusion in its monthly newsletter. The issue was also featured on the home page of our web site.

Both the Staff Paper and the Fact Sheet were available on the web site with a link between the two.

In addition, Staff contacted the five incumbent local exchange companies (Bell Atlantic, Citizens Telecommunications, Frontier Communications, Margaretville Telephone, and Warwick Valley Telephone) in the region to request that they inform their customers about the issue and ways to comment. Three companies included a message on customers' bills; one sent a separate letter. Warwick Valley did not notify customers directly because it concluded that the issue was well covered in the local media.

Bell Atlantic also sent information, by mail and fax, to 130 members of the regional Consumer Advisory Panels (CAP) and other key community leaders and elected officials; met individually with seven county executives; spoke to numerous organizations, including Chambers of Commerce and

Business Associations; posted information on its web site; and convened a special meeting with all the regional CAPs at which Staff made a presentation and answered questions.

Staff held educational forums prior to each of the seven public statement hearings. The goal of the forums was to educate people about the issue, the options, the guidelines that must be met, and the process. Also, Staff from OCEA and the Office of Communications answered questions from consumers, elected officials, and business people, and were interviewed by the media.

The public availed themselves--in record numbers--of various ways to comment on the issues in this case. Our toll-free Opinion Line received over 1,735 calls, the web site received more than 570 comments, and we received over 300 written comments. These numbers do not include the 73 people who spoke at the Public Statement Hearings.

Generally, the geographic split was favored two-to-one over the overlay. Those who favored the geographic split felt that it was a logical solution to the need for an additional area code, that it would continue to define a region (as one person wrote, "the operative word is area code, not new phone number code"), that it would be more convenient to dial only seven digits within their home area code, and that it was a one-time change that people could easily accept.

Many of those who commented included opinions about which side of the split should retain the 914 area code. Some would allow Westchester to retain the 914 area code because of the large number of businesses in the county; others would give Westchester a new area code since its businesses can afford the financial costs of changing printed material. Others suggested using the Hudson River to divide the region; keeping the counties whole; dividing Westchester at a north/south line; keeping Westchester and Rockland together; keeping Westchester and Putnam together; keeping Rockland and

Orange together; and giving each county its own area code. Numerous comments point out that Orange County residents already had recently received new addresses because of changes to the 911 emergency system and they should not have to bear a second change so soon after the first.

Those who preferred the overlay overwhelmingly stated that, under this option, businesses would be able to keep their 914 area code and their seven digit telephone number, and that they would be able to avoid having to pay to reprint business material.

Other comments suggested assigning a new area code to cell phones, faxes, pagers, and/or beepers; pointed out that a new area code will cause confusion and may affect the cost of local calls; and recommended assigning those portions of counties presently served by two area codes to one or the other. Numerous people stated that, prior to any decision, the practice of allocating numbers in blocks of 10,000 should be re-examined and those unused numbers should be put to use.

Finally, many people expressed appreciation for the opportunity to comment on the issues in this case.

DISCUSSION AND CONCLUSION

Need for Relief

As noted above, the need for relief was recently found even more critical than previously thought by the code administrator when it revised its declaration from a "jeopardy" to an "extraordinary jeopardy" situation for the 914 NPA. We are persuaded that a new area code is, in fact, needed now. Accordingly, we will establish a new area code for the Catskill and Lower Hudson region.

Even if recommendations concerning number conservation measures such as rate center consolidation and thousand-block number pooling were adopted immediately, it would be too late to forestall the need for a new area code.

Nonetheless, we are pursuing number conservation measures and have recently encouraged parties to submit comments.¹

¹ Case 98-C-0689, supra, Notice Requesting Comments (issued September 24, 1999).

Choice of Remedies

1. Threshold Considerations

The available alternatives are a geographic split into two regions and a single overlay. As they did in Long Island, the comparative merits of the remedies differ in two divergent ways from what they were in the recent New York City Proceeding:¹ on the one hand, the overlay, long since announced in New York City and soon to be implemented there, is no longer a radical innovation inasmuch as it has been introduced in various other states; on the other hand, public sentiment in New York City tended to support the overlay, while public sentiment in this case overwhelmingly favors the geographic split. Much of the support for the geographic split rests on two assumptions: that it would obviate intra NPA ten-digit dialing and that it would be less costly for business and residents to implement. Inherent in the latter assumption is the belief that the supporter would retain the existing 914 area code.

2. The Geographic Split

The Staff Paper proposes a geographic split along the Westchester County lines, CPB proposes a Westchester and Putnam county division, while Putnam County seeks a Westchester, Putnam, and Dutchess county split, and the Association of Rockland County Supervisors favors Geographic Split "B." As shown in the table below, none of these splits would provide relief for the long term,² but Geographic Splits "A" and "B" best provide for roughly equal relief periods on each side in accordance with the Industry Numbering Committee's Area Code Relief Planning Guidelines. In addition, those guidelines call for at least five years of relief.

¹ Case 96-C-2258, supra, Opinion No. 97-18.

² The projections do not take into account the recent FCC

YEARS IN WHICH ADDITIONAL
RELIEF WOULD BE NEEDED¹

Geographic Split "A" (Westchester County)	2005	Rest of Region	2007
Geographic Split "B" (Southern Westchester County)	2007	Rest of Region	2005
Westchester and Putnam Counties	2004	Rest of Region	2008
Westchester, Putnam, and Dutchess Counties	2002	Rest of Region	2013

Geographic Splits "A" and "B" are the only alternatives that provide roughly equal relief periods on each side that exceeds five years. Thus, the latter two alternatives will be deemed unacceptable and not considered further. Geographic Split "B" would allow roughly 400,000 more customers to retain the 914 area code than Geographic Split "A," if southern Westchester were assigned the new area code. However, the disadvantage of creating confusion by not employing an easily recognizable boundary more than offsets the numerical advantage. Therefore, Geographic Split "B" will not be accepted.

The Westchester County division benefits from a political boundary that would be an ideal NPA dividing line, for it is readily recognizable and provides for roughly equal relief periods on each side.

The obvious drawback to a geographic split would be the need for all customers in one of the two regions to change their area code. This will inconvenience all such customers

action that granted, in part, our petition to implement number conservation measures, which would extend these dates.

¹ For comparison purposes, an overlay would provide relief

to a greater or lesser degree. For example, it would impose some costs on business customers. Also, the inconvenience to wireless carriers, which would have to reprogram their equipment, is great enough to warrant adopting the proposal to grandfather the area code of all existing wireless carriers if a geographic split should be adopted. This grandfathering is not expected to significantly affect the exhaust date projections.

Flowing directly from any decision in favor of a split, of course, would be the need to decide which area would retain the 914 NPA. This is a fairly heated issue as noted above because customers were concerned about bearing the inconvenience of any change.

Not all parties favored a geographic split; some objected to it because of its lesser replicability. The next time more numbers are needed in Westchester County, no convenient dividing line would be available, and the county may have to be split. If it were the area whose area code had been changed now, half its telephone subscribers would have to endure a second change less than seven years after the first.

Sooner or later, therefore, overlays will almost certainly have to be introduced (unless code conservation can radically reduce the need for additional numbering resources). But that assessment of the future, however accurate, does not require abandoning the split now in situations where it appears appropriate, especially where, as here, the use of a split would not preclude adoption of an overlay later, if needed.

3. The Overlay

The overlay overcomes many of the drawbacks of the split: customers are spared any number changes; difficult choices between areas are avoided; replicability and maximum longevity are ensured. But the overlay has its own set of

until 2006.

problems.

First, there is the asserted novelty of the mechanism and the confusion said to result from customers in proximity, perhaps within the same building, having different area codes. Although this concern was widely voiced by the public, some favored an overlay. For example, one New City resident e-mailed that "no businesses will incur costs to reprint stationary, business cards, etc. nor will individuals need to notify friends and acquaintances of new phone numbers . . . Is it really such an inconvenience for us to need to dial an extra 3 digits to call a friend across the street with a different area code? I think the small inconvenience is the cheapest, easiest alternative."

The question of intra-NPA ten-digit dialing was addressed in the New York City Proceeding, where we agreed that such dialing:

would constitute a considerable inconvenience, even though mitigated by the use of tone rather than rotary dialing and, for some customers, by various forms of abbreviated dialing equipment. The Staff Paper [in that proceeding] may be right that some day, 11-digit dialing will be universal, but that day is not yet here. Even though a geographic split also would cause increased 11-digit dialing, a universal need to dial 11 digits on calls within Manhattan would have to be seen as a drawback to an overlay.¹

We went on to note our efforts at the FCC to retain seven-digit intra-NPA dialing. Those efforts recently resulted in a one year stay of the ten-digit dialing requirement, but their ultimate outcome remains to be seen.² In the meantime, mandatory ten-digit dialing for intra-NPA

¹ Case 96-C-1158, supra, Opinion No. 97-18, mimeo p. 32.

² As noted earlier, we will seek reversal of this requirement (see page 4).

calls would remain a serious drawback to the overlay option.¹

The remaining conditions advocated by some of the parties were addressed in our opinion regarding the split of Long Island's 516 area code² and we see no need to reconsider these conditions in the instant case. For example, AT&T advocates adherence to FCC rules in allocating the remaining NXXs within 914, implementation of permanent wireline LNP, and application of the overlay to all carriers and services; and MCI urges that any overlay be conditioned on UNP, inasmuch as LNP helps only when a CLEC picks up an incumbent carrier's customer who has a number to port.

¹ Third Order on Reconsideration of Second Report and Order and Memorandum Opinion and Order, FCC 99-243 (October 21, 1999).

² Case 98-C-0689, supra, Opinion No. 96-6.

4. Conclusion

We conclude that Geographic Split "A" should be employed in the circumstances presented here. For one thing, the litigation over ten-digit dialing, which would be a serious drawback to the overlay, is pending. In addition, there may be room for implementation of number resource conservation measures, such as rate center consolidation, which we have already directed Staff and the industry to examine.¹ However, this potential relief is not expected to be available to relieve the existing extraordinary jeopardy condition. Thus, we must move ahead with the introduction of a new area code.

Moreover, there is strong public opposition to the overlay and much less public support for it; and there is a clear political boundary that readily lends itself to use as an area code boundary. We caution that our action in the instant case does not imply that overlays would not be used in the future; it simply means that this case is well-suited to a geographic split. On that basis, the geographic split is adopted.

The new NPA boundary should track the Westchester County line, as the Staff Paper proposes. The reasons cited to depart from that clear county boundary line would be to avoid having to change the seven-digit numbers of customers in the border exchanges or to avoid duplicate NXXs along the border. As the Staff Paper observes, appropriate technology can obviate changes in customers' seven-digit numbers. Although duplicate NXX's would be employed, this would eliminate a source of confusion. Accordingly, there is no need to forgo the benefit of a clear, county-line NPA boundary.²

¹ Case 96-C-1158, supra, Opinion No. 97-18, mimeo p. 36.

² The use of a county boundary for defining a new area coded has recently been challenged by the industry. The FCC has

To avoid the high cost of reprogramming, all existing wireless carriers will have their 914 numbers grandfathered, regardless of which side of the line they are on.¹ To mitigate further the inconvenience and cost effects of the split on wireless customers, we direct that the 914 NPA remain with Westchester County, which, as AT&T observes, contains about two-thirds of the wireless NXXs. In addition, Westchester County is also home to more large businesses than in all of the other six counties substantially served in the existing 914 NPA.

The new area code should be introduced as soon as possible, but its introduction should be preceded by a comprehensive outreach and education program, conducted by Bell Atlantic-New York and other CLECs in consultation with Staff, and by an adequate permissive dialing period. Among other things, the duration of the permissive dialing period should take account of the availability of new telephone directories reflecting the area code change. Carriers that provide telephone directories to their customers shall include, in their outreach and education plans, provisions for ensuring that directories provide newly needed area code information, especially with respect to telephones in border exchanges.

not yet adopted this restriction.

¹ That grandfathering is a carrier option, not a requirement. An existing wireless carrier in a county whose area code is changed will have a choice of using either the 914 or new NPA for its customers.

Finally, to further thousand-block number pooling, one-third of the newly available NXX codes in the new area code, as well as the newly available NXX codes in the 914 area code, should be reserved for thousand-block number pooling.¹ The industry will be required to submit a plan for carrying out those arrangements and is urged to cooperate in its implementation.

The Commission orders:

1. Consistent with the conditions and requirements set forth in the foregoing opinion, New York Telephone Company d/b/a Bell Atlantic-New York (Bell Atlantic-New York) and all other carriers providing local exchange service in the 914 NPA, acting in cooperation with the North American Numbering Plan Administrator, shall take the steps necessary to activate promptly a new area code for the existing 914 NPA exclusive of Westchester County. Within 30 days of the date of this opinion and order, Bell Atlantic-New York and such other carriers shall submit to the Acting Secretary, for Staff's review, a joint plan for doing so.

2. Within 30 days of the date of this opinion and order, every carrier providing local exchange service in the existing 914 NPA shall submit to the Acting Secretary, for review by Staff, its plan for an outreach and education program to acquaint its customers with the new area code and its operation.

¹ The FCC has authorized states to set aside NXX codes in a new area code for number pooling, as long as no carrier requesting a full NXX code is denied it as a result. CC Docket No. 96-98, Re Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Memo Opinion and Order and Order on Reconsideration (released September 28, 1998), &27.

3. This proceeding is continued.

By the Commission,

(SIGNED)

DEBRA RENNER
Acting Secretary