

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In the Matter of	)	
	)	
Area Code Relief for the 206, 253, 425	)	DOCKET NO. UT-991535
Number Plan Area Filed By NeuStar,	)	
for	)	
the Washington State	)	COMMISSION ORDER
Telecommunications Industry in the	)	APPORTIONING COSTS
Form of an Overlay; and Creation of	)	
the 564 Plan Area for All of	)	
Western Washington	)	
	)	
.....		

1     **Synopsis:** The Commission apportions among telecommunications companies by their assigned NXX (“prefix”) codes the costs of public information relating to the introduction of an additional western Washington area code and mandatory ten-digit dialing.

**BACKGROUND**

2     This matter arises from the need to add an additional area code to western Washington, resulting from the exhaustion of NXX three-number dialing codes, also called number “prefixes” that has been caused by the growth of competitive local exchange and wireless companies and services such as paging devices.

3     When the need for an additional area code became apparent in 1999, the Commission sanctioned the convening of an industry group to discuss and recommend a preferred alternative for implementing the new code. The group was open to participation by all affected carriers and interested persons, was widely publicized, was joined by a number of carriers, and received comments from a broad spectrum of members of the public.

4     The principal alternatives for implementing the new code are either to divide existing codes in some manner and assign the new code to a specific territory, or to overlay the new code on one or more of the existing codes. The industry group chose the latter, recommended it to the Commission, and the Commission adopted it on January 31, 2001. The group proposed and the Commission accepted the recommendation for a public education program with an estimated cost of \$1.2 million.

- 5 One question left unresolved at that time was the apportionment among the industry of the costs of the public education effort. Participants in the industry discourse expressed a willingness to fund a considerable portion of the costs, but others stated that they were unwilling to share in funding and still others did not participate in the study group. The group recommended that the Commission direct members of the industry to contribute, and Commission Staff proposed a mechanism by which to apportion the costs.
- 6 The Commission determined to consider the alternatives and make the apportionment in an adjudication and issued a notice of the February 23, 2001, adjudicative hearing. It subsequently gave notice of a February 20, 2001, prehearing conference, inviting interested persons to participate.
- 7 **Appearances.** The following entities appeared at the prehearing conference and/or the hearing in this docket:
- 8 Commission Staff, by Shannon Smith, Asst. Atty. General; Qwest Corporation, by Lisa A. Anderl and Douglas N. Owens, attorneys; Verizon Northwest, by Judith Endejan, attorney; Verizon Wireless, by Lolita Smith and Anne Hoskins, attorneys; MCI WorldCom, by Suzanne Brooks; Century Tel, by Carol Allen; Integra Telecom, by Paula Huestead; Advanced Telecom Group, Inc., Electric Lightwave, Inc., Focal Communications of Washington, Global Crossing, Pac West Telecom, Inc., and XO Washington, Inc., by Gregory Kopta, attorney; and the Washington Independent Telephone Association (“WITA”) by Richard A. Finnigan, attorney.
- 9 Dr. Glenn Blackmon, the Commission Staff Asst. Director for Telecommunications, testified. The Commission received two exhibits into evidence.
- 10 **Conclusion.** The proper means of apportioning responsibility is by NXX or “prefix” code assignment. Apportionment by NXX codes reflects the fact that the need for additional area codes is driven by the need for NXX codes more than by the need for additional access lines. It is also easier to understand and easier to administer.

### DISCUSSION

- 11 This matter arises from the need to provide public education relating to changes in required dialing of telephone calls which flows from implementation of a new western Washington area code that is overlain upon, rather than carved from, existing area codes.
- 12 We have set out the procedural context above and will not repeat it here. The issue we are called on to resolve is the allocation among parties of the costs of a public education effort to inform telephone users throughout western Washington of the need to change their dialing patterns.

- 13 The Commission has jurisdiction over the funding of the educational plan by virtue of the Telecommunications Act of 1996, Section 251(e)(1); 47 CFR 52.19(a); and RCW 80.36.610.
- 14 Commission Staff proposed use of “NXX methodology,” in which the total \$1.2 million cost of the informational effort would be divided by the total number of NXX codes in use in western Washington, and the resulting dividend (approximately \$538) multiplied for each company by the number of NXX codes assigned to that company.
- 15 Staff reasoned that this proposal met three important elements for an apportionment: it is transparent (that is, it is publicly calculated); it is easy to administer (that is, it requires only one simple calculation to derive each company’s responsibility); and it is fair (that is, it recognizes the role that exhaustion of the NXX prefix codes has played in the need for the additional area code). Qwest Corporation, Verizon, and Century Tel support the Commission staff NXX proposal.
- 16 The CLECs commenters opposed the Commission Staff proposal. They argued that the result of the NXX methodology was unfair, because the cost per utilized access line could vary from a few cents for the ILECs to a number of dollars for some of the CLECs. They suggested apportioning the responsibility by access lines in use, while acknowledging that many companies consider that data confidential and recognizing that the plan would require the Commission Staff to gather confidential information, perform the calculations, and assign responsibility in a manner not subject to easy verification. SBC supports the Joint CLECs’ access line proposal.
- 17 The Commission accepts the Commission Staff plan. We find it persuasive that the exhaustion of NXX prefix codes is the primary cost-causing factor, and believe that fairness demands an allocation by the assignment of those codes. For CLECs, the cost of the education plan is a start-up business investment, like many others, that will benefit all companies’ operations for a long time. For the period of time the overlay is likely to be effective, the current number of access lines will likely not reflect relative burdens.
- 18 The CLECs contend that consumers are the primary beneficiaries of the education program and access lines are the best proxy for estimating the number of consumers. Commission Staff responds, and we accept, that the test for fairness should be cost causation, not market share. In addition, we note that the education of all consumers is essential for all LECs, as the companies’ customers must not only be able to make calls but to receive them from an educated public. Further, even companies’ own efforts to educate their own customers may be insufficient if customers seeing company-provided information do not share it with other persons using the access line.

- 19 The CLECs argue that it is the ILECs that have required the CLECs to obtain NXX codes in each ILEC rate center. They contend that it is this practice that leads to the low utilization of phone numbers by CLECs and leads to the drain on numbering resources. They argue that this is a practice beyond the CLECs' control. Commission Staff responds that this practice, along with many other engineering and procedural practices, are a product of history rather than of design, and that the CLECs over time intend to increase their market penetration in a way that will reduce their per-line investment in this and other start-up expenses.
- 20 The CLECs argue that WITA can serve as the administrator of the program but cannot be permitted to perform the calculation allocating costs to individual companies. Access line data is proprietary, they say, and the UTC staff would be asked to perform the allocation calculation. The Commission notes that the requested protection would be time-consuming and administratively difficult, and it would be incapable of ready independent verification. Moreover, the mantle of opacity that the CLECs assert this step would produce is, on a closer look, wholly illusory. Any entity knowing its own assessment and line count and the assessment of another entity would know the other entity's line count because of the linear nature of the calculation.
- 21 Wireless companies will save a considerable expense from the overlay by avoiding the cost of an area code division, which would require them to reprogram cell phones.
- 22 Sprint proposes that it be permitted to opt-out of paying for any part of the program or that its charges be limited to the cost of noticing its own customers. ATG believes its contribution should be capped at \$500 and would prefer only to notify its own customers. As we noted above, every company's customers must not only be able to make calls but also to receive them, which requires broad-based public education.
- 23 Verizon Wireless would like to be exempted from the plan primarily because it believes the education program is too costly. However, it will support the NXX proposal if the Commission requires it. The Commission has already approved the public education program and believes it to be appropriate in scope and expense; we acknowledge and appreciate Verizon's willingness to cooperate.
- 24 On balance, we conclude that the NXX-based allocation is fair and that it is the most transparent and easiest of administration. For those reasons, we adopt the Commission Staff recommendation.

### **FINDINGS OF FACT**

- 25 (1) The Commission is an agency of the State of Washington with jurisdiction over the provision of telecommunications services within the State of Washington.

- 26 (2) Available NXX (“prefix”) codes in existing area codes in western Washington are  
near exhaustion, and an additional area code is required to meet the demand for  
additional NXX codes and the access lines that they represent.
- 27 (3) The Commission has approved an industry proposal to overlay, rather than insert,  
the additional required area code. The Commission has also approved an industry  
proposal for a public education program – in addition to the requirement that each  
company notify its own customers – with an anticipated cost of \$1.2 million.  
Industry participants did not agree on the means to apportion the costs of the  
public education effort.
- 28 (4) Apportionment of education costs by NXX code assignments is a transparent and  
fair mechanism that is easy to calculate and administer.
- 29 (5) WITA is an appropriate entity to administer the funding of the public information  
effort and has agreed to do so, subject to conditions set out in Exhibit 2 in this  
docket.

### CONCLUSIONS OF LAW

- 30 (1) The Commission has jurisdiction over the subject matter of this docket and the  
affected carriers.
- 31 (2) The Commission should accept and approve the Commission Staff plan, set out in  
Exhibit 1, for allocating the costs of public education for the area code overlay.
- 32 (3) The Commission should approve the designation of WITA as the administrator of  
the financial aspects of the public education effort, subject to the qualifications set  
out in Exhibit 2.

### ORDER

- 33 The Commission accepts and approves the Commission Staff proposal for funding  
public information related to the area code overlay proposal. The Commission  
further approves the designation of the Washington Independent Telephone  
Association as administrator of the funds for the public education effort, subject to  
conditions set out in Exhibit 2.

34

The Commission orders that telecommunications providers will be responsible for and must pay a share of public education efforts based on the number of western Washington NXX or prefix codes assigned to each company.

DATED at Olympia, Washington and effective this    day of February, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

**NOTICE TO PARTIES: This is a final Order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this Order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).**