

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. P-100, SUB 158

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Proposed Assignment of N11 Abbreviated)	ORDER DESIGNATING USE
Dialing Code to the North Carolina One Call)	OF 811 AND GRANTING
Center, Inc.)	PETITION

BY THE COMMISSION: On August 31, 2005, the North Carolina One Call Center, Inc. (NCOCC) filed a petition requesting that the Commission grant the use of the 811 abbreviated dialing code to the NCOCC to receive and transmit to its members notifications of planned excavations. NCOCC's request is made pursuant to the Federal Communications Commission's (FCC's) Sixth Report and Order in CC Docket No. 92-105, "The Use of N11 Codes and Other Abbreviated Dialing Arrangements," released on March 14, 2005. That Order states that, "we designate 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act of 2002 (the Pipeline Safety Act)."

In response to NCOCC's petition, the Commission on September 21, 2005, issued its Order Requesting Comments to grant the use of the 811 abbreviated dialing code. The Commission requested supplemental comments which were to be based on NCOCC's response to the following questions:

- (a) Has the NCOCC sponsored a workshop to allow telecommunications service providers (e.g. wireline, wireless, payphones, etc.) and other interested parties an opportunity to discuss the proposed use of the 811 code? If so, what were the results of the workshop?
- (b) Has the NCOCC determined how many centers will be answering the calls? Will selective routing and associated databases be needed?
- (c) Will the 811 call be translated by all wireline/wireless carriers to an 800 number, or will the "translated to" number depend upon the "calling from" location?
- (d) Will the NCOCC be responsible for charges made by the carriers for recovery of translations costs and other facility costs of the 811 service?

Furthermore, the Commission requested comments from the Public Staff and any other interested party, and reply comments from NCOCC, as appropriate. Also, any carrier which could not meet the implementation date of April 13, 2007, for 811 abbreviated dialing, as directed by the FCC, due to technical or operational difficulties was to advise the Commission of the same by November 18, 2005.

BACKGROUND

The FCC in its 811 Order stated that, “the 811 abbreviated dialing code shall be deployed ubiquitously by carriers throughout the United States for use by all telecommunications carriers, including wireline, wireless, and payphone service providers that provide access to state One Call Centers. This designation shall be effective thirty days after publication of this Order in the Federal Register.” In the 811 Order, the FCC provided, in pertinent part, the following:

- required One Call Centers to notify carriers of the toll-free or local number the One Call Center uses in order to ensure that callers do not incur toll charges, as mandated by the statute;
- allowed carriers to use either the Numbering Plan Area (NPA)-NXX or the originating switch to determine the appropriate One Call Center to which a call should be routed;
- required the use of 811 as the national abbreviated dialing code for providing advanced notice of excavation activities to underground facility operators within two years after publication of the Order in the Federal Register; and
- delegated authority to the states, pursuant to section 251(e), to address the technical and operational issues associated with the implementation of the 811 code.

Finally, the FCC found that the implementation of the national abbreviated dialing code would enhance public safety and strengthen homeland security by streamlining the advance notification of excavation activities and should be fully implemented by April 13, 2007.

NCOCC PETITION

NCOCC is a non-profit corporation under North Carolina law which was founded in 1978. It is the only association in North Carolina sponsored by utility owners that provides notification of excavation operations in North Carolina to its members and maintains records of those notifications. NCOCC currently has 293 members which are composed of owners or operators of underground utilities, persons and entities that locate and mark underground facilities, and associate members comprised of persons and entities which provide goods and services to underground utility owners and operators. NCOCC performs its services 24 hours per day, seven days per week, receiving notifications primarily via a 10-digit, toll-free telephone number, which is 800-632-4949. For the year ended December 31, 2004, NCOCC stated that it had received 1,289,999 notifications of proposed excavations and transmitted 6,811,790 notifications to its members.

During a meeting on April 13, 2005, of the Board of Directors of the North Carolina Telephone Industry Association (NCTIA), an informational presentation was made setting out NCOCC's intent to seek coordination of 811 abbreviated dialing in North Carolina. As noted in NCOCC's petition, the FCC's Final Rule became effective on May 13, 2005, and was published in the April 13, 2005 Federal Register at page 19321.

SUPPLEMENTAL COMMENTS

The NCOCC stated that, based on information obtained from the Common Ground Alliance and One Call Systems International, it was their understanding that they were not to contact telecommunications service providers regarding the proposed use and implementation of 811 dialing until after the Commission granted its approval. NCOCC commented that after having received an approval from the Commission to implement the abbreviated code it would at that time sponsor a workshop with telecommunications providers to discuss implementation issues.

On July 13, 2005, the NCOCC Executive Director attended a meeting of the Engineering and Plant Committee of the NCTIA at which time copies of and a presentation was made regarding the FCC's Sixth Report and Order in CC Docket No. 92-105, released on March 14, 2005 (811 Order), informing the meeting attendees of NCOCC's intent to request 811 abbreviated dialing implementation. NCOCC commented that "no opposition or technical compliance issues were stated."

NCOCC also attended a meeting of the North Carolina Association of Telephone Cooperatives to discuss its plans to petition the Commission for the assignment of 811 abbreviated dialing. NCOCC stated that "no opposition was expressed."

As stated in its supplemental comments, "NCOCC does not expect to be responsible for translation or other facility costs incurred by carriers in implementing the 811 service. In paragraph 61 of the 811 Order, the FCC expressly left the matter of cost recovery to state commissions."

COMMENTS

BellSouth stated that, it disagrees with NCOCC's comment that it, NCOCC, "does not expect to be responsible for translation or other facility costs incurred by carriers in implementing the 811 service." BellSouth commented that it and other carriers incur costs for the design, implementation and maintenance of 811 for which cost recovery should be permitted. BellSouth stated that it requests that the Commission permit it to recover these and other costs associated with the implementation of 811 based on "Commission approved Central Office Activation and Change in Point-to-Number rates" established by the Commission in the 311 abbreviated dialing proceeding.

BellSouth also stated that, it “does not currently anticipate any problems with complying with the FCC’s implementation deadline.”

Sprint commented that it supports implementation of 811 for NCOCC as long as it is allowed to recover reasonable costs associated with implementing the code in its service territories. In response to NCOCC’s position that it should not be responsible for translation or other facility costs to implement 811, Sprint stated that “this position is simply unreasonable as all carriers should have the opportunity to recover reasonable costs.” Further, “the costs to implement 811 are similar to those costs incurred when implementing 311 and 511 services,” and as such, “Sprint supports the implementation of 811 service, as a tariff local calling-area based service, at rates previously tariffed for 311 and 511 services.”

In its comments **Verizon** stated that it will provision 811 using its Advanced Intelligent Network (AIN) platform and is currently completing network modifications required to provide this service. Further, it “does not predict any significant implementation issues and is on track to activate 811 service” before the FCC’s deadline.

Verizon stated that it “plans to file a tariff for 811 service that includes a non-recurring charge for service setup and switch programming activities and a monthly recurring charge for call volume and routing costs. Before its tariffs become effective, Verizon will make 811 service available under individual customer contracts, which will include both non-recurring and recurring charges.”

Verizon further stated that “NCOCC’s expectation that it will not have to contribute to the costs of implementation through contract or tariff rates is unfounded and should be ignored.” It would be inequitable for telecommunications carriers to bear the cost of implementing a service that provides benefits to all utility providers.

In its comments, the **Public Staff** recommended that the Commission grant the petition by designating the use of 811 abbreviated dialing to the NCOCC and direct telecommunications service providers under the Commission’s jurisdiction to accommodate use of 811 abbreviated dialing. The Public Staff commented that there are few, if any, differences between the Petitioner’s request for 811 abbreviated dialing proposal, the United Way of North Carolina’s use of the 211 code, and the North Carolina Department of Transportation’s use of 511; therefore, the costs to implement the services on a per central office basis should be very similar.

The Public Staff stated that, although the Petitioner stated that it does not expect to be responsible for the costs of implementing 811 abbreviated dialing, there is no question that the LECs will incur costs to set up the translations for this service. The Public Staff further recommended that the Commission allow the companies to recover those legitimate costs in the same manner allowed in implementing 211 and 511 abbreviated dialing.

The Public Staff suggested that, for ease of administration, the LECs which have filed charges for implementation of 211 or 511 services utilize those same charges for the non-recurring charges applicable for 811 service. If there has been a significant increase in loaded labor rates since the previous charges were filed, revised charges may be necessary. However, companies using their present 211 or 511 rate structure for 811 would not be required to provide cost support.

The Public Staff noted that it is aware of three LECs that are currently using 811 for internal company calling purposes – Barnardsville Telephone Company, Saluda Mountain Telephone Company, and Service Telephone Company. The Public Staff stated that it believes it is possible that other LECs and telephone membership corporations (TMCs) may be using 811 for internal purposes.

Lastly, the Public Staff recommended that the Commission set an implementation date of six months after the effective date of the Order assigning the code to the NCOCC for companies not currently using the 811 dialing code, and direct any company unable to meet the date to advise the Commission within thirty (30) days of the effective date of the Order. Companies that are currently using the 811 dialing code should comply with the April 13, 2007, national implementation date.

PETITIONER'S REPLY COMMENTS

In its reply comments filed on December 20, 2005, **NCOCC** stated that there were no implementation issues raised in the response comments¹, and the only remaining issue concerns cost recovery for implementation and use of 811 abbreviated dialing. NCOCC stated that it "should not be responsible for payment of any costs associated with implementation of 811" abbreviated dialing. NCOCC's position that it is not responsible for any payments for 811 is based on the issue of cost recovery as addressed by the FCC in the April 13, 2005 Federal Register, which states in pertinent part that, "we find that the Congressional mandate and benefits of a national N11 code assignment, specifically 811, outweigh any concerns regarding cost recovery on the federal level...we believe that state commissions are in the best position to address issues associated with implementing 811 because many of the One Call Centers were developed by, or under the auspices of, the state commissions."

Furthermore, NCOCC stated that it is not responsible for the costs to implement 811 for the following reasons:

1. "The 811 service is intended to protect and benefit the general public. Accordingly, cost recovery associated with its implementation and use, if any is allowed by the Commission, should be the responsibility of the general

¹ Collectively, the Response Comments were comments filed by the Public Staff, BellSouth Telecommunications, Inc. and Verizon South, Inc., on December 9, 2005, and by Carolina Telephone and Telegraph Company and Central Telephone Company on December 12, 2005.

- public – the beneficiaries of the service – as is the case with 911 emergency service.
2. Implementation of the 811 Code is mandated by Congress and ordered by the FCC. NCOCC did not request implementation of the 811 Code nor is the 811 Code for NCOCC's benefit.
 3. Not all telecommunications carriers regulated by the Commission are members of NCOCC. If NCOCC is forced to bear any of the costs associated with implementation of the 811 Code, it would disproportionately and inequitably burden those telecommunications carriers who have chosen to be members of NCOCC, as NCOCC would have no choice but to pass the costs along to its members.”

WHEREUPON, the Commission now reaches the following

CONCLUSIONS

The Commission, in general, supports and recommends granting the N11 assignment and use of 811 to NCOCC to receive and transmit to its members notifications of planned excavations. Further incurred costs to implement 811, as stated by the service providers and agreed to by the Public Staff, should be allowed and recovered under a rate structure similar to 211 and 511 services. Verizon, however, stated that it intends to file a proposed rate structure which not only sets out a non-recurring charge for service setup and switch programming activities but will also establish a monthly recurring charge for call volume and routing costs. Although the Public Staff pointed out three LECs are currently using 811 for internal calling purposes, NCOCC received no opposition from various meeting attendees following presentations to address 811 implementation. There appears to be a general consensus among the Parties that the national implementation date of April 13, 2007, is practical.

Although NCOCC stated that it should not be held responsible to pay for any costs to implement 811, the service providers as well as the Public Staff are in agreement that cost recovery for network modifications should be allowed. The Commission agrees that reasonable cost recovery should be allowed, similar to previous Commission decisions which supported the implementation of 211 and 511 services. Furthermore, the Commission agrees with the Public Staff that the implementation of the 811 abbreviated dialing code should be set for six months after the Commission issues its Order in this matter.

Furthermore, the Commission has concluded to set an implementation date of six months after the effective date of its Order assigning the requested N11 code to the NCOCC for companies not currently using the 811 dialing code, and direct any company unable to meet the date to advise the Commission within thirty (30) days of the Order. The companies that are currently using the 811 dialing code should comply with the April 13, 2007, national implementation date. The Commission agrees with the Public Staff that the companies be allowed to recover legitimate costs to implement 811

abbreviated dialing in the same manner allowed in implementing 211 and 511 abbreviated dialing. LECs that have filed charges for implementation of 211 or 511 services should utilize those same charges for the non-recurring charges applicable for 811 service.

IT IS, THEREFORE, ORDERED as follows:

1. That the NCOCC petition is granted with an implementation date of July 7, 2006, for companies not currently using the 811 dialing code. Any company unable to meet this implementation date shall so advise the Commission on or before March 7, 2006. Companies that are currently using the 811 dialing code shall comply with the April 13, 2007, national implementation date;
2. That the LECs using their present 211 or 511 rate structure for 811 shall not be required to refile cost support;
3. That any LEC which has experienced a significant increase in loaded labor rates or intends to propose a new tariff structure for this N11 service, such as ongoing recurring or usage rates, shall file a cost study with the Public Staff on or before February 21, 2006; and
4. That the Public Staff shall file comments on all cost studies submitted for consideration for this N11 service on or before March 7, 2006, and any party wishing to file reply comments shall do so on or before March 17, 2006.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of February 2006.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Deputy Clerk

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