

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on July 16, 2015

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman, concurring

CASE 07-C-1486 - Proceeding on Motion of the Commission,
Pursuant to Section 97(2) of the Public Service
Law, to Institute a Proceeding to Investigate
and Evaluate Options for Making Additional
Central Office Codes Available in the 315 Area
Code Region.

ORDER DIRECTING OVERLAY OF THE 315 AREA CODE REGION
(Issued and Effective July 17, 2015)

BY THE COMMISSION:

INTRODUCTION

In this Order, we conclude a proceeding to examine the alternative forms of relief available to address a projected shortage or exhaustion of the numbering resources in the 315 area code. The 315 area code is located within all or part of 18 counties in north central New York.¹ Much of the population lives in Syracuse and its suburbs, while other major population centers include Utica and Watertown. If numbering resources, now constrained, were to become unavailable, economic activity and the general welfare of those who live in the area would be compromised. Through this Order, we take action to assure that the forecasted shortage in numbering resources, and the hardship which such a shortage would impose, will not occur.

¹ The counties are: Cayuga, Chenango, Cortland, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Ontario, Oswego, Otsego, Saint Lawrence, Seneca, Wayne, and Yates.

In accordance with the authority delegated to this Commission by the Federal Communications Commission (FCC),² we conclude on the record before us that additional numbering resources to support the continued and ready availability of telephone numbers in the area currently served by the 315 area code should be provided through an "overlay" code and direct public education efforts regarding area code changes as discussed in detail herein. As set forth below, our decision to effectuate the needed area code relief through the overlay option is fully consistent with the guidance provided by FCC regulations and with our statutory responsibility to assure that telephone service provided to New York customers is just, reasonable, efficient, adequate and in the public interest.³

BACKGROUND

North American Numbering Plan

The North American Numbering Plan (NANP or Numbering Plan) was established several decades ago to facilitate the growing need for long distance telephone service and the related need for an integrated nationwide telephone network. The Numbering Plan provides the basic numbering scheme for telephone networks in the United States and Canada and in many of the Caribbean nations. Under the Numbering Plan, the geographic area subject to the plan was originally subdivided into 86 zones, and each zone was identified by a three digit code. These three digit codes are now referred to as Numbering Plan Area (NPA) codes or area codes.⁴

² 47 C.F.R § 52.19.

³ Public Service Law (PSL) § 97(1), 97(2).

⁴ In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, FCC 00-104, Report and Order and Further Notice of Proposed Rule Making (Mar. 31, 2000), n. 2.

Delegation to the Commission

By statute, the FCC has "exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States."⁵ However, the FCC is also authorized by statute to delegate to state commissions all or any part of this jurisdiction.⁶ Through its regulations, the FCC has implemented its delegation for area code relief to the state commissions generally. These regulations state:

§ 52.19 Area code relief.

(a) State commissions may resolve matters involving the introduction of new area codes within their states. Such matters may include, but are not limited to: Directing whether area code relief will take the form of a geographic split, an overlay area code, or a boundary realignment; establishing new area code boundaries; establishing necessary dates for the implementation of area code relief plans; and directing public education efforts regarding area code changes.⁷

The action we take in this order is pursuant to and in furtherance of this delegation of authority.

The regulations concerning this delegation provide the following guidance as to how the delegation pursuant to these regulations should be implemented. Specifically, our actions pursuant to this delegation should:

- (1) Facilitate entry into the telecommunications marketplace by making telecommunications numbering resources available on an efficient, timely basis to telecommunications carriers;
- (2) Not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and

⁵ 47 U.S.C. § 251(e)(1).

⁶ Id.

⁷ 47 C.F.R § 52.19.

- (3) Not unduly favor one telecommunications technology over another.⁸

Area Code Exhaust

An impending area code exhaust is projected to occur when the North American Numbering Plan Administrator (NANPA)⁹ determines that all of the approximately 750 utilizable central office codes associated with a particular area code are expected to be assigned within 36 months. One method to implement area code relief is to split the geographic area served by the existing area code into two separate geographic area codes. In one of the two areas, customers retain the same 10-digit telephone number,¹⁰ including area code, they had before the geographic split was implemented, and their dialing pattern remains the same as before; i.e., they are not required to dial more than seven digits when calling a number within their area code. New customers moving into that geographic area would be assigned numbers from the existing area code. All customers located in the other geographic area served by the new area code would retain their seven-digit telephone numbers, but receive a new area code. Also, customers in the new area code would need to dial ten digits to reach customers in the old area code, and vice versa.

A second method of establishing area code relief is to overlay the entire existing area code region with the new area

⁸ 47 C.F.R. § 52.9(a).

⁹ NANPA is the entity responsible under FCC regulations for managing the NANP. See, 47 CFR §52.7(e).

¹⁰ According to the Numbering Plan, each telephone line is assigned a 10-digit phone number. The first three digits are the area code, the second three digits are the central office code, and the final four digits identify the particular telephone line in the particular central office within the specified area code. These 10 digits are often referred to as NPA-NXX-XXXX numbers, where NPA refers to the NPA area code, N is any digit between 2 and 9, and X is any digit from 0 to 9.

code.¹¹ The overlay method provides additional numbering resources over the entire geographic area for which impending area code relief is required. As carriers request new numbering resources, the requests are filled from the resources associated with the new area code. Because the same geographic area is served by two area codes, rather than one, it is possible that a customer assigned to both the old and new area codes will share the same seven digit telephone number comprising the identical three-digit central office code (NXX) and four-digit telephone line identifier (XXXX). To enable all telephone numbers to reach all other numbers, customers served by the both the old area code and the new area code must dial all ten digits of the telephone number they are trying to reach.¹² Without "10-digit dialing," calls cannot be completed even if the physical addresses of the called and calling parties are just down the street or even in the same apartment building.¹³

¹¹ In the past, the Commission has used both of these options to provide area code relief in New York. Since the introduction of the Numbering Plan in 1947 through to the present time, the original five area codes assigned to New York State have been increased to 16. Of the eleven new area codes, six were implemented through geographic splits, while five were provided through overlays.

¹² FCC regulations require that "[n]o area code overlay may be implemented unless there exists, at the time of implementation, mandatory 10-digit dialing for every telephone call within and between all area codes in the geographic area covered by the overlay area code." 47 C.F.R. §52.19(c)(3)(ii).

¹³ If an overlay option is implemented, all customers would dial 10 digits on calls terminating in their area code, and 1 + 10 digits for calls terminating outside their area code.

PETITION FOR 315 AREA CODE RELIEF

Procedural History

The 315 area code was one of the original area codes created when the Numbering Plan was established in 1947.¹⁴ It was split once, in 1954, when its southern portion was combined with the eastern portion of area code 716 to form area code 607. In more recent years, the need for numbering relief in the 315 area code occurred in several phases, as detailed in the following sections.

A. 1999 Petition

In October 1999, NANPA advised the Commission that the 315 NPA was projected to exhaust in the year 2002. However, at the same time the Commission was considering that request for area code relief, it was also seeking broader authority from the FCC to implement various numbering conservation measures. In an Order released in September 1999, the FCC authorized the Commission to:

- Institute thousands-block pooling trials;
- Reclaim unused and reserved NXX codes and portions of codes;
- Establish numbering allocation standards, including enforcement of those standards; and
- Audit carriers' use of numbering resources.¹⁵

¹⁴ When the Numbering Plan was first implemented, New York State telephone numbers were placed in one of five area codes; the original New York area codes were:
212 (for numbers in NYC),
914 (for numbers in Nassau, Suffolk, and Westchester counties, and the lower Hudson valley),
518 (for numbers in Albany and eastern New York),
315 (for numbers in Syracuse and central New York),
716 (for numbers in Buffalo, Rochester and western New York).

¹⁵ 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, FCC Order No. 99-247 (issued Sept. 15, 1999), p. 1.

The Commission implemented this authority beginning with a March 17, 2000 Order in Case 98-0689.¹⁶

The impact of these conservation measures was significant and almost immediate. As a result, NANPA subsequently advised the Commission that the effect of these measures, coupled with an unexpected decrease in demand, had extended the 315 exhaust date by several years. Based on these new estimates, the October 1999 petition for 315 area code relief became unnecessary, and the case pending before the Commission was ultimately closed.

B. 2007 Update to 1999 Petition

In December 2007, NANPA submitted an update to its previous exhaust petition, and by Order issued December 20, 2007 the Commission instituted this proceeding to investigate and evaluate options for provide additional numbering resources in the 315 area code region. On March 3, 2008, Department of Public Service Staff (Staff) issued a White Paper (White Paper) that described four options for area code relief in the region; three geographic split alternatives, and an overlay option:

Option 1. The first geographic split option would divide the existing 315 area code region between northern and southern zones along rate center boundaries, following a line running roughly east to west. Staff projected that after the split, central office codes would last 26-36 years in the northern zone, while in the southern zone central office codes would last 19-30 years before projected exhaust.

¹⁶ Case 98-C-0689, supra, Order Instituting State-wide Number Pooling and Number Assignment and Reclamation Procedures (issued March 17, 2000).

Option 2. The second geographic split option would partition the existing 315 region into eastern and western zones along rate center boundaries, following a line running approximately north to south. Staff estimated that after the split, central office codes would last in the eastern zone would last 27-39 years and 18-26 years in the western zone before it exhausted.

Option 3. The third geographic split option, like the second, would divide the current 315 area into eastern and western zones, but along county lines rather than rate center boundaries. With this option, Staff estimated that central office codes would last for 18-28 years in the eastern zone and 26-35 years in the western zone after the split.

Option 4. The fourth option was to overlay a new area code in the entire existing 315 area code region, so that there would be two area codes within the boundaries of the existing 315 region. Staff estimated that an overlay for the 315 region would provide sufficient central office codes to last about 23-28 years.

In addition to the White Paper, the Commission, on March 8, 2008, issued a Notice Inviting Comments, and an extensive public outreach and education program was conducted throughout the 315 area code region, to alert people to the proceeding, and to solicit the public's concerns and opinions. Staff conducted a series of educational forums. Immediately following each forum, an Administrative Law Judge presided over a public statement hearing. The Commission also received comments on the White Paper by voicemail, electronic mail, and standard postage.

In a Recommended Decision issued November 26, 2008, the presiding Administrative Law Judge described the White Paper

and the various relief options therein, the comprehensive public outreach and education campaign conducted by Staff, and the need for central office codes in the 315 region.¹⁷ The Recommended Decision concluded that, although each of the relief options had advantages and disadvantages, on balance the best option for area code relief in the 315 region would be for the Commission to approve an overlay code congruent with the area covered by the existing 315 code region.

A schedule for parties' exceptions to the Recommended Decision and public comments was established and exceptions to the Recommended Decision and additional public comments were filed.¹⁸ However, on June 15, 2009, due to slowing demand for new central office codes in the 315 area code region, NANPA again extended the exhaust projection date for the 315 NPA to the fourth quarter of 2013. Consequently, this proceeding was suspended until such time as facts and circumstances would indicate a more immediate need for area code relief.

C. 2013 Update to 1999 Petition

In a subsequent April 2013 petition, NANPA advised the Commission that the projected exhaust date of the 315 area code would occur, at the latest, by the first quarter of 2015; consequently, this proceeding was reactivated. As before, the Commission performed extensive efforts to solicit public input. On June 5, 2013, a Notice Seeking Additional Comments was issued seeking public comments by July 15, 2013; the comment period was subsequently extended to August 16, 2013. In addition, during August 2013 the Commission conducted informational forums and public statement hearings before an Administrative Law Judge in

¹⁷ Case 07-C-1486, Recommended Decision (issued November 26, 2008).

¹⁸ The comments and briefs' on exception are summarized in Appendix 1 attached hereto.

Utica, Watertown and Syracuse; an afternoon and evening session was held at each location.

Public Statement Hearings

The majority of the 11 public statements received at the public hearings either were in opposition to the overlay option or questioned the necessity for area code relief in general. Another concern, expressed by an official from Ontario County, was that Ontario County should be incorporated into one area code. Because the county is split between the 315 and 585 area codes the county must maintain 911 trunks from the county to Syracuse and the Canadian border, at the expense of its taxpayers.

Other Public Comments

Since the June 2013 Notice reactivating this proceeding, we have received over 340 written comments, by voicemail, electronic mail, and standard postage. The opinions expressed in those comments did not clearly favor either the geographic split or overlay method of providing area code relief: 150 comments (44%) favored the overlay option, while 192 comments (56%) favored some sort of a geographic split.

In addition, Senator Joseph Griffo provided a sampling of the over 500 telephone calls received by his office regarding 315 area code relief. Assembly Member Addie Russell supported a geographic split that would expand area code capacity of the Central New York metropolitan communities by assigning them a new area code and permit communities to the north to continue to use the newly available 315 capacity. Assembly Member Anthony J. Brindisi supported the overlay option.

Village of Carthage Board of Trustees opposed an overlay and requested to keep the 315 area code for the Village. Onondaga County Department of Communications Commissioner William Bleyle, stated that, whether an overlay or geographic

split is authorized, the new area code must be selected carefully so as to eliminate the potential for 911 emergency number misdials. Finally, the Ontario County Board of Supervisors filed a resolution advocating the inclusion of Ontario County entirely within one area code.

The Staff Survey

To further facilitate input from consumers, Staff developed a survey, designed to identify respondents' preferences between the area code relief options identified in the White Paper, as well as the reasons for those preferences. The 11-question survey was accessible from the Department's AskPSC.com website, and paper copies were available at Department of Public Service outreach events and from several elected officials in the 315 NPA region.

Approximately 500 consumers having a telephone number within the 315 NPA region completed the survey, 80% of whom indicated that they have only a residential telephone number. 40% of survey respondents indicated that they prefer an overlay, 34% indicated that they would prefer a geographic split even if they are in the new area code, and 24% indicated that they would prefer a geographic split only if they remain in the 315 area code. Therefore, of those who stated a preference for a geographic split, 41% indicated¹⁹ that their preference is contingent upon retaining a 315 telephone number.

Consumers who expressed a preference for a geographic split indicated that the primary reason for doing so was to avoid confusion of having different area codes within their neighborhood, building, business or household. Other reasons cited in support of a geographic split were that consumers did not want to have to dial eleven digits for all telephone calls

¹⁹ Calculated as 24% divided by the sum of 34% and 24% ($[24/58] \times 100 = 41.38\%$; rounded to 41%).

and that businesses may have to incur expenses to change contact information to include an area code.

Consumers who expressed a preference for an overlay indicated that the primary reason for doing so was that they could keep their current telephone number, including area code. Other reasons cited for preferring an overlay included that it would not be necessary to reprogram phones with a new area code and there would be no need for business customers to incur the expense of changing business cards, advertising, stationery, signs and other materials to reflect a new area code.

AT&T, Sprint, T-Mobile, and Verizon

By letter dated July 31, 2013, AT&T, Sprint Corporation, T-Mobile, and Verizon (the Four Carriers) submitted supplemental comments in response to the June 5, 2013 Notice seeking comments. The Four Carriers stated their continued support for the overlay option, noting their earlier comments in support of the overlay option, submitted by Verizon and Verizon Wireless on May 23, 2008, and jointly by T-Mobile, Sprint Nextel, AT&T, and the Cellular Telephone Industry Association on May 23, 2008.

The Four Carriers asserted that, since 2005, with one exception, area code overlays were the exclusive form of area code relief adopted by state commissions around the country. Citing NANPA records,²⁰ they noted that over the prior eight years, 22 overlay codes were implemented and another four overlay codes were in the process of implementation. In contrast, over that same period of time only one geographic split had been implemented (in 2006). In addition, they cited examples of several other state commissions as having reconsidered prior decisions to implement geographic splits, and

²⁰ NANPA, "NPAs Introduced Since 1995," <http://www.nationalnanpa.com/enas/npaSince1995Report.do>.

adopting overlay codes instead. The Four Carriers stated that nationally, all-services overlays had been implemented in 25 states (including New York) and Puerto Rico since 2005, and that another two states would implement overlays in 2014.

By comparison, according to the Four Carriers, a geographic split would create negative consequences. For example, numerous companies such as airlines, doctors, utilities, grocery reward programs, pharmacies, national missing children databases, and others, utilize databases that use 10-digit telephone numbers as a search criterion; these would need to be updated with a new telephone number in the event of a geographic split. Also, most wireless providers have various administrative numbers in their networks that can be affected by a split. Lastly, carriers have in the past experienced technical problems in complying with customers' local number portability requests, specifically during the permissive dialing period of a geographic area code split.

Public Utility Law Project

The Public Utility Law Project of New York, Inc. (PULP) filed comments dated August 7, 2013, in which it asserted that the Commission should do more to investigate and evaluate options before determining that central office code exhaustion is imminent in the 315 area code region.

PULP asserted that the White Paper acknowledges underutilization of assignable telephone numbers in the 315 region,²¹ and PULP opined that it is likely that many numbers in 315 remain unused. It contended that it is incongruous to

²¹ White Paper, p. 2 ([o]f the approximate 8 million assignable seven-digit telephone numbers in the 315 area code, approximately 2.7 million are currently in use.); *Id.*, p. 2, fn.1 ([m]any numbers assigned in low-growth rate centers are never used since they cannot be used outside of that rate center. This results in a large under-utilization rate of available numbers within the area code).

allocate yet another 8 million numbers to the 315 region, and cause existing customers inconvenience, if there are still several million numbers unused in the existing 315 area code region.

PULP also asserted that the Commission should further investigate NANPA's 315 NPA NXX reports²² that showed carriers were actually using new numbers only in the urban areas, and that they had tied up large quantities of numbers in the rural areas. PULP contended that the Commission should verify the extent and nature of unused rural number allocations in order to determine an appropriate remedy and provide area code relief.

Arguing that area code changes can be disruptive, PULP stated that the Commission should investigate whether more intensive number conservation and proactive number reclamation efforts could avoid or delay the need for area code relief. PULP further stated that the Commission does have sufficient time to conduct such investigations, because no new central office codes were assigned as of the date of PULP's petition.²³ PULP urged the Commission to explore whether more can be done to encourage returns, not only of codes, but also of unused number blocks within codes, to prevent the premature appearance that an NXX is filling up and nearing exhaustion. PULP also recommended the Commission to reexamine number allocation practices. PULP asserted that numbers are being given out in 1000s blocks, but could be allocated in 100s blocks or 500s, thereby slowing the need for more NXX codes and a new area code.

²² NANPA NPA NXX databases and area code lists provide complete and accurate coverage of all active telephone area codes, exchanges, and central office prefixes within the United States, Canada, and the Caribbean. See <https://www.npanxxsource.com/>.

²³ See, Central Office Code Assignment Activity Records http://www.nanpa.com/reports/reports_cocodes.html.

PULP also questioned why NANPA's 2013 first quarter forecast changed the forecast exhaust from 2015 second quarter to 2015 first quarter, which illustrated PULP's view that NANPA's then recent 315 NPA exhaust forecasts had been oscillating.

Lastly, PULP contended that, even assuming there is a need for a new area code, the Commission should not presume that the preferred solution is an overlay, without additional process to obtain comments from elected officials and telephone customers in the 315 region.

In concluding, PULP asked the Commission for the following relief. First, the Commission should examine whether issuing numbers in less than 1,000 blocks would slow the saturation of NXX codes, and, if necessary, seek permission to do so from the FCC; second, explore whether technological capabilities now exist to move lightly used NXX codes to other areas with no disruption to customers; and third, require a technical conference to discuss options for conserving numbers and better utilizing them.

Further Deferral

This case proceeded until November 2014, when NANPA once again advised that the area code exhaust would not occur as quickly as predicted, and prolonged its exhaust projection to the third quarter of 2016. The proceeding was again held in abeyance, until such time when a need for relief was indicated.

D. 2015 NANPA Letter

This proceeding was again reactivated when the Commission received a February 6, 2015 letter from NANPA, stating the impending need for 315 area code relief. In the letter, NANPA informed the Commission that the 315 area code will exhaust no later than the first quarter of 2017, when the

remaining available central office codes are forecasted to be fully assigned.

Upon receiving NANPA's February 6, 2015 letter, a Notice Inviting Public Comment, dated March 4, 2015, was issued by the Commission, directing interested parties to submit comments by April 10, 2015 and reply comments by May 8, 2015. During the comment period, six comments and one reply comment were received via electronic mail.²⁴

Of the seven e-mail comments received after issuance of the 2015 Notice Inviting Public Comment, the majority of commenters favored an overlay. The majority of commenters are business customers representing larger commercial or municipal interests. Five comments supported the overlay; two supported a geographic split and requested that they be able to retain the 315 area code.

Also, Ontario County reiterated its previous request that the area code boundary be revised to include all of Ontario County within a single area code. Among the reasons for the request are increased expenses for local residents, businesses, and municipal governments due to increased long distance calling charges, and that Ontario County has incurred millions of dollars of long distance and 911 trunk leasing expenses because of the division of area codes. Ontario County proposed that the 315 area code boundary be revised so as to include Ontario County entirely within the 585 boundary. This would not only address the County's desire to have all of Ontario County contained within a single area code, but would also make more phone numbers available in the 315 area code.

²⁴ An additional 28 comments were received in June and July 2015, after the close of the official comment period, which were included in the official Case record and considered in formulating the decision we make in this Order.

Finally, Level 3 stated that, although it would require 10-digit dialing, an area code overlay plan is the least-disruptive and preferred solution as it will permit current customers to retain their existing telephone numbers; unlike a geographic split, which would require nearly half of the currently-assigned telephone numbers in the 315 area code to change numbers. Moreover, Level 3 stated that, as noted in the Staff White Paper, the affected customers include numerous businesses, which under a geographic split, would be required to modify advertising materials that contain their telephone number. Level 3 further submitted that consumers have become accustomed to 10-digit dialing in mobile phone usage and in other geographic regions which have adopted overlay solutions. Accordingly, Level 3 contended that the overlay alternative would be the least disruptive to the central New York 315 area code region.

DISCUSSION

When this issue was first brought to the Commission almost 16 years ago, the Numbering Administrator advised that the 315 area code would exhaust by the third quarter of 2002. The fact that the exhaust of central office codes was able to be deferred for so long demonstrates the effectiveness of the number conservation measures the Commission has undertaken since 1999. The ability of those measures, however, to further delay the creation of additional numbering resources for the 315 area code has been exhausted. Currently, Staff estimates that only 35 central office codes are available for assignment as of May 2015. As a consequence, we will act now to make additional resources available. As set forth below, we direct that additional numbering resources be made available in the 315 area code through the overlay alternative, as recommended in the 2008

Recommended Decision. Our rationale to authorize a new overlay area code for the 315 region is explained in detail below.

Need for Relief

As we noted in addressing PULP's Rehearing Petition,²⁵ number conservation measures, including number pooling and reclamation of unused central office codes, have been and continue to be implemented throughout New York State to the full extent of this Commission's authority. Nonetheless, NANPA is currently projecting exhaustion of central office codes in the 315 region by the first quarter of 2017.

The need for area code relief is determined by NANPA pursuant to federal regulation.²⁶ Semi-annually, NANPA receives projections of future numbering needs from carriers and uses them to forecast area code exhaust. NANPA's analysis is approved by the FCC before being released to states and the public at-large. NANPA gives notice to the state commission of

²⁵ See, Case 07-C-1486, Order Denying Public Utility Law Project Petition for Rehearing and Clarification (issued October 17, 2008), p. 7; Recommended Decision, p. 2, et seq. The PULP Rehearing Petition and supplement claimed that the Commission's April 25th Order denying PULP's motion for interlocutory relief, failed to address PULP's requests to identify recoverable central office codes in the 315 region and then determine the necessity for area code relief if all identified codes were recovered, speculating that there might be as much as "51 years of life left" in the region. The Commission denied PULP's Rehearing Petition, as supplemented, finding that the FCC had not delegated its authority to take back assigned numbers from consumers; that even if such authority had been delegated, "tak[ing] back assigned numbers from consumers ... would be costly, disruptive, potentially discriminatory, and any benefit that might be gained ... would be far outweighed by customer and carrier cost." The Commission concluded that "NANPA has given us notice of the need for 'unavoidable and timely area code relief' in the 315 region and ... an expeditious plan for such relief is in the public interest."

²⁶ See, 47 C.F.R. Part 52.

impending exhaustion of central office codes when it projects that demand for codes in a region will exceed known supply within 36 months.

Creation of new technologies and services continues to put pressure on numbering resources. Moreover, there are no longer additional conservation measures that can eliminate the need for area code relief in the 315 region or significantly extend the time when relief will be needed. Staff has considered other forms of number assignments to further improve number conservation, such as 100 block pooling. But, consideration of these alternatives has not advanced beyond conceptual discussions because such alternatives would require national implementation. In this instance, NANPA's latest determination is that, absent relief, exhaustion of existing 315 central office codes is on the horizon, i.e., by the first quarter of 2017; preparation by carriers that require changes to their networks must begin immediately.

Although state commissions do not have a direct role in NANPA's determination of need for area code relief, the Commission does receive the forecasts used in the calculation of exhaust. Staff has conducted a review of the telephone number forecasts made by the carriers and telephone number utilization history. Staff's review shows that a significant cause of telephone number demand is that there are 48 telecommunications carriers (wired and wireless providers) serving customers in the 315 NPA in distinct geographic areas known as rate centers. Each carrier requires at least one whole central office code for call routing purposes²⁷ and also requires additional numbering resources in each rate center to provide telephone numbers for their customers in these areas. Currently, there are 140

²⁷ Location Routing Numbers require the assignment of whole central office codes.

separate rate centers in the 315 region. The carriers' forecasts of expected number use indicate that forecast of exhaust in first quarter 2017 is reasonable and is consistent with recent utilization history.

Delaying a decision on area code relief creates the potential for unavailability of new blocks and NXX codes. Should the 315 NPA exhaust before new area code relief is in place, NANPA would likely be forced to establish "jeopardy of exhaust" procedures, which include number rationing and a lottery system for assigning new blocks and codes. A jeopardy of exhaust for the 315 region would likely cause delays in meeting customer requests for new services, with adverse economic and safety consequences for customers in the 315 area code region. Such a situation should be avoided and will be avoided with our timely decision on area code relief here.

The need for new numbers and the consequences of not providing timely relief refute the arguments that would have us further delay implementation of numbering relief. Contrary to PULP's assertions, for example, it is appropriate to order area code relief in the 315 area code region at this time. Moreover, even in the event that relief could arguably be postponed for a short period of time, we believe that concluding this proceeding without authorizing area code relief in the 315 area code region would be imprudent and costly. Our consideration of this matter has already been opened and closed or suspended multiple times in the past 16 years, and the amount of public input has been extensive. To delay our decision at this point would only delay the inevitable, and would require yet another subsequent reexamination of this issue. Moreover, any delay of our decision beyond the present would only result in greater inconvenience to all customers and stakeholders in the 315 area

code region and would impede an orderly implementation of the area code relief.

PULP's claim that there are many unused telephone numbers remaining in the region and that carriers are using new numbers only in urban areas while large quantities of numbers are tied up in the rural areas, is of no consequence. Because central office codes are geographically specific, any unused numbers in a given central office code cannot be used in any other rate center within the area code. Additionally, pursuant to industry standards, use of stranded numbers (which occur mostly in rural areas) is not permitted outside of their home rate center.

PULP's request that we investigate whether more intensive number conservation and proactive number reclamation efforts could avoid or delay the need for area code relief ignores the industry's efforts, under Staff's continuous monitoring, in this regard since the initial forecast of 315 area code exhaust nearly 16 years ago. While the use of all available reclamation and conservation measures²⁸ has been successful up to now in staving off exhaust, the most current NANPA forecast indicates that there are only 35 available central office codes available for assignment in the 315 area code; area code relief can no longer be postponed.

PULP's contention that the Commission should not presume the preferred relief remedy is an overlay without additional process to public input is without merit. In fact, we have provided substantial and extensive opportunities for

²⁸ These measures include: reclaiming unused NXX codes and thousands blocks, requiring submission of number utilization surveys prior to granting additional numbering resources, auditing carriers' use of numbering resources and addressing extraordinary need for numbering resources in an NPA.

public input and comment during the various phases of this proceeding, as described above.

Choice of Overlay as Relief Method

The relief options under consideration comprise an overlay and three variations of a geographic split. On balance we find, in accordance with the 2008 Recommended Decision, that an overlay area code should be adopted. We agree with the reasoning of the Recommended Decision which states that the lack of consensus consumer preference regarding a particular geographic split option provides an insufficient basis for adopting one of the geographic split options, all of which would result in "winners" and "losers." Only an overlay permits all existing telephone users in the region to keep their entire current phone numbers, including the 315 area code. An overlay treats consumers in the region more fairly and equitably. By comparison, a geographic split would necessarily impose virtually all of the burdens of area code relief on residential, business, and institutional telephone users in the zone receiving the new area code. At the same time, the users in the zone that retains the existing 315 code would bear essentially none of the burdens of area code relief.

We have previously approved overlays in New York State, which have been implemented successfully. In those cases, we noted that among our chief concerns in adopting the overlay alternative is the expense which would be imposed on customers were we to adopt the geographic split instead. Those same considerations apply equally here. For businesses especially, these costs could be significant, since advertising and all printed or promotional materials would have to be physically altered or reprinted. This would include brochures, letterhead stationery, business cards, vehicle and other outside

signage, advertising, and yellow page or other directory entries. In addition to these direct costs, for certain types of businesses, such as alarm companies, the customer's telephone number is an important part of the business function and adapting to a geographic split would entail a considerable cost. The fairer result in this case is to implement the overlay alternative and for all customers to shoulder the relatively minor inconvenience of 10-digit dialing so that the much more significant drawbacks of the geographic split will not be imposed on the unfortunate customers who happen to fall on the "wrong" side of what would be the new area code boundary. Moreover, in addition to the significant expenses avoided by adopting the overlay alternative, we are advised by Staff that the overlay alternative is simpler to implement through the existing telephone network and less likely to experience a technical mistake or error when implemented.

Therefore, in accordance with the authority delegated to this Commission by the FCC, we conclude on the record before us that additional numbering resources to ensure the continued and ready availability of telephone numbers in the area currently served by the 315 area code should be provided through an overlay code. As discussed, our decision is fully consistent with the guidance provided by FCC's regulations and with our statutory responsibility to assure that telephone service provided to New York customers is just, reasonable, efficient, adequate and in the public interest.

Request of Ontario County

Ontario County requested that the 585/315 area code boundary be moved so that all of the county²⁹ could be located within the 585 area code. The county based its request on what

²⁹ A small portion of Ontario County is located within the 315 area code boundary; the majority of the county is located within the 585 area code.

it asserts to be the increased costs of having two area codes within its boundaries, especially the increased expenses that county government incurs to provide 911 trunk leasing expenses because of the division of area codes within its borders. While we appreciate the county's desire to reduce its expenditures, there are a number of problems with the requested boundary change. First, it is not practicable for Ontario County's boundary to coincide exactly with any area code boundary, be it 315 or 585, because area code boundaries must follow rate center boundaries, not municipal boundaries. There are five rate centers that straddle the border between Ontario County and either Wayne or Seneca County. These five entire rate centers would have to be moved to the 585 area code if all of Ontario was to be included therein. There would likely be a rather significant negative impact on the customers in these rate centers, in terms of the costs and inconvenience of changing their telephone number (similar to the costs associated with a geographic area code split discussed above). There could also be disruptions to historically established communities of interest if they were moved from 315 to 585. Moreover, such an adjustment would merely shift the asserted problems of straddling two areas codes from Ontario County to the two other adjacent counties. For these reasons, we deny Ontario County's request.

Implementation and Outreach

NANPA's latest forecast of 315 region central office code exhaust in the first quarter of 2017 provides sufficient time for orderly preparation and implementation of area code relief. In addition, we acknowledge the New York State Telecommunication Association's (NYSTA) argument that it is in the best interests of all carriers operating within the 315 NPA region to assure that their customers are informed of the new

overlay code. We can better ensure that their efforts are not wasteful, duplicative, or conflicting if we require each affected carrier to provide its plan for education and outreach. This is consistent with our authority to implement area code relief and an appropriate burden upon any carrier that receives telephone numbers.³⁰ Therefore, we require all carriers receiving numbering resources to begin preparing plans for introducing the new area code on a timely basis.

In earlier area code relief cases, the Commission has clearly expressed the importance of such efforts and the responsibility of incumbent and competitive carriers to undertake such programs. We will also do so here. As promptly as possible and no later than 45 days after the date of this Order, all local exchange carriers in the 315 area code shall submit, as a compliance filing, a plan to describe the outreach and education program which will be implemented in support of the introduction of 10-digit dialing and of the new area code. All plans and preparations should be developed and carried out in consultation with Staff. We believe that the network preparation period necessary for carriers to accommodate overlay modifications and develop customer education materials should not exceed nine months.

In addition, we will require a 7- and 10-digit permissive dialing period of at least 11 months, followed by mandatory 10-digit dialing with a permanent intercept message

³⁰ 47 U.S.C. §251(e) provides the FCC with plenary jurisdiction over numbering issues. Section 251(e)(1) allows the FCC to delegate to state commissions or other entities all or any portion of its jurisdiction over numbering administration. The FCC, in promulgating federal rule 47 C.F.R. §52.19(a), has granted state commissions the authority to direct the form area code relief will take (i.e., geographic split, overlay, or boundary realignment, establish dates for implementation, and direct public education efforts regarding area code changes).

that will instruct those who continue to dial 7 digits to hang up and dial 10 digits using the appropriate area code. This sequence will provide customers with sufficient opportunity to adjust to the introduction of the new overlay code with a minimum of inconvenience or confusion. Lastly, all carriers that provide telephone directories to their customers should include in their outreach and education plans provisions for ensuring that their directories provide information on the new area code regime in the region. We note that Staff will continue to play a role in coordination of outreach and implementation of this area code relief proceeding, as has been the case in past area code relief proceedings, and as described herein.

CONCLUSION

We are advised by the Numbering Administrator that area code relief is needed in the 315 area code, and we agree. After review of the alternative forms of relief that could be implemented and that are described by the Numbering Administrator and by Staff, we conclude that the overlay alternative is less costly, less disruptive, less likely to frustrate customer acceptance, and more likely to enhance the public interest than the other identified alternatives.

The Commission orders:

1. Consistent with the conditions and requirements set forth in this Order, all carriers holding numbering resources in the 315 Numbering Plan Area shall file, within 45 days of the date of this Order, a joint plan outlining the steps necessary to activate a new area code for the existing 315 Numbering Plan Area. The plan shall contain, at a minimum, an eleven-month period for permissive dialing, followed by permanent mandatory 10-digit dialing with an intercept message,

as well as, a dialing plan that complies with established New York State dialing patterns. The plan shall be submitted to the Secretary of the Commission for review and approval by the Director of the Office of Telecommunications. The carriers shall, thereafter, implement such plan.

2. Within 45 days of the date of this order, every carrier holding numbering resources in the 315 Numbering Plan Area shall, consistent with the discussion in this Order, file its plan for an outreach and education program to acquaint its customers with the establishment of the new area code and its operation, and with the associated 10-digit dialing. Each plan shall be submitted to the Secretary of the Commission for review and approval by the Director of the Office of Consumer Services. Each carrier shall, thereafter, implement such plan.

3. The Secretary in her sole discretion may extend the deadlines set forth in this Order. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to any affected deadline.

4. This proceeding is closed, pending compliance with Ordering Clauses 1 and 2.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

RESPONSES TO 2008 RECOMMENDED DECISIONPublic Comments

Of the 126 e-mail comments received after issuance, 113 commenters favored some type of a geographic split, with 11 of them specifically identifying one of the three options identified in the Staff White Paper. Twenty-two commenters favored the overlay. The majority of these commenters are residential customers; some are small business customers and a few are larger commercial or institutional customers. These comments were all received prior to the proceeding being suspended in 2009.

Briefs on Exception

New York State Telecommunications Association, Inc. (NYSTA) and the Public Utility Law Project of New York, Inc. (PULP) each filed timely exceptions to the Recommended Decision.¹ In addition, on March 16, 2009 and April 28, 2009, PULP filed late, unauthorized supplemental briefs on exception.

NYSTA supports the Recommended Decision, stating that the overlay best responds to the needs of customers, communities, and providers throughout the 315 area code region. However, NYSTA takes exception to the recommendation that the Commission require, "Frontier, Verizon and other incumbent and competing local exchange carriers to begin preparing plans for introducing the new area code on a timely basis. Preparations should include a comprehensive outreach and education program conducted by the local exchange carriers. All plans and preparations should be developed and carried out in consultation

¹ PULP's exceptions to the 2008 RD were reiterated in PULP's comments filed August 7, 2013 in this proceeding, as described in the body of this Order.

and cooperation with Staff."² It objects to imposing implementation responsibilities on a sole class of carriers i.e., local exchange carriers.

NYSTA agrees with the recommendation for outreach and education to ensure a smooth transition in implementing the overlay, however, NYSTA asserts that it is no longer equitable for a single class of marketplace participants (i.e., local exchange carriers) to bear area code implementation responsibilities while other telecommunications providers are exempt. It contends that because thousands of residents and businesses located in the 315 area code are served by these exempted carriers, and it is in the exempted carriers' best interest to ensure their customers are informed, these carriers will likely undertake outreach and education efforts to assure that their customers are aware of the changes resulting from a new area code overlay. In addition, NYSTA notes that the marketplace has changed from one where local exchange carriers were the predominant providers of telephone service, and thus appropriately bore the expense of ensuring their customers were aware of the upcoming area code changes, to a highly competitive marketplace. Therefore, argues NYSTA, mandating outreach is not necessary in the interest of regulatory parity, and that all telephone service providers in the 315 area code region will undertake outreach and education on their own.

² Case 07-C-1486, Recommended Decision, at page 31.

Commissioner Diane X. Burman, concurring:

I concur in so far as based on the official record we have before us we must act since the North American Numbering Plan Administrator determined that there is an impending area code exhaust. Our own failure to act now may trigger the federal government to unilaterally act and impose its own plan on the affected communities or more importantly our failure to act now may put in harm's way residents and business owners in the affected area if there is no action and the area code exhausts. However, based on the concerns raised that all viable options must be further explored, which includes looking at the continued accuracy of the forecasting estimate from the North American Numbering Plan Administrator (NANPA), we need to be mindful of not being locked into action that is ultimately not necessary.

Thus, based on the commitment from Chair Zibelman that the concerns raised will be actively worked through with the affected stakeholders and a careful examination will be done to ensure that if there is no need to activate this plan we will reconsider the necessary next steps. Previously in November of 2013, Chair Zibelman put on hold the 315 area code proceeding based on the revised forecast of NANPA. Thus, I have every confidence that based on the articulated next steps if similar evidence is found to suggest the area code will not exhaust in the time frame forecasted that Chair Zibelman will without delay bring it back to the Commission for reconsideration to place on hold the proceeding and essentially extend the life of the 315 area code. Accordingly, I concur with this plan of action.