

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 26th  
day of January, 1999.

In the Matter of the Investigation into the Exhaustion of Central Office Codes in the 314 Numbering Plan Area. ) Case No. TO-98-212

**ORDER DENYING APPLICATION FOR REHEARING, APPROVING  
IMPLEMENTATION PLAN AND DIRECTING FURTHER FILINGS**

The Commission issued its Report and Order on July 22, 1998, requiring the Technical Committee (Committee) to implement the two-way geographic split proposed by the Office of the Public Counsel (OPC). The Committee was ordered to request a Numbering Plan Area (NPA) code, or "area code," from the North American Numbering Plan Administrator (the NANPA) for the area designated as the "new" NPA in the Commission's Report and Order. The Committee was further ordered to submit a proposed plan for implementing the geographic split.

On August 3, Southwestern Bell Telephone Company (SWBT) filed an application for rehearing of the Commission's order. SWBT alleged that the two-way geographic split adopted by the Commission would result in an exhaust of the revised, smaller 314 NPA by 2002 and an exhaust of the new NPA by 2009. SWBT urged the Commission to approve an overlay rather than a geographic split as SWBT and several other parties had originally proposed. SWBT pointed out that its witness had testified that, without number conservation measures, the remaining 314 NPA could exhaust as early as the year 2002, and the new NPA could exhaust as early as the year 2009. SWBT argued that Sections 5.0(f) and 5.0(h) of the Code

Relief Planning and Notification Guidelines, Industry Numbering Committee (issued April 4, 1997) (1st NPA Guidelines) provide that a plan must provide no less than five years of relief and the periods of relief in the split areas must not differ by more than 15 years.

The Committee filed its proposed implementation plan for the Commission approved geographic split on August 5. In its plan, the Committee proposed dates of September 1 and October 1 for filing additional particulars of its customer education and technical implementation plans. Moreover, the Committee informed the Commission that a representative of SWBT had sent a letter to the NANPA to request a new area code, and that the Committee would inform the Commission about the NANPA's response upon receipt.

On August 6, SWBT filed a letter with the Commission, attaching a copy of the NANPA's response<sup>1</sup>. SWBT did not attach a copy of its letter to the NANPA requesting the new NPA. In its response, the NANPA stated that it had reviewed the request and that it would recommend to the North American Numbering Council (the NANC) that no new NPA be assigned. The NANPA stated in its letter that the projected exhaust dates of the year 2012 for the remaining 314 NPA and the year 2045 for the new NPA were more than 15 years apart and would therefore violate the NPA Allocation Plan and Assignment Guidelines (Industry Numbering Committee document number INC 96-0308-011, issued May 18, 1998, reissued July 13, 1998) (2nd NPA Guidelines). On August 11, 1998, the Commission issued a Notice of

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<sup>1</sup>The response, addressed to William Adair (of SWBT) from Rose Breidenbaugh (of the NANPA), was not signed. SWBT explained in its cover letter that the correspondence was delivered by electronic mail and that SWBT would provide a hard copy to the Commission upon receipt of a hard copy from the NANPA. SWBT has not filed a hard copy to date.

Commission Participation in North American Numbering Council Meeting. This notice was later rescinded on August 13.

OPC filed suggestions regarding the correspondence from the NANPA, and a response to SWBT's application for rehearing, on August 12. In its suggestions, OPC stated that the guidelines do not supersede the authority that the Federal Communications Commission (FCC) has given to state commissions to determine the type and method of NPA relief. According to OPC, the guidelines do not have the force and effect of law. In its response to SWBT's application for rehearing, OPC urged the Commission to deny the application for the same reasons that it originally rejected SWBT's proposed overlay. OPC stated that SWBT had not raised any new arguments, and pointed out that SWBT had raised the issue of the Industry Numbering Committee's guidelines at a very late date in the proceedings.

On August 13, GTE Midwest Incorporated (GTE) filed a response to SWBT's application for rehearing. GTE supported SWBT's application and cited many of the same reasons cited by SWBT. GTE further pointed out that the response of the NANPA would make implementation of a geographic split in the near future difficult, and that the life of the remaining 314 NPA will be shortened if implementation is delayed. GTE asserted that customer impacts from a geographic split would be more negative than customer impacts from an overlay, and that the Texas Commission has recently ordered implementation of a retroactive overlay in two NPAs (the 214 and 972 NPAs) that were previously created by a split ordered by the Texas Commission.

On August 18, notice was issued by the Commission that the Commission had determined that its Chair and Regulatory Law Judge would

participate in the NANC meeting on August 19 by telephone conference. In its meeting on August 19, the NANC considered the question posed by the NANPA regarding the request for direction regarding the Missouri's NPA area code plan and whether a new area code could be issued because, as NANPA alleged, Missouri's NPA area code plan contradicted the assignment guidelines. OPC filed its Comments Regarding Telephone Conference with North American Numbering Council on August 24.

On August 26, Alan C. Hasselwander, Chairman of the NANC, issued a written recommendation to Kathryn C. Brown, Chief, Common Carrier Bureau, FCC. In essence, NANC recommended that NANPA should be directed to release an NPA code pursuant to Missouri's PSC order and that Missouri's state commission should be asked to pursue all methods of number conservation, review exhaust forecasts and consider the reconstitution of the 314 NPA rather than requesting a new NPA if the 314 NPA exhausts prematurely. A copy of this NANC's letter to the FCC's Common Carrier Bureau was provided to Chair Sheila Lumpe on August 26 by facsimile transmission.

On August 26, OPC filed eight additional consumer letters received by its office regarding the 314 area code. Five of the consumers were businesses or charitable organizations that favored the overlay plan citing the cost of changing printed materials and signage, one consumer who favored the split plan, one consumer who opposed both plans and made other suggestions including giving wireless phone a separate area code to conserve on 314 numbers, and one consumer was complaining about poor service on a pay phone line in the 417 area code.

On August 27, Staff filed revisions to the Technical Committee's proposed implementation plan indicating that the Technical Committee

would not be able to develop dates for implementation until a new NPA was assigned.

On September 4, OPC filed its Motion to Compel requesting the Commission issue an order requiring SBC Communications, Inc. (SBC) and SWBT to answer OPC's Data Requests Nos. 502 and 503. On September 14, SWBT filed its Response to OPC's Motion to Compel. On September 18, OPC filed its reply to SWBT's Response regarding the Motion to Compel. Copies of Data Request Nos. 502 and 503 were attached to OPC's motion.

In its Motion, OPC stated that SWBT did respond to its Data Request No. 501 requesting disclosure of all contacts SWBT had with NANPA from January 1, and August 10, concerning the 314 relief plan without objection. OPC further stated that Data Request No. 502 was issued after the NANC meeting on August 19, 1998, at which time "it became known that, prior to the meeting, SBC sent an electronic message to NANC members (except MCI) concerning the 314 area code relief plan". Data Request No. 502 requested disclosure of contacts between SBC, SWBT, NANC members, and the FCC and its members or staff concerning 314 area code relief. OPC stated that Data Request No. 503 requested the supplementation of Data Request No. 501 (previously answered without objection) to include contacts with NANPA subsequent to August 10, 1998. SWBT objected to Data Request Nos. 502 and 503 on the basis that there is no legitimate purpose for additional discovery because no possibility of rehearing exists. OPC replied that it had concerns that the Commission's legitimate order was not being implemented by a neutral area code administrator. Since the new area code has been issued, the Commission prevailed and the Commission's order is being implemented, requiring SWBT & SBC to answer the data requests is no longer necessary.

On October 29, Staff filed a copy of correspondence received from William Adair, Missouri Code Administrator. In his correspondence, Mr. Adair stated that on October 28, he notified the NANPA that the 314 NPA was being placed in NXX Jeopardy. A meeting was scheduled for November 11, to discuss a specific Jeopardy Rationing Plan.

On November 25, Staff filed a copy of the correspondence received from Anna Gomez, Chief, Network Services Division, Common Carrier Bureau, Federal Communications Commission, requesting that the Missouri Commission request that the FCC direct the NANPA to release a new area code to provide relief for the current 314 Numbering Plan Area pursuant to the Commission's Order. On December 1, the Missouri Public Service Commission issued a letter to the FCC requesting that the FCC direct the NANPA to release a new area code number for the relief for the current 314 NPA.

On December 7, for informational purposes, Staff filed a copy of the correspondence from Bill Adair, Missouri Code Administrator, setting forth the jeopardy rationing plan implemented in the 314 Numbering Plan Area on December 1, 1998.

### **Findings of Fact**

The Commission makes the following findings of fact concerning SWBT's application for rehearing.

Neither SWBT nor GTE have presented any new facts to the Commission for consideration, other than the NANPA's response to the geographic split adopted in the Commission's July 22 Report and Order, and the Texas Commission's recent reversal of its geographic split of the 214 and 972 NPAs. The Commission finds that the Texas Commission's

assessment of customer impact has no bearing on the Commission's determination of the customer impacts in the 314 NPA.

The NANPA's response and SWBT's application primarily present the legal question of whether the Industry Numbering Committee's guidelines are binding on the Commission. However, they also rely on the projected exhaustion dates of record in formulating their arguments that the Commission's Report and Order does not comply with the guidelines. The Commission will consider the legal issue below, but will address the factual assumptions underlying SWBT's, and the NANPA's, position in this section.

The NANPA response points out that, if certain assumptions are made concerning the implementation of various conservation methods, then the revised 314 NPA is expected to exhaust in the year 2012, and the new NPA is expected to exhaust in the year 2045. SWBT points out that, if no conservation methods are implemented, then the revised 314 NPA is expected to exhaust in the year 2002, and the new NPA is expected to exhaust in the year 2009. The NANPA and SWBT state that a difference of more than 15 years in the life span of the NPAs will result if conservation measures are imposed throughout both of the NPAs. SWBT further states that, if no conservation measures are imposed, the revised 314 NPA will not have a lifespan of five years or more.

The Commission finds that both the NANPA and SWBT have made faulty assumptions about the solutions that are likely to be imposed by the Commission, and ignored the Commission's findings. The Commission's July 22 Report and Order in this case does not order implementation of any conservation measures. However, the Commission has established a separate case (Case No. TO-99-14) for purposes of finishing the

conservation work undertaken by the Committee in the current 314 NPA. The Commission has determined that, while sequential number assignment and rate center consolidation may be implemented in the near future, 1,000s block number pooling should not be implemented until the Committee has given the Commission further updates on the status of development of national standards. The Commission has also noted that Option 2 rate center consolidation is more complicated than Option 1 rate center consolidation, and Option 3 is more complicated than Option 2. Generally, the difficulties of implementing the six rate center consolidation options discussed in the Committee's January 1998 report increase as the discussion proceeds from Option 1 to Option 6.

The projected exhaust dates of 2012 and 2045 that were developed by OPC assumed that certain conservation measures would be implemented by certain dates. See Exh. 32. Among other things, OPC assumed that landline pooling would begin in the first quarter of 1999, and that wireless pooling would begin in the first quarter of 2000. OPC assumed that the Commission would impose Option 2 rate center consolidation, which would involve consolidating the rate centers in the exchanges that fall within the mandatory metropolitan calling area (MCA). The boundary of the split ordered by the Commission mirrors the boundary between mandatory and optional MCA exchanges.

The Commission's Order Giving Notice and Establishing Deadlines for Filing of Intervention Applications, Procedural Schedule and Final Report, issued on July 22 in Case No. TO-99-14, ordered the parties to file a sequential number assignment report no later than October 22, a rate center consolidation report no later than December 22, and a report on pooling no later than February 22. The sequential number assignment



and rate center consolidation reports have been timely filed. It was expected that the first two reports would contain plans for implementing those conservation methods, but the Commission anticipated that the pooling report will not. The rate center consolidation report addresses the questions proposed for all of the seven options, plus one variation. Six options were previously presented by the Committee. The seventh option was suggested by SWBT witness Unruh at the evidentiary hearing.

Based upon the record before it, the Commission has determined that number pooling is not likely to be implemented until well beyond the first quarters of 1999 and 2000. Assuming that number pooling is ultimately implemented, the Commission may choose to introduce pooling in the core areas of St. Louis before introducing pooling in the outlying areas. Thus, the exhaust dates of 2012 and 2045 predicted by OPC are optimistic. Both of the NPAs involved in the split are likely to exhaust prior to that time. In addition, the projected lifespan of the new NPA could be shortened more than the lifespan of the revised 314 NPA if the Commission implemented pooling in the core areas prior to implementation in the outlying areas of St. Louis.

The Commission anticipates that, with the time frame for implementation of number conservation methods that has been established in Case No. TO-99-14 and the possibility that pooling will be implemented in stages, the revised 314 NPA is likely to exhaust somewhat sooner than OPC's projected 2012 exhaust date, but not earlier than five years following the implementation of this geographic split. SWBT's projected 2002 exhaust date for the revised 314 NPA is overly pessimistic, given the rigorous schedule established by the Commission for implementing

sequential number assignment and rate center consolidation in Case No. TO-99-14.

The Commission anticipates that the new NPA will exhaust significantly sooner than the year 2045, perhaps as early as SWBT's estimated exhaust date of 2009, because 1,000s block number pooling will be implemented later than sequential number assignment and rate center consolidation. OPC's projected exhaust date of 2045 was based largely on implementation of landline pooling by the first quarter of 1999 and wireless pooling by the first quarter of 2000, as OPC did not assume that any rate center consolidation would take place in the new NPA.

Given these facts, the Commission anticipates that both of the NPAs involved in the split will exhaust sometime between the middle of the next decade and the middle or end of the decade that follows. If this occurs, the Industry Numbering Committee's guidelines will not be violated, even if they control the Commission's decision. Therefore, based on the record, the Commission finds that SWBT's application for rehearing should be denied.

As rehearing is being denied, there is no further reason for the Commission to require SBC and SWBT to respond to Data Request Nos. 502 and 503. After the NANC recommended to the FCC that NANPA be directed to issue an area code pursuant to the order of the Missouri Public Service Commission in its correspondence dated August 26, 1998, the issue became moot. Therefore, OPC's Motion to Compel will be denied.

### **Conclusions of Law**

The legal issue presented by SWBT is whether the Industry Numbering Committee's guidelines are rules to which the Commission must adhere, or merely guidelines.

The Industry Numbering Committee (INC) is a committee of the Alliance for Telecommunications Industry Standards (ATIS), which is an organization of telecommunications carriers that develops standards for the telecommunications industry under the aegis of the Carrier Liaison Committee of the NANC. NANC is an advisory body for the FCC. NANC makes its recommendations to the Common Carrier Bureau of the FCC regarding numbering issues. The FCC is the federal agency given plenary jurisdiction over numbering issues pertaining to the United States pursuant to 47 U.S.C. §251 (e)(1), the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act). The FCC delegated authority to state commissions to implement area code relief in its docketed case entitled Implementation of the Local Competition Provisions of the Telecommunication Act of 1996, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) (Local Competition Second Report and Order)<sup>2</sup> However, under the FCC's regulations, 47 C.F.R. §52.9(b), if a state commission acts inconsistently with federal numbering guidelines designed to ensure the fair and timely availability of numbering resources to all telecommunications carriers, a party may dispute the proposed area code plan by filing a petition for declaratory ruling, rulemaking, or other appropriate action with the Common Carrier Board of the FCC.<sup>3</sup>

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<sup>2</sup>, Implementation of the Local Competition Provisions of the Telecommunication Act of 1996, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) (Local Competition Second Report and Order) petitions for reconsideration pending, vacated in part, *People of the State of California v. FCC*, 124 F.3d 934 (8th Cir. Aug. 22, 1997), cert. granted, sub nom. *AT&T Corp. V. Iowa Util. Bd.*, 118 S.Ct. 879 (Jan. 26, 1998).

<sup>3</sup> The FCC delegated authority to the Common Carrier Bureau to act on such petitions. Local Competition Second Report and Order, 11 FCC Rcd at 19520.

### **Proposed Implementation Plan**

The relief implementation plan describes the standard area code relief implementation process that has been developed within the industry over the years. The effort will be led by the NPA Relief Coordinator, Bill Adair, of SWBT. The relief implementation process was successfully used in the Missouri 314/573 and 816/660 splits. The Implementation Team structure proposed is identical to the method used in these previously completed 314/573 split and in the 816/660 split.

Under the relief implementation process, the NPA Relief Coordinator will hold monthly NPA relief implementation meetings for the current 314 NPA split relief effort. These meetings will be held in St. Louis until the permissive dialing period ends. The affected telecommunications providers have already started internal planning.

The relief Implementation Team is divided into three subcommittees: Translations/Network, Public Relations/Customer Education and Operations Support Systems/Billing Systems. Subject matter experts from every industry participant served on each of these subcommittees. As directed by the Commission, the implementation team addressed nine issues: 1) accomplishing technical changes, 2) obtaining a new NPA code, 3) educating the public, 4) beginning permissive dialing and beginning mandatory dialing for the new NPA, 5) specific date of educational meetings, 6) specific contacts to be made with newspaper, radio and television media, 7) samples of the materials to be distributed to the media, customers, and governmental bodies, 8) inform the Commission of the possibility of obtaining 310, 311, 312, 313, 315, 316, 317, 318, 319 as the new NPA code, and 9) inform the Commission regarding the

possibility of dialing eight digits rather than ten digits if one of these 31x codes is assigned. Regarding Issues 8 and 9, the Technical committee indicated in their proposed implementation plan filed August 5 that none of the numbers referred to in Issue 8 are available, and therefore, Issue 8 and 9 are mooted.

In its revisions filed on August 27, Staff informed the Commission that the Technical Committee would be unable to develop proposed dates for implementation until a new NPA code is assigned. Staff proposed that the Technical Committee submit proposed dates for permissive and mandatory dialing within 21 days after the receipt of the new NPA code, and then to submit an education plan 30 days later.

The Commission issued a letter to the FCC on December 1 requesting that the FCC direct the NANC to assign the new NPA number for the 314 NPA. On January 6, 1999, the Commission was notified that the new NPA 636 had been assigned for the 314 split. Therefore, Issue 2 addressed in the implementation plan will not be necessary. The remainder of the implementation plan is approved. The Commission will direct the Technical Committee to submit proposed dates for permissive and mandatory dialing within 21 days after the receipt of the new NPA code, and then to submit an education plan 30 days later as proposed.

**IT IS THEREFORE ORDERED:**

1. That the application for rehearing filed on August 3, 1998 by Southwestern Bell Telephone Company is denied.
2. That the parties shall comply with the Commission's Report and Order of July 22, 1998.

3. That Southwestern Bell Telephone Company shall file a copy of its first letter to the North American Numbering Plan Administrator regarding the new NPA with the Commission.

4. That the Office of Public Counsel's Motion to Compel filed on September 4, 1998, is denied.

5. That the Technical Committee shall take all actions proposed in the implementation plan filed by the Technical Committee on August 5, 1998, as revised on August 27, 1998, and the Technical Committee shall submit proposed dates for permissive and mandatory dialing by February 4, 1999, and submit an education plan by February 26, 1999.

6. That this order shall become effective on January 26, 1999.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

( S E A L )

Lumpe, Ch., Crumpton, Murray,  
Schemenauer and Drainer, CC., concur

Register, Regulatory Law Judge

