BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, to adopt a relief plan for the 402 area code.	)))))	Application No. C-4152 ORDER ENTERED: June 30, 2009

BY THE COMMISSION:

Background

In May of 1999 the Nebraska Public Service Commission (Commission) was informed by the North American Numbering Plan Administrator (NANPA) that the number of assignable prefixes (also known as central office NXX codes) available for the 402 area code was in danger of being depleted in less than two years.

On June 9, 1999, the Commission initiated a proceeding in Docket C-2057/PI-28 to investigate the potential exhaust of assignable numbers in the 402 area code and determine the degree of depletion of central office codes, develop a procedure for public input, and make recommendations based upon that input.

A telecommunications industry relief planning meeting was held on August 4, 1999, to evaluate various relief plan options and select a recommended plan using the consensus process. On September 15, 1999, the NANPA notified the Commission that the industry did not reach consensus on a single relief plan for the 402 area code but did reach consensus on submitting four relief plans to the Commission; three geographic split plans and one overlay plan.

The Commission began working with the industry to implement a variety of number conservation measures including thousand-block number pooling[1] and rate center consolidation to further extend the life of the 402 area code. In September of 1999 the Commission filed a petition with the Federal Communications Commission requesting authority for the Commission to implement thousands-block number pooling. On July 20, 2000, the Federal Communications Commission (FCC) authorized the Commission to

[1] Thousand-block number pooling is a number resource allocation method that divides a prefix or central office code (NXX) which normally consists of 10,000 telephone numbers into ten sequential blocks of 1,000 numbers. Thousand-block number pooling extends the life of an area code because it allows multiple service providers operating in the same rate area to share the ten thousand blocks in a prefix at the thousand-block level.

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implement thousand-block pooling in the 402 Area Code.[2] Voluntary thousand-block number pooling began in the 402 area code on February 17, 2001 and mandatory thousand-block number pooling in the Omaha Metropolitan Service Area (MSA) on July 1, 2001.

In Docket C-3049 opened on November 13, 2003, the Commission investigated and implemented voluntary thousand-block number pooling to extend the life of the 402 and 308 area codes as long as possible. Subsequently, the Commission sought and received the authority from the Federal Communications Commission to require mandatory number pooling in the 402 area code.[3]

The FCC set November 24, 2003, as the date by which all wireless carriers must be capable of supporting thousand-block number pooling regardless of geographical area served.

Additional efforts undertaken by the Commission with the cooperation of the telecommunications industry resulted in the continued extension of the forecasted exhaust date for the 402 area code. However, in the NANPA 2008.2 Forecast the exhaust date of the 402 area code was projected to be the third quarter of 2010. While the exact date of exhaust cannot be predicted the forecasted date is now inside the timeline required by the industry for developing the necessary plan to implement the specific area code relief plan selected by the Commission.

The FCC adopted rules for states to follow when selecting area code relief plans. 47 C.F.R. § 52.19 provides in pertinent part that,

> 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

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[2] *See In the Matter of Numbering Resource Optimization et al.*, CC Docket No. 99-200, DA 00-1616, ORDER (Rel. July 20, 2000)("CC Docket No. 99-200")(approving the petitions filed by a number of states to implement conservation measures.)

[3] On February 24, 2006, in CC Docket No. 99-200, the Federal Communications Commission released its Numbering Resource Optimization Order and Fifth Notice of Proposed Rulemaking granting this Commission the authority to implement mandatory thousand-block pooling in the 402 NPA.

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directing public education efforts regarding area code changes.

(b) State Commissions may perform any or all functions related to initiation and development of area code relief plans, so long as they act consistently with the guidelines enumerated in this part, and subject to paragraph (b)(2) of this section. For the purposes of this paragraph, initiation and development of area code relief planning encompasses all functions related to the implementation of new area codes that were performed by central office code administrators prior to February 8, 1996. Such functions may include: declaring that the area code relief planning process should begin; convening and conducting meetings to which the telecommunications industry and the public are invited on area code relief for a particular area code; and developing the details of a proposed area code relief plan or plans.

Generally, area code relief plans consist of two alternatives; geographical splits and all-services overlays. A geographical split would divide the current 402 area code into two geographically separate area codes. When a split relief plan is implemented one side of the geographic area would keep the existing 402 area code while the other side is assigned a new area code and all customers in the new area code would be required to change the area code associated with their local telephone number.

Adopting an all-services overlay retains the existing area code boundary and a second area code is introduced to the same geographical area providing new numbering resources. An overlay would not require customers to change their existing numbers however it would require ten-digit dialing for all calls.

On February 19, 2009, NeuStar, a neutral third party numbering administrator, notified the Commission that based upon the latest semi-annual forecast, the new forecasted exhaust date for the 402 area code was projected to be the third quarter of 2010. NeuStar also provided an updated assessment of the Commission's four NPA relief plans proposed in Docket C-2057 in 1999 as well as updated forecasted exhaust information for the 308 and 402 area codes. Three of the four initial alternatives were geographic splits while the fourth alternative was an all-services overlay. When implementing a geographical split as a

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relief plan the FCC requires that the difference in projected life between the two area codes be no greater than ten years to avoid the necessity of consumers undergoing another relief plan in a short period of time. Two of the proposed geographical splits exceed ten years and one is ten years. Based upon recent information from NeuStar, the overlay method of providing relief is the most widely used method among states at the present time.

The Commission is aware that the industry needs sufficient time to implement an area code relief plan. In today's Order, the Commission formally adopts an area code relief plan including the associated dialing requirements and instructs the industry to file an implementation schedule as described further below.

Procedural History

By Order entered on March 17, 2009, the Commission opened this docket to adopt a relief plan for the 402 area code. Notice of this proceeding appeared in the Daily Record, Omaha, April 14, 2009. Comments were solicited by the Commission on a number of alternative area code relief plans. Comments were filed by Qwest Corporation; Cox Nebraska Telcom, LLC; the Rural Independent Companies; Sprint Nextel; AT&T; Verizon Wireless; Verizon Business and CTIA/The Wireless Association. All commenters supported an all-services overlay plan.

A public workshop was held on April 20, 2009, to facilitate the collection of information and opinions on a preferred relief plan. All participants in the workshop supported an all-services overlay plan.

The Commission again requested comments from interested parties and scheduled the issues for public hearing. A public hearing was held in Lincoln, Nebraska, on May 27, 2009. The comments received by the Commission were incorporated into the record.

Comments and Testimony

Cox Nebraska Telcom, LLC, recommended the Commission adopt a neutral overlay relief plan to address the exhaust of the 402 area code as it would cause the least disruption to the public. Cox also points out that the economic impact of implementing an overlay is significantly less for both carriers and customers. For example, Omaha has one of the nations' largest telemarketing hubs. The cost for conversion for these number-heavy businesses,

if a split relief plan is adopted, would be extensive. Based on population differences, a split may result in stranding unused numbers in Lincoln while leaving Omaha at risk that it will need further area code relief. Neither outcome is an efficient use of numbering resources according to Cox. Finally, Cox states that it recently completed area code overlays in Orange County and San Diego, California, with minimal customer impact.

Qwest recommends an overlay for two main reasons (a) it offers consumers many advantages over an area code split; and (b) the telecommunications industry has already developed a successful plan for educating consumers about an overlay. Qwest states that an overlay does not require residential consumers or businesses to change their existing telephone number. Qwest states that overlays are currently the most popular method of providing numbering relief ordered by state commissions across the country today. Twenty-two states, the Territory of Puerto Rico, Canada, and the Dominican Republic have ordered a combined total of nearly 80 overlays in recent years according to Qwest. The industry, Qwest states, has obtained valuable experience and knowledge with respect to facilitating a smooth transition to a new ten-digit dialing protocol that occurs when an overlay is implemented. In addition, Qwest states, since a significant number of telecommunications consumers use mobile phones to place local and long distance calls, most users are already familiar with and accustomed to using ten-digit dialing which would be necessary to place local calls.

The Rural Independent Companies, a collective of small local exchange carriers also supported the adoption of an all services overlay. The companies believe that an all-services overlay would be much less costly and disruptive than requiring telecommunications consumers in the affected area to change existing telephone numbers as a result of splitting the area code.

The joint commenters which included Sprint Nextel, AT&T, Verizon Wireless, Verizon Business and CTIA/The Wireless Association also supported adoption of an all-services overlay. In support of this recommendation, the joint commenters listed specific advantages of an overlay over a geographic split. To paraphrase, those advantages included: (a) no customers with numbers in the existing 402 area code will have to change or give back their telephone number; (b) all customers within the 402 area code will be treated equally and the new ten-digit dealing is imposed equally on all communities; (c) only customers obtaining new services would be assigned telephone numbers in the new area code and only when there are no more 402 telephone numbers available from the carrier of choice; (d) no

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businesses have to endure the costs of changing signage, stationary, yellow pages advertising, web sites, brochures, etc. to reflect the new number; (e) no businesses risk the loss of former customers who are no longer able to find them because of a forced number change; (f) it is generally less confusing for consumers; (g) some wireless customers would be spared the burden of manually reprogramming their telephones; (h) geographic splits create confusion by requiring customers to use one dialing pattern for some local calls and another dialing pattern for other calls; (i)carriers can usually implement an all-services overlay more quickly and easily than a geographic split; (j)there is no "flash cut" with an all services overlay meaning new numbering resources are assigned only as needed; and (k)significant technical problems associated with a geographic split are avoided.

Qwest Corporation provided testimony at the hearing which supported an all-services overlay plan and recommended a schedule for implementation. Ms. Victoria Hunnicutt from Qwest recommended that, assuming an all-services overlay is adopted, the Commission should allow an eight month "permissive dialing" period following a six month time frame for consumer education. At the beginning of the mandatory period, Qwest advocated a one month time frame before the new area code is released. Qwest recommended the eight month time frame because some businesses, like alarm companies, have seven-digit dialing. They have to make arrangements with customers to make the necessary changes at the customer premise to re-program the alarm systems in order for the ten-digit dialing to take place through their equipment. In addition, some public safety answering points (PSAPs) may need additional time to reprogram equipment to properly handle the mandatory ten-digit local dialing. Ms. Hunnicutt testified that a similar implementation schedule worked well in Utah.

O P I N I O N A N D F I N D I N G S

Upon consideration of the comments and testimony adduced in this proceeding, the Commission is of the opinion and finds that an all-services overlay area code relief plan should be adopted. In making this determination, the Commission relies heavily on the fact that the overwhelming majority of states are now favoring all-services overlay relief plans over geographic splits. Based on the information provided to the Commission in comments and at the hearing, it appears as though an all-services overlay plan would be less costly to consumers and less disruptive. We agree that an all-services overlay would be more advantageous for many of the reasons given by the commenters, but particularly because of the fact that if a split plan were

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adopted nearly half the consumers in the 402 area code would be required to change their current telephone numbers. By adopting an all-services overlay we hope to save the expense of having to change existing telephone numbers and avoid considerable additional marketing expense.

Adopting an all-services overlay for the 402 Area Code will necessitate mandatory ten-digit dialing when the new area code is implemented. In preparation for that change part of the consumer education is the establishment of a permissive dialing period during which local numbers may be dialed as either seven-digit or ten-digit. In addition, we agree that ten-digit dialing is becoming more and more accepted by consumers nationwide as evidenced by the large number of overlay plans already implemented to date and the wide use of ten-digit dialing on wireless networks. For visitors transiting across Nebraska, consumers that move from the 402 Area Code to the 308 Area Code, or consumers near the boundary between the 308 and 402 area codes adopting a consistent dialing pattern in Nebraska would be in the consumer's best interest. Therefore we are of the opinion that it may be beneficial for consumers, and provide consistency in the dialing patterns across all of Nebraska, to implement permissive ten-digit dialing in the 308 Area Code allowing consumers to dial local numbers as either seven or ten-digits. We will seek a recommendation from the industry regarding this matter to be filed concurrent with the plan to implement the relief ordered in this docket.

The Commission was also provided information that some state commissions have recently adopted geographic split alternatives, and reconsidered those decisions, instead adopting an overlay plan because of the technical issues associated with geographic split alternatives. Based on the unanimous support in the record for an all-services overlay and the reasons therefore, the Commission finds that the all-services overlay is the best alternative. Accordingly, we adopt it and will notify Neustar of our decision to adopt an all-services overlay as the 402 area code relief plan.

Since we first opened this proceeding, the forecasted exhaust date of the 402 area code has been updated so that the exhaust date is now forecasted to be the second quarter of 2011. We acknowledge the industry needs time to implement the Commission's decision. We direct the industry to develop an implementation schedule and file such schedule with the Commission for approval on or before November 2, 2009. We further find that the implementation plan should include at least six months for consumer education and no less than eight months of permissive ten-digit dialing.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that an all-services overlay plan be adopted as the Commission's relief plan for the 402 area code.

IT IS FURTHER ORDERED that the 402 Area Code will adopt a permissive ten-digit dialing plan until implementation of the new area code at which time a mandatory ten-digit dialing plan will be implemented.

IT IS FURTHER ORDERED that the industry file an implementation plan with the Commission for approval on or before November 2, 2009, consistent with the findings above.

IT IS FURTHER ORDERED that the industry provide with the implementation plan a recommendation relative to adopting permissive ten-digit dialing throughout the 308 Area Code concurrent with the permissive ten-digit dialing necessary in the 402 Area Code to implement an all-services overlay.

IT IS FURTHER ORDERED that the evidence and testimony of Commission Docket C-2057/PI-28 is incorporated into this docket and closed.

IT IS FURTHER ORDERED that the Commission maintain continuing jurisdiction over this matter.

MADE AND ENTERED at Lincoln, Nebraska, this 30th day of June, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Deputy Director

//s//Frank E. Landis

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