STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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.

RECOMMENDED DECISION

HOWARD A. JACK, Administrative Law Judge:

I. INTRODUCTION AND PROCEDURAL HISTORY

The Commission instituted this proceeding[1] to choose an option to provide additional central office codes, or "NXX codes,"[2] in the 315 area code region after the North American Numbering Plan Administrator (NANPA),[3] gave notice that it projected assignable central office codes would be exhausted in the region by the third quarter of 2010.[4] The 315 area code region is the largest in the state geographically, encompassing

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[1] Case 07-C-1486, Order Instituting Proceeding (issued December 20, 2007).

[2] A central office, or "NXX," code is the three-digit number following the area code (officially, Numbering Plan Area, or "NPA," code) in a ten-digit telephone number: *i.e.*, NPA-NXX-XXXX. Each central office code has an associated block of 10,000 individual telephone station numbers. This recommended decision generally uses the terms "central office code" to refer to an NXX code and "area code" to refer to an NPA code.

[3] NANPA, currently Neustar, is the entity responsible under Federal Communications Commission (FCC) regulations for managing the North American Numbering Plan (NANP). 47 CFR §52.7(e). The NANP is the basic numbering scheme for the telecommunications networks located in the United States (including Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Marianas Islands), Canada, American Samoa, and most Caribbean countries. 47 CFR §52.5(c).

[4] NANPA gives notice of impending exhaustion of central office codes for an area code region when it projects that demand for those codes in the region will exceed known supply within 36 months.

all or part of 18 counties in northern and central New York.[5] It extends from the St. Lawrence River, which marks our northern boundary with Ontario, Canada, down through the North Country and portions of the western Adirondack mountains and the Tug Hill plateau to the western Mohawk Valley, then westerly and southerly from the southeastern part of Lake Ontario through the northern Finger Lakes area. The 315 area code region has held that single code since the early 1950s.

As an initial step to provide telecommunications services users and the public at large an opportunity to learn more, the Commission issued a notice inviting comment on a White Paper the Department of Public Service Staff developed (Staff White Paper), which described four options for area code relief in the region.[6] In response to the notice, the Public Utility Law Project (PULP) filed a Motion for Interlocutory Relief, which the Commission treated as a petition for rehearing or reconsideration of its order instituting the proceeding.[7] PULP challenged the need for a proceeding to select a plan for 315 area code relief. Instead, PULP contended that the Commission should investigate whether area code relief in the region could be obviated by using existing numbering resource conservation measures.

The Commission considered PULP's allegations and arguments, but denied PULP's petition. It concluded that central office codes in the 315 region were projected to run out despite efforts to maximize conservation of numbering resources in that region and New York State as a whole; and, therefore, further investigation of assignment, use, or re-assignment of central office codes was not warranted and there was no basis for

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[5] The 315 area code region includes all or nearly all of Cayuga, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, and Wayne counties, as well as parts of Chenango, Cortland, Fulton, Hamilton, Ontario, Otsego, Seneca, and Yates.

[6] Case 07-C-1486, Notice Inviting Comments on Staff White Paper (issued March 3, 2008).

[7] Case 07-C-1486, Notice Establishing Response Time for Comments on PULP Petition and Suspending Comment Period Regarding Staff White Paper (issued March 24, 2008).

delaying this proceeding.[8] PULP later filed a Petition for Rehearing and Clarification (Rehearing Petition), and then a supplement. The Rehearing Petition and supplement claimed that the Commission's April 25th Order 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 Federal Communications Commission (FCC) had not delegated it 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."[9] 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."[10]

Staff conducted a widespread public outreach and education program throughout the 18 counties of the 315 area code region to alert people to this proceeding, options for area code relief, and ways their concerns and opinions could be heard. The Commission took comments on the Staff White Paper by voicemail, electronic mail, and standard postal mail, which I summarize later. To inform customers and the public and hear their concerns and ideas about advantages and disadvantages of, as well as preferences on, the options described in the Staff White Paper, the Commission also directed that a series of educational forums and public statement hearings be held throughout the affected region. In May of this year Staff from the Department's Office of Consumer Services and Office of Telecommunications conducted fourteen educational forums. Judge William Bouteiller or I presided over public statement hearings that

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[8] Case 07-C-1486, Order Denying Petition of Public Utility Law Project (issued April 25, 2008) (April 25 Order). The order includes extensive explanations of the history of numbering plans in the United States and New York, efforts to conserve central office codes and extend the lives of area codes in the State, and the need for area code relief in the 315 area code region, which I need not repeat here.

[9] Case 07-C-1486, Order Denying Public Utility Law Project Petition for Rehearing and Clarification (issued October 17, 2008) (October 17th Order) at 7.

[10] *Ibid.* at 9.

followed each forum. Active parties to this proceeding filed written comments. On the basis of all of the information gathered through this process, I recommend that the Commission approve an overlay area code, congruent with the area covered by the existing 315 code, to provide the needed numbering relief in this region.

II. THE STAFF WHITE PAPER

A. Need for Relief and Options Presented

The Staff White Paper noted that by October 2007 more than 650 of the 792 central office codes available for assignment[11] in the 315 area code region had already been assigned to telecommunications carriers, leaving fewer than 140 available. At that time NANPA projected that central office codes in the 315 region would be exhausted by the third quarter of 2010.[12]

There are two primary ways to add an area code: splitting the existing area geographically; or overlaying the entire existing area code region with a new, additional code. The Staff White Paper described four options for the new code: three different geographic splits and an overlay.

1. The Geographic Splits

Any geographic split would divide the current 315 area code geographic region into two parts. The 315 code would continue to serve one part, while a new area code would apply in the other. All existing customers would continue to have their existing final-seven-digit telephone numbers, but for those on the side of the new area code the first three digits of their ten-digit numbers would change.

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[11] Not all NXX codes are assignable for use as central office codes. Many are reserved for designated or common uses, such as local directory assistance, travel information, repair service, emergency 911, test codes, and a variety of special uses. See Alliance for Telecommunication Industry Solutions, *Central Office Code (NXX) Assignment Guidelines* (ATIS-0300051, August 1, 2008) §§4.6, 4.7.

[12] By the spring of 2008, after the Staff White Paper was issued, only about 100 NXX codes remained unassigned, but NANPA's projected date for exhaustion of central office codes in the region had been pushed out about six months, to the first quarter of 2011. NANPA's latest report predicts exhaustion in the first quarter of 2012. 2008-2 Numbering Resource Utilization / Forecast Report (October 2008). In its October 17th Order, however, the Commission found that continued progress toward area code relief is in the public interest. See *supra* n.9 and accompanying text.

Boundary lines drawn between area code regions tend to follow clearly identifiable political, commercial, or natural or physical boundaries, such as town or county boundaries, telephone rate center boundaries,[13] or bodies of water. Staff developed three different ways to split the 315 area code geographically, taking into consideration the projected lives of the area codes that would be on either side of the split, as well as communities of interest within the current 315 area.

(a) Option 1. The first alternative for a geographic split would divide the existing area code region between northern and southern zones along rate center boundaries, following a line running roughly east to west. The southern zone would include the existing 315 area code sections of Chenango, Cortland, Madison, Ontario, Seneca, and Yates counties; most of Cayuga, Onondaga, and Wayne counties (including the greater Syracuse metropolitan area); and small portions of Oneida and Otsego counties. The northern zone would include all or most of Herkimer, Jefferson, Lewis, Oneida, and Oswego counties (including the Oswego, Rome, and Utica metropolitan areas); and portions of Cayuga, Hamilton, Onondaga, and Otsego counties. Under this option, five counties and twelve towns would be newly split, with part of each staying in the 315 area code, but the remainder of each assigned to the new area code region. In addition, 32 local calling areas would be split. Customers within a particular split local calling area would have to dial an area code to reach other users located within that local calling area but on the other side of the area code boundary. Staff projects that after the split the northern zone area code region would take 26 to 36 years to run out of central office codes. In the southern zone central office codes would last from 19 to 30 years before they were exhausted.

(b) Option 2. The second geographic split alternative would partition the existing 315 region into eastern and western zones along rate center boundaries, following a line running approximately north to south. The western zone would include the current 315 area code portions of Cayuga, Cortland, Onondaga, Ontario, Seneca, Wayne, and Yates counties (including greater Syracuse); most of Oswego County (including metropolitan Oswego); part of Madison County; and small

[13] A rate center is a geographic area used to calculate distances between points of origin and termination for purposes of pricing calls. Current industry guidelines pursuant to which NANPA administers the NANP do not permit splitting telephone rate centers in favor of geographic splits that follow political boundaries, such as town or county lines. Alliance for Telecommunication Industry Solutions, *NPA Code Relief Planning & Notification Guidelines* (ATIS-0300061, March 14, 2008) (Relief Guidelines) §§2.11, 6.1, 6.2.

pieces of Chenango and Oneida counties. The eastern zone would include all or most of Herkimer, Jefferson, Lewis, Oneida, and St. Lawrence counties (including metropolitan Rome and Utica); about two-thirds of Madison County; and small parts of Chenango, Fulton, Hamilton, and Otsego counties. Under this option, only four counties, five towns, and six local calling areas would be split anew, with part in a new area code region and part remaining in the 315 region. After the split, central office codes should last for 27 to 39 years in the eastern zone and 18 to 26 years in the western, according to Staff's projections.

(c) Option 3. The third geographic split, like the second, would divide the current 315 area into eastern and western zones, but along county lines rather than rate center boundaries. The western zone would include the portions of Cortland, Ontario, Seneca, and Yates counties that currently lie within the 315 area; and all or most of Cayuga, Onondaga, Oswego, and Wayne counties (including metropolitan Oswego and Syracuse). The eastern zone would include all or most of Herkimer, Jefferson, Lewis, Madison, Oneida, and St. Lawrence counties (including metropolitan Rome and Utica); and small sections of Chenango, Fulton, Hamilton, and Otsego counties. This option creates no new county or town splits, but divides nine rate centers and 17 local calling areas between area code regions. With this option, Staff estimates, central office codes would last for 18 to 28 years in the eastern zone and 26 to 35 years in the western zone after the split.

2. The Overlay

Option 4 would "overlay" a new area code on the 315 area code region, so that there would be two area codes with the same boundaries, those of the existing 315 region. Under an overlay, all existing customers would keep their current ten-digit telephone numbers, including the 315 code. Central office codes could initially be assigned to telephone service providers from either the new area code or, until exhausted, from the 315 area code on a carrier-neutral, first-come, first-served basis. All customers within the region, both those who retained the 315 code and those assigned the new code, would have to dial 11 digits for all calls,[14] whether to other numbers within the region or to numbers outside the region. Staff estimates that an overlay for the 315 region would provide sufficient central office codes to last about 23 to 28 years.

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[14] Federal Communications Commission regulations require a minimum of ten-digit dialing within an overlay area code complex region (area code plus central office code plus four-digit station number). 47 CFR §52.19(c)(3)(ii). In addition, the New York State Dialing Plan requires use of the prefix "1" before the ten-digit number, resulting in 11-digit dialing.

B. Staff's Evaluation of Geographic Splits in Comparison to an Overlay

The Staff White Paper summarized comparative advantages and disadvantages of a geographic split and an overlay, which tend to be mirror images of each other.

1. Geographic Split

(a) Advantages:

- Retains the association of a single area code with a unique geographic territory, avoiding possible confusion from having different area codes apply within a single neighborhood, building, business, or household.
- Allows customers to continue to dial only seven-digit numbers to other numbers within their own area code region, rather than eleven digits for all calls regardless of region.

(b) Disadvantages:

- Customers currently assigned about half of the telephone numbers in the 315 region, including many businesses and institutions, would have to take the new area code, with the concomitant need to change any advertising, business cards, publications, and other materials that might include their current ten-digit telephone numbers.
- Thousands of wireless customers located in the new area code region would have to take their wireless devices to their service providers to be reprogrammed with the new area code.
- Future area code exhaust in the 315 region and the new area code region could result in smaller and smaller regional splits, without clearly recognizable geographic boundaries.
- Consumers would have to dial an area code for roughly half of the numbers that previously could be dialed with only seven digits.

2. Overlay

(a) Advantages:

- All existing 315 area code customers retain that area code, and thus their full current ten-digit phone numbers.
- Wireless customers would have no need to take their devices to service providers to be reprogrammed with a new area code.

- As central office codes became exhausted in the future, consumers could continue to keep their existing full phone numbers, without facing ever smaller area code regions from geographic splits.

(b) Disadvantages:

- All customers within the region would have to dial eleven digits for all telephone calls, whether to a destination within the region or outside it.
- Consumers could be confused by having to dial a different area code to reach nearby telephones within the same locale, neighborhood, building, business, or household.

III. PUBLIC OUTREACH AND COMMENT

A. Outreach Generally

Staff from the Office of Consumer Services and the Office of Telecommunications conducted a comprehensive outreach and education campaign for people in northern and central New York in the 315 area code region. The campaign targeted State legislators and executive agencies; municipal legislative and executive officials; chambers of commerce and chambers alliances; builders', manufacturers', and dairy associations; public utilities; energy marketers; schools, colleges, and universities; business leaders; communications media; libraries; labor and health departments; YMCAs; senior centers; and cooperative extension offices. Staff initially sent out a letter advising of the proceeding, with a map of the affected region. The letter also directed recipients to the AskPSC.com Web site, where a press release and the order instituting this proceeding were posted and additional information would become available. It invited readers to take advantage of an electronic mail list that would be used to provide additional information as the proceeding progressed. Upon release of the Staff White Paper, the same list received notice of its availability on the Department of Public Service and AskPSC.com Web sites, together with maps of the relief options; information on how to comment by writing to the Secretary, sending e-mail, or calling the Department's toll-free Opinion Line and how to contact Staff with questions or requests for additional information; as well as notice that educational forums and public statement hearings were planned, the schedule for which would later be available on the Web sites. Contacts on the e-mail list for the proceeding later received direct notice of that schedule. The AskPSC.com Web site, with a direct link to it from the Department's Web site, posted the schedule for educational forums and public statement hearings, a "questions and

answers" information paper about 315 area code relief, press releases, and other informational material. Approximately 360 comments came in through a combination of letters to the Secretary, remarks at public statement hearings, voicemail on the Opinion Line, and e-mail.

B. Legislators' And Local Governments' Comments

A number of State legislators and local governments provided comments either by writing to the Commission's Secretary or speaking at public statement hearings.

Senator Joseph Griffo favors an option that would not split Oneida County into two different area code regions. Either Option 3 or an overlay would avoid that outcome.

Assemblyman Mark Butler expresses concern that any geographic split would result in Herkimer and Fulton counties and portions of Otsego County receiving a new area code. He therefore favors an overlay as the means to minimize the impact of area code relief on small businesses and residents in his district. Since an overlay would allow existing customers to keep their current telephone numbers, including area code, he feels it would help to minimize costs to businesses and avoid confusion to senior citizens.

Assemblywoman Roann Destito opposes all options for area code relief. In a letter received at the Commission and also read at one of the public statement hearings held in this proceeding, she urges the Commission to analyze further the extent to which telephone numbers have been assigned to central offices but remain unused, and then to pull back unused numbers and redistribute them to new customers. Ms. Destito assumes that any geographic split would result in her constituents in the Utica - Rome vicinity losing the 315 area code to more populous areas. She expresses her commitment to action that would cause the least disruption to small businesses and residential consumers.

Cayuga County opposes Option 1, which would split the county into two area code regions. It opposes an overlay, as well, because it feels that option would cause confusion, with multiple area codes in the same geographic area, requiring 11-digit dialing for all calls. The county prefers either Option 2 or Option 3, because it assumes the western zone of either, within which the county lies, would retain the 315 area code. Thus, it believes, either of those options would minimize any impact of area code relief on county residents. Mr. Daniel Schuster, Chairman of the Cayuga County Legislature's Planning and Economic Development Committee, also notes that an overlay does not necessarily minimize costs for businesses of changing contact information on stationery, advertising, vehicles, and other materials. He explains that many small businesses in more rural areas, such as Cayuga County, have a relatively local customer base and use only seven-digit telephone numbers in those applications. For those businesses,

introduction of an overlay would require changing contact information to add an area code, thus making an overlay more costly than an option that would retain the existing 315 code. The City of Auburn, seat of Cayuga County, also opposes Option 1 for splitting the county into two different area code regions. It supports Option 3, which it believes "basically allows contiguous counties to Cayuga County to remain intact."

Located in Jefferson County, the Town of Orleans urges adoption of an overlay. It finds an overlay more advantageous in allowing all customers to keep their existing 315 area code telephone numbers, which would preserve existing contact information for anyone trying to reach people within the 315 region from inside or outside the region. The town notes that its four sewer systems are connected to automatic dialers needed to reach Department of Public Works employees quickly in emergencies. The town worries that the automatic dialers would have to be reprogrammed properly and errors might compromise the emergency response system and thus risk violation of Department of Environmental Conservation requirements.

The Town of Lincoln, in Madison County, opposes Option 2, which would divide the town, as well as the county, into two different area code regions. The town is concerned that such a division will increase expenses for businesses and residents. It also fears that having two different area codes for different parts of the town and the county would adversely affect residents seeking governmental assistance and coordination of emergency services.

In Oneida County, the Town of Marshall prefers Option 3 because it would keep all of Oneida, Madison, and Herkimer Counties in the same area code region. The town notes that its residents go to the City of Utica for most of their business and medical needs and keeping the same area code for the town and Utica would make it easier for them to go about their daily business. In contrast, the City of Rome, also in Oneida County, advocates an overlay. The city emphasizes public safety concerns with a geographical split. It believes an overlay, by allowing all users to keep their current phone numbers, is not only the fairest option, but the least confusing and complicated for residents. The city is especially concerned about senior citizens, many of whom may have difficulty remembering a new area code in an emergency when trying to reach a doctor, hospital, or pharmacy, or even a family member or friend. In addition, it fears businesses would be saddled with additional costs of changing contact information on stationery, signs, advertising, and so forth, and would also risk losing business of current and prospective customers who might not be able to find them if their area code changes. The city thinks that the need to dial an area code for all calls with an overlay would be a more understandable and less confusing alternative. It states that overlays have proven a

simpler, less disruptive alternative in practice across the country. Two other Oneida County municipalities submitted comments. The Town of Vernon objects to all three geographic split options on the ground that all would divide up Syracuse-to-Utica businesses. It claims that most growth in residences has been occurring in St. Lawrence, Jefferson, and Lewis counties, which should therefore be separated out as a new area code region. The Village of Clayville suggests a new area code limited to cellular phones, rather than any of the options in the Staff White Paper.

In Onondaga County, the Town of Camillus, the Town of Geddes, and the Town of Marcellus all support Option 3, with no explication of the basis for their preference. The Town of Lysander favors Option 3 to avoid splitting county, town, or village boundaries. It opposes an overlay because that option would require area code dialing for all calls. On the other hand, the City of Syracuse, the most populous municipality in Onondaga County and the entire 315 area code region, advocates an overlay as the option that would be least disruptive for businesses and residents.

Ontario County asks for a solution that would permit a single area code for the entire county. It notes that most of the county currently lies within the 585 area code, with the northeastern portion in the 315 region. The county wishes to have the area code region boundaries changed so that it would lie entirely in either the 585 or 315 region, with no preference which.

Oswego County recommends a geographic split. It prefers Option 1, with the northern zone, within which it lies, keeping the 315 area code. On the other hand, the Town of Granby, which lies inside the southern border of Oswego County adjacent to Onondaga County, supports Option 3, with the western zone keeping the 315 code. The town wishes to remain in the same area code region as Onondaga County, including the City of Syracuse, and the rest of Oswego County. The town favors this option because it feels changing its area code would impose an expensive hardship on town residents and businesses. In addition, the Fulton Public Library, also in Oswego County, urges an east-west geographic split to maintain its locality's ties with the Syracuse metropolitan area, which would mean Option 2 or Option 3. Otherwise, it supports an overlay.

Seneca County expresses its support for Option 4, the overlay, as best suited to the needs and requirements of the county.

Two municipalities in St. Lawrence County commented. The Village of Canton wishes to see a geographic split, with no preference among Options 1, 2, or 3. The village believes an overlay would create confusion in the community and that having to dial an area code for all calls would be cumbersome, as even some neighbors could have different area codes. It thinks the benefits of a single area code for the region

outweigh the business cost savings of an overlay. The City of Ogdensburg, on the other hand, recommends adoption of an overlay as having the least impact on residents and businesses in the community. No current customers would have to change their area code, businesses would not have to incur costs of new materials, an overlay would be easily replicable in the future without changing consumers' phone numbers, and thousands of wireless customers would be spared the need to bring devices in to service providers for reprogramming with a new area code.

Finally, Wayne County favors Option 3, with the western zone keeping the 315 area code. It opposes an overlay, because an overlay would entail 11-digit dialing for county residents on all calls and would cause the county to lose its identification with a single area code. In addition, the County Emergency Management Office notes that Wayne County is one of only three counties in New York to host a commercial nuclear power plant. It observes that much information distributed to county residents has 315 as the area code for reaching the Emergency Management Office, the public may retain this information for many years, and maintaining the 315 area code for these emergency contact numbers is critical.

C. Others' Comments by Letter

In addition to governmental officials, 17 individuals, businesses, and other organizations submitted written comments by letter. The Business Council, the National Federation of Independent Business, and the State University of New York College of Technology at Potsdam all support an overlay, as do three individuals. Their comments emphasize the cost impacts of a geographic split on institutions and small businesses in the zone that would not retain the 315 code from having to change business cards, advertising, stationery, signs, and other materials to show a new area code. They are also concerned with loss of business from past or prospective customers who might not be able to find them after an area code change. Commenting individuals express beliefs that it would be easier for small children to learn to dial 11-digit numbers than to learn a new area code; and that even non-business customers on the "losing" side of a split would have to notify relatives, employers, medical providers, emergency agencies, and more of new phone numbers.

Those individuals and businesses that favor a geographic split spread their preferences among the particular split options, one supporting Option 1, one Option 1 or 2, one Option 2, two Option 2 or 3, and two Option 3. Two simply oppose any overlay, regardless of the split option. Six of nine want their own locality to retain the 315 area code. Most of these advocate a split that would keep their own localities in the same area code region as Syracuse. Supporters of a split say that the long-term inconvenience of

11-digit dialing for all calls with an overlay readily outweighs the short-term, one-time costs for businesses in the zone receiving a new area code under a split to change advertising and other materials. Some argue that splits have been adopted elsewhere in the State and customers have weathered the change to a new area code without suffering significant impacts. One maintains that most businesses in his locale use only seven-digit numbers in their advertising, signs, and other materials now, and would not have to change anything with a split, but would have to make changes to show the area code if an overlay prevails.

Another commenter merely expresses opposition to any change in area code, without endorsing a particular split option. Finally, one commenter proposes, as an alternative to all the options set forth in the Staff White Paper, melding the northern portions of the existing 315 and 518 area code regions to create a new region.

D. Public Statement Hearing Comments

Staff conducted educational forums before each of the 14 public statement hearings held in this case. The forums and hearings occurred in Aurora, Cayuga County; Herkimer, Herkimer County; Potsdam, St. Lawrence County; Watertown, Jefferson County; Lowville, Lewis County; Oneida, Rome, and Utica, Oneida County; Oswego, Oswego County; Waterloo, Seneca County; Penn Yan, Yates County; Lyons, Wayne County; and two locations in Syracuse, Onondaga County. Sixty people gave comments at the public statement hearings. More than two-thirds spoke in favor of an overlay. Six speakers favored a geographic split only if their own locality would keep the 315 area code, but otherwise preferred an overlay. Four advocated against an overlay in general terms, without stating a preference for any particular geographic split option. Another six urged adoption of a split: four preferred Option 3 and one Option 2; one found either Option 2 or Option 3 acceptable. Of the remaining three commentators, one was a representative of Assemblywoman Destito, who reemphasized the Assemblywoman's written comments that urged the Commission to take more time for investigation and carrying out additional number conservation measures, rather than adopt any new area code. One business suggested a cellular-phone-only overlay. Finally, a representative of the Ontario County Board of Supervisors reiterated its written comments stating no preference among the four options for area code relief, but asking that area code boundaries be changed to place the entire county in just one code region.

Speakers for businesses and institutions supported an overlay by a nearly ten to one ratio. Three[15] hedged their comments, however, saying they would prefer a geographic split if their area kept the 315 code, which they did not consider likely. Colleges and universities, hospitals, chambers of commerce, large and, especially, small businesses, all feared the impact of a change in area code from a geographic split. They pointed to the costs of changing phone numbers on stationery, advertising, informational materials, and vehicles, which would not be necessary with an overlay, because all existing customers keep their current telephone numbers. Larger institutions, such as colleges and universities, have large databases of contacts—for example, donors and prospective students. They see very substantial costs of entering a new area code for those contacts now within the existing 315 region but whose code would change, as well as informing contacts across the northeast, the nation, and beyond of their own changed numbers. Small businesses worry about an even greater relative impact in terms of out-of-pocket expenses, as well as loss of commerce from past occasional customers or potential new ones who might miss or overlook a notification of a new number or otherwise no longer be able to find them. They noted that some customers outside the 315 region and outside New York place orders or have other telephone contacts in the region only occasionally and might also miss advice about a new area code during the transitional permissive or mandatory dialing periods.[16] Speakers favoring an overlay felt that consumers will quickly adjust to the minor inconvenience of dialing 11 digits for all calls and that the costs of a geographic split greatly outweigh that inconvenience. Those who advocate an overlay also emphasized the inequity of a geographic split, creating winners on the side that retains the 315 area code and losers on the side that must bear the impacts of a new one.

Residential speakers also preferred an overlay, by a 13 to seven margin (and two of the seven favored an overlay if their own locality would not keep the 315 code under a split). They repeated the concerns about the effects of a geographic split on businesses and the resulting impact on local economies, especially in rural areas. They mentioned the advantage of all existing customers keeping their current phone numbers

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[15] The Greater Watertown – North Country Chamber of Commerce, Herkimer County Community College, and the United States Army's Fort Drum.

[16] The "permissive dialing period" is a period during which calls to customers assigned the new area code that have not included the correct new area code are first intercepted with a message explaining the proper new dialing pattern, then are connected to the end use station called. During the "mandatory dialing period" the intercept message directs the caller to hang up and redial using the correct area code.

with an overlay. Several of these speakers felt that the need to learn a new area code with a geographic split, and to notify family, friends, banks, doctors, credit card companies, and others of new phone numbers, would be more confusing and difficult for seniors and people with disabilities than simply adjusting to 11-digit dialing. They emphasized the increasing availability of programmed dialing in telephone equipment, which lessens the effect of having to dial an area code for all calls with an overlay. They, too, criticized the unfairness of a geographic split in creating winners and losers.

Those few business, institutional, and residential speakers who supported one geographic split or another usually assumed their own locality would retain the 315 area code or advocate that result. Thus, most argued that the long-term inconvenience or annoyance (to them) of having to dial eleven digits for all calls with an overlay outweighs the short-term cost disadvantages and difficulty (to others) of adjusting to a new area code under the geographic split options. Contrary to the views of some of the speakers who favor an overlay, several of those who support a geographic split maintained that 11-digit dialing for all calls would be more confusing for senior citizens than having to adjust to a new area code for their own phone numbers if they wound up on the "wrong" side of a split. Speakers supporting a geographic split believe prior splits in New York have shown businesses and institutions, such as colleges and universities, can successfully ride out the transition. One speaker supporting a geographic split says he worked for a telecommunications company and has experience with the 716 / 585 split in western New York several years ago. He states that businesses often overlook the fact that with an overlay and the attendant need for 11-digit dialing, their telephone system equipment will require changes that add costs.

E. Other Public Comments

Nearly 230 people submitted comments on the area code relief options through e-mail to AskPSC.com and voicemail to the Department's Opinion Line. No clear preference emerged from those comments, but an overlay garnered the largest single share—25 percent. Those who favor an overlay stress the advantages of all customers keeping their existing ten-digit phone numbers and avoiding inequitable impacts of changing advertising, informational, and other materials and signs, losing business from clients or potential clients no longer able to find a business, and notifying customers, relatives, friends, clients, and others of a new number. In their view, these advantages greatly outweigh the inconvenience of having to dial eleven digits for all non-programmed phone numbers. They believe telephone users will quickly adapt to eleven-digit dialing.

Forty-eight percent of e-mail and voicemail comments support some form of geographic split, but with no consensus for a particular option. Twenty-one percent favor Option 3, 11 percent Option 1, and three percent Option 2. Thirteen percent find Option 2 or 3 acceptable. In addition, about 18 percent simply oppose an overlay, without stating a preference for any of the geographic splits. Most of these commenters either assume their own locality's zone would keep the 315 area code under a split or seek that outcome. They frequently note a preference for maintaining connections with another metropolitan area, chiefly Syracuse. Supporters of a geographic split, or opponents of an overlay, cite the desirability of keeping a sense of regional identity with a particular area code and the inconvenience and confusion of having to dial eleven digits for all calls, even to others on the same street or in the same building, business, or residence. Those split supporters believe business and residential customers on the "wrong" side of the split would face only a brief, one-time impact to which they would quickly adjust.

Other comments suggest taking more time for study and carrying out further number conservation measures; establishing a new area code for residences or new customers only or for cell phones, faxes, and other devices only; or adding more digits at the end of phone numbers. A few more advocate creating a new area code region limited to only Jefferson, Lewis, and St. Lawrence counties, with perhaps some of northern Herkimer County included; or moving a small portion of the existing 315 region to an adjacent area code region, or *vice versa*.

IV. ACTIVE PARTIES' COMMENTS

Nine active parties to this proceeding submitted comments. Two also submitted reply comments. All commenting active parties were telecommunications carriers; all support the overlay option.

A. Joint Commenters

Four parties submitted initial comments as Joint Commenters,[17] urging the Commission to adopt an overlay. Joint Commenters say an overlay has relatively little impact on existing customers and is fairer, because it avoids creating "winners and losers" within the current area code region. All customers in the region are treated

[17] Omnipoint Communications Inc. d/b/a T-Mobile USA Inc. (T-Mobile); Sprint Spectrum, L.P., Nextel of New York, Inc., and Nextel Partners of Upstate New York, Inc.; AT&T Communications of New York, Inc., Teleport Communications Group, Inc., TC Systems, Inc., ACC Corporation, and AT&T Mobility (collectively, AT&T); and CTIA-The Wireless Association®.

equally: none lose their existing ten-digit numbers with the 315 area code and new ten-digit (*sic*) dialing applies equally to all. Joint Commenters maintain that with an overlay no consumers incur the costs and inconvenience of notifying numerous others of an area code change and revised contact information; no businesses are forced to bear costs of changing stationery, advertisements, and other materials to reflect a changed number or to risk loss of business from customers who can no longer find them; nor do any customers have to bear the adverse consequences of significant technical problems associated with a geographic split. They state that with a split about half of all customers in the 315 region will suffer those adverse effects from assignment to a new area code. Thus, a geographic split inequitably imposes costs and inconvenience on those customers, while customers who retain the 315 code avoid them.

Joint Commenters consider the benefit of a geographic split in avoiding 11-digit dialing for local calls illusory. Experience in recent years, as ten- or 11-digit dialing has become more and more common, shows that dialing a few additional digits is no longer perceived to be the burden it once was. They note that long-distance calling with ten or 11 digits has become far more prevalent across the country as long-distance rates have fallen, especially as wireless carriers have expanded offerings of unlimited long-distance calling plans. Eleven-digit dialing has proliferated for customers throughout New York, Joint Commenters suggest, as it has become increasingly necessary for reaching users in other states and parts of New York State to which they are tied in multi-state regional economies, in addition to having become standard where overlays apply in the New York City vicinity. Joint Commenters say 11-digit dialing has also become the rule for nearly 16 million wireless customers in New York State. The burden of dialing additional digits is minimal compared with that of requiring millions of customers to change their phone numbers under a geographic split, they believe.

Joint Commenters maintain that a geographic split portends many technical obstacles that can cause dissatisfaction and confusion for the roughly half of customers in the 315 region who would wind up on the new area code side of the split. Technical changes necessary to implement a split demand exacting manual effort by all carriers, which introduces a risk of error; and the cumulative activity creates a large cumulative public exposure to that risk. In addition, they argue that splits have in the past: (1) interfered with customers' ability to "port" their numbers when changing carriers, because of various coordination problems between carriers; (2) created problems with lost voicemail for wireless customers; (3) created confusion with Caller ID services and resulted in failures in text message completion during the permissive dialing period in the transition to the new area code; and (4) caused customer inconvenience through call

failure, including failures attributable to lack of timely action by wireless customers to coordinate with their carriers to reprogram handsets with the new area code.

Joint Commenters also rely on experience with overlays as viable forms of area code relief in numerous regions of the United States in recent years. They point out recent course reversals by two state commissions that had originally intended to adopt geographic splits. The Utah Public Service Commission approved a geographic split of the 801 area code region several years ago, but various number conservation measures delayed the need to implement relief to 2007. After taking additional comments from carriers and the public, the Utah Commission found conditions had changed and reversed itself to adopt an overlay.[18] In addition to reassessing the extent to which the split's division of local calling areas would require 11-digit dialing for local calls, it cited greater than anticipated growth in wireless telecommunications, technological innovation and customer adoption of pre-programming options that limit actual 11-digit dialing, and greater need for re-programming phones with a split as reasons supporting an overlay. The Utah Commission noted that increasing number portability is decreasing the degree to which a particular area code can be identified with a specific geographic region.[19] Joint Commenters also refer to the West Virginia Public Service Commission's turnabout this year, when it reversed itself after rehearing and adopted an overlay, concluding that it had not adequately addressed the technical complications from a geographic split, including: Caller ID and lost text message problems; difficulties implementing number portability between wireline and wireless platforms; compromise of home alarm systems; and misdirected calls during the permissive dialing period.[20]

B. The Cable Telecommunications Association of New York, Inc.

The Cable Telecommunications Association of New York, Inc. (CTANY) urges the Commission to adopt an overlay. It states that an overlay is easier and less disruptive for consumers because all existing customers retain their current numbers, which it considers particularly important for seniors and those with disabilities. It says an overlay is fairer and less discriminatory because the burden of taking on a new area code

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[18] Public Service Commission of Utah, Docket No. 07-999-01, *801 Area Code*, Order Selecting Area Code Overlay, and Reversing April 13, 2000 Order Selecting Area Code Split (issued July 12, 2007) (Utah Overlay Order).

[19] *Ibid*. at 5.

[20] Public Service Commission of West Virginia, Case No. 00-0953-T-PC, *Relief Plan for the 304 Numbering Plan Area*, Order Granting Petitions for Reconsideration (issued February 13, 2008) (West Virginia Reconsideration Order) at 2.

would be dispersed throughout the region among customers requesting new telephone numbers or services, rather than fall only on customers in just one of the two geographic areas created by a split. CTANY argues that the need for customers to dial 11 digits for all calls with an overlay is nondiscriminatory, applying equally to all, and is not overly burdensome, particularly compared to the costs and burdens of being on the "wrong" side of a split. It emphasizes that an overlay is better for the business community in this time of economic uncertainty, avoiding costs of reprinting stationery, updating advertising, changing directory listings, and purchasing new signs.

C. Frontier Communications

Frontier Communications (Frontier)[21] favors an overlay, too. It argues that any initial customer confusion in having to dial extra digits of an easily remembered area code for every call will be minor and short-lived, and offset by a new long-term advantage in reducing existing customer confusion it claims occurs between local and long distance calls. Frontier says that the extra dialing on an ordinary touch-tone phone takes less than a second; and even that degree of additional manual dialing will be ameliorated by the spread of technologies such as call return, speed dialing, and voice-activated dialing. It contends that upstate customers can adapt to area code dialing for all calls as readily as New York City customers have; and that even upstate customers using wireless phones outside their home areas already have had to adapt to dialing the extra digits for all calls, with no claims of customer confusion or hardship of which it is aware. Frontier maintains that 11-digit dialing for all calls is inevitable in the not-too-distant future in any event, because, as geographic splits continue with ever-increasing demand for telephone numbers, area code regions will become unreasonably small and provide little advantage for those retaining an existing code, while forcing "losing" sides of splits to undergo ever more frequent number changes.

According to Frontier, the slight inconveniences associated with an overlay are far outweighed by the disadvantages of a split, which it says are exemplified in the experiences of the Rochester area when it was split off from the 716 area code region. Hundreds of thousands of customers had to change phone numbers. Thousands of small businesses had to replace printed materials, repaint windows, signs, and vehicles, reprogram PBX and fax equipment, and notify customers, no matter where located in the

[21] Frontier comprises seven subsidiaries of Citizens Communications Company: Frontier Telephone of Rochester, Inc.; Ogden Telephone Company; Frontier Communications of Seneca-Gorham, Inc.; Citizens Telecommunications Company of New York, Inc.; Frontier Communications of New York, Inc.; Frontier Communications of Sylvan Lake, Inc.; and Frontier Communications of AuSable Valley, Inc.

world, of changed numbers. Many lost business because potential customers could not get through after the permissive dialing period. Tens of thousands of wireless customers in the Rochester area had to bring cellular devices in for reprogramming. All the residential wireline customers in the area also suffered inconvenience and lost time from having to alert friends and family outside the area to their new area code. Frontier says the inherently discriminatory choice created by a geographic split also made the entire Rochester area bear the stigma of being declared, and recognized politically and in the media as, a disfavored area, compared to Buffalo. Externally, according to Frontier, telephone companies across the country would have to reprogram switches to recognize the change for the "losing" side, creating a risk of failed calls in the event of mis-programming much greater in the case of the 50 percent of customers affected by a geographic split than that in that of the small number of lines that might be affected with an overlay.

Frontier further contends that all three of the geographic splits entail dividing some existing communities of interest into separate area codes, requiring 11-digit dialing within those communities. All of the geographic split options presented in the Staff White Paper would also create various levels of confusion for customers by splitting local calling areas, town boundaries, or county boundaries, as well as winners and losers next to each other along boundary lines within local calling areas, towns, or counties. Frontier claims Option 3 would be even more confusing to customers and difficult for a local exchange carrier to administer, because some customers within the same exchange, or even the same wire center, would have different area codes. Some customers served by the same switch in the same exchange would have to use 11-digit dialing to make calls, while other calls within the same central office could continue with only 7-digit dialing.

Finally,[22] Frontier avers that, because of the need to change many telephone numbers—an especially difficult task where the split lies on or near county boundaries—all three of the geographic splits increase the risk of 911 emergency system database errors. It says an overlay would entail lower risk of potential errors in provision of emergency services, because it would require far fewer number changes and database, routing, and equipment changes.

D. The New York State Telecommunications Association, Inc.

The New York State Telecommunications Association, Inc. (NYSTA) [23] asserts that an overlay would be least disruptive for residents and businesses, practically and economically, because all existing customers, regardless of carrier or technology, would keep their current phone numbers. Residential customers would avoid having to let others outside the area code region know of a new area code and callers from outside the region would not have to learn the new code for the half of current customers assigned one under a geographic split. An overlay would avoid imposing economic hardship on businesses and institutions of changing materials with contact information, advertising, stationery, and other materials. NYSTA believes this consideration is particularly important to protect the already fragile economy of the 315 region in currently challenging economic times. It maintains that, with outreach and education efforts and a generous permissive dialing period, customers would successfully adjust to having to dial an area code for all calls with an overlay, just as they have where overlays have been implemented downstate. In closing, NYSTA reiterates the drawbacks to a geographic split outlined in the Staff White Paper.

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[22] Frontier also suggests that an overlay would allow the Commission to convert the current 11-digit dialing pattern for area-code-included calling to ten-digit dialing by eliminating the initial "1." Before available area codes and central office codes each were expanded to include interchangeable digits, switches could readily distinguish a three-digit area code from a three-digit central office code because the second digit of an area code could be only a "0" or a "1," and the second digit of a central office code could not be either. Dialing an initial "1" served to distinguish a local call from a within-area-code toll call. Currently, the initial "1" serves to tell telephone company switches that the next three numbers are an area code, rather than a central office code. Frontier's suggestion, however, would require a change to the existing New York Dialing Plan and lies beyond the scope of this area code relief proceeding. This recommended decision, therefore, will not address it.

[23] Excluding the Ontario and Trumansburg Telephone Companies.

E. Verizon

Verizon and Verizon Wireless (Verizon) agree with other carriers that an overlay is more advantageous than any geographic split. With an overlay, neither business nor residential customers will suffer a change in existing telephone numbers. Businesses would be saved the costs of changing phone numbers on stationery, signs, advertising, and other materials and notifying their various contacts of a new area code. They would also avoid the risk of lost business if word of the changed code fails to reach existing or prospective customers. Residents would not face the inconvenience of notifying friends, family, and others of a new area code. All consumers, whether inside or outside the 315 region, would be saved the effort of reprogram-ming stored numbers of those contacts who would receive a new area code under a split. Verizon stresses that fairness and equity considerations weigh in favor of an overlay. All customers would retain their existing phone numbers, rather than half incurring the costs and inconveniences associated with a changed area code. Any inconvenience of adjusting to dialing an area code for all calls would be borne equally by all.

Verizon notes that wireless users now outnumber traditional wireline customers and increasingly view telephone numbers as not associated with a set geographic locale. It suggests that wireless customers increasingly use their phones not only for work, but in their personal lives with friends and family. It also says wireless customers are already accustomed to dialing area codes from their mobile phones, which they use to place both local and long distance calls; thus, dialing area codes for local calls will be more acceptable and less confusing for them.

Verizon states that an overlay better accommodates any future area code relief with little or no impact on consumers. Additional overlays could be implemented more easily in the future, because customers would already have adjusted to area code dialing for all calls. With a geographic split, future area code relief in either of the resulting regions would again require the Commission to choose between a further split or an overlay, with splits dividing the area into smaller and smaller segments and making implementation ever more complex and controversial. In addition, Verizon contends that an overlay allocates numbering resources more efficiently by allowing new phone numbers to be available across the entire existing 315 region. An overlay avoids drawing a line based on demand growth predictions and trying to balance life expectancies of area codes on either side of the split. With such predictions more area code relief is often needed sooner than expected, when growth exceeds forecasts.

Verizon claims that a geographic split along county lines, as in Option 3, would be more problematic. It observes that a county line split would also require a

waiver from the FCC, but an FCC proceeding would add many months to the time when relief could be provided. It states that those customers whose rate centers straddle county lines would have to change their entire ten-digit telephone numbers, not just an area code. Splitting rate centers would complicate predicting future area code exhaustion and even less efficiently allocate numbering resources, where split rate centers would require numbers in both area codes rather than just one. Split rate centers, moreover, would significantly complicate local number portability processes, according to Verizon.

Next, Verizon maintains that the carrier tasks needed to implement an overlay are much less complicated than those for a geographic split and can be carried out more quickly. Carrier compliance with local number portability requirements is more difficult technically and requires greater coordination with a split, as well, carrying greater potential for mistakes and resulting call failure, despite planning and preparation. Verizon says wireless services are much more advanced and complex than wireline service, too. The greater number and complexity of changes required for geographic splits, it maintains, increases the potential for omissions and mistakes. Verizon cites recent experience with a geographic split in New Mexico, which produced a number of foreseeable and unforeseeable problems and demonstrates the greater likelihood a split will cause unnecessary customer disruption and complaints. From a wireless perspective, Verizon also sees an overlay as preferable because it avoids the need to reprogram mobile phones for those customers who wind up on the new-area-code side of a split.

Verizon states that experience in other states shows customers quickly make the adjustment to dialing an area code for all calls when overlays are implemented. The short-term inconvenience of adjusting to the new dialing pattern is greatly outweighed by costs and inconvenience incurred by customers who must change their wireline and wireless telephone numbers as a result of a geographic split. In addition, according to Verizon, overlays are now the most frequent form of area code relief, with 71 overlays adopted since 1995, including overlays in 16 states since 2000. Verizon says fear of customer confusion has not proven out where overlays have been adopted, including New York City, where the Commission has approved two overlays. Like Joint Commenters, Verizon emphasizes the recent actions of the Utah Public Service Commission and the West Virginia Public Service Commission in reversing themselves and rejecting geographic splits in favor of overlays.

F. Reply Comments

AT&T and T-Mobile of Joint Commenters also filed letters styled as “in lieu of” reply comments, simply reiterating their support for an overlay.

V. DISCUSSION

A. Need for Relief

As the Commission noted in addressing PULP's Rehearing Petition, 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 the Commission's authority. Nonetheless, NANPA still projects exhaustion of central office codes in the 315 region in the relatively near term, by the first quarter of 2012. There are no additional conservation measures that can eliminate the need for area code relief in the region or significantly extend the time when it is needed. The explosion of new technologies and services—wireless voice telephone and text message transmission, mobile broadband, competing local exchange service, voice-over-Internet protocol service, cable phone service, vehicular communications systems, and more—continues to put pressure on numbering resources and makes prediction of central office code depletion more difficult and less reliable than ever.

In its October 17th Order, the Commission observed that area code exhaustion is the inevitable future for the 315 region, as forecast by NANPA. The Commission stated:[24]

> While code assignment rates may have slowed, there is no doubt that the 315 region will face exhaust at some future time. We would be remiss in our responsibility to the consumers and carriers of New York to postpone our decision on a plan despite notification from NANPA regarding impending exhaust of assignable NXX codes …. We believe that NANPA has given us notice of the need for "unavoidable and timely area code relief" in the 315 region and that an expeditious plan for such relief is in the public interest.
>
> Although NANPA may further extend the exhaust date, depending on the demand for NXX code assignments, we must prepare as well for the possibility of increased demand for code assignments since such demand would accelerate exhaust. Our goal is to have a plan in place with adequate time to implement it, in accordance with the NANPA forecast. If code demand stays low, we will not have to begin implementation of a new area code until the 315 code is closer to depletion. Having more time available for implementation will ensure an unhurried and orderly transition.

[24] October 17th Order, *supra*, at 9.

Thus, the Commission has already resolved the issue of need for a plan for area code relief in the 315 area code region. I will, therefore, proceed to consider what relief method to recommend.

B. Relief Method Choices

1. Threshold Considerations

The relief options under consideration comprise an overlay and three variations on a geographic split. The comparative merits of the relief alternatives diverge significantly from what they were in the Commission's most recent area code relief cases, involving the former 914 and 716 area code regions.[25] Public sentiment in those cases overwhelmingly supported a geographic split, while it is much more evenly divided here.[26] Although not a radical innovation even eight or nine years ago, overlays have become much more commonplace and familiar in the intervening period.[27] No particular split option here, moreover, commands any consensus. Support for a split is spread among the three options individually, two of three in the alternative, or generic opposition to an overlay with no indication of any specific split preference. In addition, much of the support for geographic splits rests on the assumption or hope that a particular supporter's own locality would retain the 315 code, obviating any concern over adverse impact from implementation of area code relief.

2. Geographic Splits

A geographic split has two advantages: preserving some sense of identity between an area code and a specific geographic region; and maintaining the ability of a customer to make calls within the home area code with only seven-digit dialing. I find that the degree of these advantages must be discounted somewhat, however. The former advantage has deteriorated and will continue to do so as more and more wireless

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[25] Case 99-C-0800, *Telephone Numbering Resources and Evaluation of the Options for Additional Area Codes*, Opinion No. 99-11 (issued November 4, 1999) (914 NPA Order), and Opinion No. 00-06 (issued May 22, 2000) (716 NPA Order).

[26] Of all comments in this proceeding expressing an opinion (whether for or against) on the options under consideration, 60 percent supported some split option or opposed an overlay and 40 percent supported an overlay.

[27] Within North American Numbering Plan countries, overlays were in service in 42 regions in the United States, Canada, Puerto Rico, and the Dominican Republic by the end of 2007; 12 of those serve area code regions in New York and neighboring states. NANPA 2007 Annual Report at 8, Table 3.

customers abandon wireline service entirely and keep their phone numbers while moving around the country in our ever increasingly mobile society. The latter advantage decreases with every split, as the split immediately and sharply reduces the extent of the home area code region. Although most customers, particularly residential customers, tend to make far more calls within their home area code region, their ability to make calls with seven-digit dialing would undoubtedly be compromised significantly with the substantial reduction in home region size entailed by a split. About half of the numbers that can now be dialed with only seven digits would require 11-digit dialing after the split. Furthermore, those customers located on either side of and near the boundary between the old and new regions created by the split would find their ability to reach others with only seven-digit dialing even further circumscribed, the more that their typical calling patterns crossed the line. A customer whose local calling area is split would have to dial eleven digits to reach customers on the other side of the split even within that local calling area.[28] Thus, a geographic split is not a panacea even for those who retain the old area code.

The disadvantages of a geographic split flow from the fact that approximately half of the customers in the existing area code region must have their telephone numbers changed to incorporate a new area code.[29] About 1.35 million of the 2.7 million currently-assigned phone numbers in the 315 region would be affected. Customers with those numbers would bear the burden of notifying their families, friends, medical providers, and others of their new area code, a particularly difficult and costly task for businesses and institutions with large contact databases. Businesses that show their current ten-digit numbers on stationery, business cards, advertising, signs, vehicles,

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[28] Option 1 would split 32 local calling areas; Option 2 would split six; and Option 3 would split 17.

[29] Several commenters proposed a split that would put only Jefferson, Lewis, and St. Lawrence counties in a region with a new area code, letting the rest of the current area code region retain 315. A variation included northern Herkimer County. In total, the first three counties and, for the sake of argument, half of Herkimer County include only about one-fifth of the population of only those counties entirely or nearly completely within the current 315 area code region. See U.S. Census Bureau, State and County Quick Facts (www.quickfacts.census.gov/qfd/states/36000.html). Carving those areas out from the rest of the region could not possibly produce the reasonably balanced split—in terms of time until the two regions created would respectively next exhaust central office codes—required under industry guidelines on area code relief. See Relief Guidelines, *supra*, §5.0(h).

or informational materials would suffer time, effort, and dollar costs in substituting new ten-digit numbers. Many cellular phone users would incur time and travel costs to bring their phones in for reprogramming. Many PBX systems and fax machines would require reprogramming, as well. Because a geographic split requires vastly more switch reprogramming by telephone companies across the country, the risk of failed calls from mis-programming is much greater in the case of a split than in that of an overlay, as Frontier notes. Switching errors and failed notice to contacts greatly increase the potential for lost commerce for businesses and institutions. Joint Commenters also point to problems with losing voicemail sent to wireless phones. The West Virginia Public Service Commission, moreover, observed that technical complications flowing from a split can have negative impacts on Caller ID, number portability between wireline and wireless carriers, text messaging, and home alarm systems, as well as misdirected calls during the permissive dialing period.[30] The threat of errors in making changes to 911 emergency system databases for hundreds of thousands of changed phone numbers also raises public safety concerns for a split not matched with an overlay. All of these adverse impacts from a split would inequitably affect the half of customers who receive a new area code, while those who retain the 315 code would remain relatively impact-free.

Some commenters feel that, with seven-digit dialing and regional identification with a particular code maintained, a geographic split will be easier for seniors, children, and disabled consumers. At least as many argue that dialing eleven digits for all calls will be easier than having to adjust to a new area code for seniors, children, and the disabled who might wind up on the "wrong" side of a split. There are no empirical data available on the record to resolve this difference of opinion, however, and I cannot reasonably conclude here which relief method would be better for seniors, children, and disabled persons.

3. Overlay

An overlay offers one very significant advantage: all current customers keep their existing ten-digit phone numbers. Consequently, an overlay avoids most of the problems affecting the "losing" side of a geographic split. True, as a legislator from Cayuga County stresses, some businesses, especially in more rural areas, currently use only seven-digit telephone numbers on their materials, vehicles, signs, and advertising. They will incur costs in switching to ten-digit numbers with introduction of an overlay area code. From the comments submitted by chambers of commerce, the Business

[30] West Virginia Reconsideration Order, *supra*, at 2.

Council, and the National Federation of Independent Businesses, however, those businesses appear to be far outnumbered by businesses and institutions that would have to change their current ten-digit numbers in print and paint to include a new area code under a split.

In the swiftly evolving world of telecommunications technology and services, the eight years since the Commission last acted on area code relief in New York is a lifetime or more. The drawbacks attributed to an overlay no longer weigh as heavily as they once did. As active parties and many other commenters maintain, overlays are spreading and have become more common in recent years throughout the North American Numbering Plan jurisdiction, as has the need to dial more than seven digits to place even home area code calls. At this point, 77 area codes—more than 27 percent of all codes extant in NANP countries—require ten-digit or 11-digit dialing even within the home area code.[31] Five of fourteen area codes in New York State already use 11-digit dialing for all calls.[32]

Consumers seem to adapt relatively well to the ten- or eleven-digit dialing that overlays (and small-area, densely populated code regions) necessitate. In its recent decision, the Public Service Commission of Utah found that the record of experience developed in implementing overlays:[33]

> …has shown that difficulties with widespread customer confusion with an area code overlay did not materialize as feared. Indeed, this experience has shown that an area code overlay is more successfully implemented with less inconvenience to consumers and businesses than an area code split.

The proliferation of speed-dialing and other programmable number features in modern telephone equipment has ameliorated the effect of dialing extra digits. Even without pre-programming, consumers apparently have found punching those few additional digits for each call takes relatively little additional time or effort. I do not find this consumer adaptability particularly surprising. In the course of telephone system evolution, consumers have had to adapt periodically to moving from all-operator-assisted calling to dialing a mix of three or more letters, numbers, or both, to seven-digit dialing for all

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[31] NANPA 2007 Annual Report, Attachment 5.

[32] *Id.*

[33] Utah Overlay Order, *supra*, at 7.

home area code calls, to ten- or 11-digit dialing for various calls. Consumers in our much more technologically complex society today should prove at least as sophisticated and competent to adapt to dialing changes as their predecessors a half century or more ago.

4. Other Methods of Relief

The concern of communities or counties that are split by the pre-existing 315 area code region boundaries and expressed a wish to have those boundaries adjusted so that they might be placed entirely within a single region is quite understandable. Under federal law, however, authority over the North American Numbering Plan inheres in the FCC. It has delegated a number of aspects of its authority to state regulatory commissions, but not plenary authority to adjust area code boundaries. To date, the FCC has delegated authority for state commissions to change area code boundaries as a means of providing area code relief only to a quite limited extent. Under FCC regulations, a state commission may shift an area code boundary solely to allow transfer of unused central office codes from one area code region to an adjacent region in which few or no central office codes remain available for assignment.[34] This narrow delegation is not broad enough to allow the Commission to modify area code boundaries as requested here. Similarly, the Commission's delegated authority to revise area code boundaries is insufficient to allow it to create a new area code region encompassing the northern portions of the existing 315 and 518 area code regions, as one commenter suggested.

Some commenters have also proposed that the Commission provide area code relief through an overlay code limited to certain types of users or devices, such as residences only or cellular phones and pagers only. As a general rule, FCC regulations permit a state commission to adopt only an "all-services" overlay—an overlay that applies on a non-restrictive, first-come, first-served basis, regardless of the technology or type of service.[35] In order to implement a technology-specific or service-specific overlay, a state commission must obtain express, case-by-case approval from the FCC.[36] The Connecticut Department of Public Utility Control filed for FCC approval of such a "specialized overlay" in 2001. Eventually, in 2003 the FCC granted Connecticut's petition, but only on condition that the specialized overlay be converted to an all-services

[34] 47 CFR §52.19(c)(2).

[35] 47 CFR §52.19(c)(3).

[36] 47 CFR §52.19(c)(4).

overlay within three years.[37] As the West Virginia Public Service Commission has observed, this rather limited approach to allowing specialized overlays "in effect evaporat[es] the benefit of the specialized overlay."[38] Even if ultimately approved, such a limited transitional overlay would only briefly put off the inevitable need for permanent area code relief in the 315 region. Thus, I conclude there would be little value in seeking approval of a specialized overlay through a lengthy FCC proceeding.

Another suggestion for area code relief recommended adding digits at the end of existing phone numbers. This option, of course, would not serve the objective sought by the vast majority of commenters, which is to keep their existing phone numbers. In addition, it is not among the methods of area code relief permitted under FCC regulations.[39]

VI. CONCLUSION

There is no clearly best option for area code relief in the 315 region. None of the options available will likely satisfy everyone, or even most commenters, completely. None commanded support from a majority. Commenters spread their preferences widely among the four options under consideration. Every option has some advantages and some disadvantages. Although the choice is difficult, on balance I conclude that an overlay area code should be adopted in the circumstances presented here.

The one desire expressed overwhelmingly by commenters in this case has been that existing customers be able to keep their current phone numbers, including the 315 area code. Only an overlay permits all existing telephone users in the region to do so. In my view, the initial short-term uncertainty of adjusting to dual area codes and, for some, the continuing inconvenience of always dialing 11 digits with an overlay are outweighed by the inconveniences, difficulties, and costs that a geographic split entails for half the region's current users. Nor are overlays the novelty they might have been a decade ago. The Commission has previously approved overlays downstate in the New York City region, which have been implemented successfully. To assume upstate telephone users are any less competent to adapt well to an overlay than their downstate counterparts would be unreasonable.

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[37] *In re Conn. Dept. of Pub. Util. Control*, 18 FCC Rcd 10946 (FCC 2003) at ¶5.

[38] West Virginia Reconsideration Order, *supra*, at 3.

[39] See 47 CFR §52.19(c).

In addition, an overlay treats consumers in the region more fairly and equitably. 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, while users in the zone that retained the existing 315 code would bear essentially none. Since there is no consensus consumer preference to be served in this case by adopting a particular geographic split option, there is no good reason to pick "winners" and "losers" to provide area code relief. Here, an overlay will both fulfill the consensus desire of commenting consumers and better serve the interests of fairness.

NANPA's recent extension of the predicted date of exhaustion of the central office code supply in the 315 region provides additional time for orderly preparation for implementation of area code relief. The Commission should 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 and cooperation with Staff. I recommend that the Commission also require a permissive dialing period and an intercept message period of at least nine months each, to allow customers sufficient opportunity to adjust to introduction of the new overlay code with a minimum of practical disruption or confusion. 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.

November 26, 2008