

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 10-211

**Petition of the North American Numbering Plan Administrator for Relief of the 603
Numbering Plan Area**

Order Requiring Reclamation of Numbers

ORDER NO. 25,210

April 4, 2011

I. FACTUAL AND PROCEDURAL HISTORY

In 1998, the North American Numbering Plan Administrator (NANPA) NeuStar, Inc. declared “extraordinary jeopardy” for the 603 area code or numbering plan area (NPA). NANPA projected that the 603 NPA would “exhaust,” that is, run out of numbers, in the fourth quarter of 2000 and therefore filed a petition for relief of the NPA with the Commission. *See* Docket No. DT 99-603. In planning for relief of the area code, NANPA convened meetings of representatives of the telecommunications industry who operated, or intended to operate, in New Hampshire. As a result of those meetings, the industry representatives recommended to the Commission that relief should be achieved by implementing an overlay system for all services, with two area codes used statewide, rather than dividing the state into two distinct area codes and requiring half the state’s users to change their area codes. Under the recommended system, a new area code would be superimposed or overlaid on the current one for new users, and all customers in New Hampshire would be required to transition to 10-digit dialing (area code plus 7 digit number, even if calling to the same area code).

Following a series of consumer forums and three days of hearings, the Commission announced its support for the overlay method for area code relief. *Petition for Approval of Area Code Numbering Relief Plan*, Order No. 24,350 (July 13, 2004) at 3. Rather than implement the new NPA, however, the Commission sought and received additional delegated authority from the Federal Communications Commission (FCC) to begin various conservation measures, including optional number pooling, new rationing procedures and other measures. *See In the Matter of New Hampshire Public Utilities Commission's Petition for Additional Delegated Authority to Implement Number Optimization Measures in the 603 Area Code*, 15 F.C.C.R. 1252 (1999). Prior to the imposition of number pooling, when a carrier requested new numbers to serve its customers in a particular rate center, it was assigned a full code, known as an NXX code, consisting of 10,000 numbers. Once pooling was implemented, the first carrier to request numbers in a rate center would receive a full code, retain a block of 1,000 numbers, and donate the remaining nine blocks (containing 9,000 numbers) back to the pool for use in that rate center by up to nine other carriers. Following the institution of pooling and other conservation measures, NANPA advised the Commission that its projections for an exhaust date had moved out several years and "extraordinary jeopardy" of the 603 NPA had been rescinded. *Petition for Approval of Area Code Numbering Relief Plan*, Order No. 24,350 (July 13, 2004) at 6. As a result, the Commission dismissed, without prejudice, the petition for relief of the area code. *Id.* at 8.

On August 10, 2010, NANPA filed the instant petition for relief of the 603 NPA and noted that the industry had again reached consensus that an overlay would be the preferred method of achieving area code relief. According to the petition, the NPA was expected to

exhaust in the third quarter of 2012. On October 19, 2010, the Office of Consumer Advocate notified the Commission that it would be participating in the docket on behalf of residential ratepayers consistent with RSA 365:28. In addition, the Commission accepted petitions to intervene from: Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE (FairPoint); Verizon Wireless; Verizon Access Transmission; TWC Digital Phone d/b/a Time Warner Cable; Freedom Ring Communications d/b/a BayRing Communications; New Hampshire Telephone Association; T-Mobile; Level 3 Communications, LLC; and CRC Communications of Maine, Inc.

On October 27, 2010, the Commission held a pre-hearing conference in the matter, at which the parties were asked to consider ways to better utilize the existing numbers, or to extend the time before a new area code would be needed. *See* Transcript of October 27, 2010 Pre-Hearing Conference at 8-9. Staff reported that by November 30, 2010, parties would submit ideas for extending the life of the 603 area code and that a technical session would later be held to discuss those options.

On November 30, 2010, a group of wireless carriers submitted comments regarding the extension of the area code. The carriers stated that they believed pursuing additional delegated authority from the FCC to commence mandatory number pooling would not materially extend the life of the area code and recommended instead that the Commission order the imposition of an all-services overlay, but delay imposition until a particular trigger had been met. Also on November 30, 2010, FairPoint submitted its recommendation that the Commission consider whether to increase the contamination level, meaning the level of number use, for number blocks eligible for donation to the number pool from 10 to 20 percent. For example, if a block of 1,000

numbers had up to 200 active numbers it could still be contributed to the pool for use by another carrier. Currently if a block has more than 100 active numbers it is considered contaminated and cannot be contributed to the pool.

On December 29, 2010, Staff reported on the technical session held on December 21, 2010. According to the report, Staff was reviewing the possibility of recovering the numbers assigned to Global NAPs¹, but that it was not, at that time, clear whether that could be done. Staff's report also stated that the possibility of rate center consolidation had been considered and that FairPoint would review its internal information to determine whether such consolidation was feasible. The report also noted that the parties discussed implementing a specialized, as opposed to an all-services overlay, but that there was resistance to this idea as the benefits were not clear. Lastly, the report stated that based upon discussions held, it did not appear that increasing the contamination level would materially extend the life of the area code.

II. STAFF RECOMMENDATION

On March 7, 2011, the Staff submitted a recommendation (Recommendation) summarizing the options to extend the life of the area code, and the relative merits of those options. First, Staff addressed the proposal for rate center consolidation. As a general matter, when codes are assigned they are tied to a particular geographic area known as a rate center; the numbers in that code cannot be used outside of that rate center. Therefore, if rate center A has a high level of demand for numbers and neighboring rate center B does not, consolidating those rate centers would permit rate center A to avail itself of the numbers previously restricted to rate

¹ Global NAPs was a Competitive Local Exchange Carrier authorized to operate in New Hampshire. It forfeited its authority to operate and is no longer in operation in this state. It had been assigned hundreds of thousands of New Hampshire numbers of which only a relatively few are in active use or assigned to end-use customers at this time.

center B. Staff stated that such action was not preferred because combining rate centers would have an impact on local calling and access rates and on long distance revenues. Further, consolidating only a few rate centers would not have a material impact on the exhaust of the area code. Staff also noted that if the entire state could be combined into a single rate center, there might be a material impact on the exhaust of the area code, but that doing so would lead to substantial impacts on customer rates. Thus, due to an immaterial benefit to the life of the area code and an impact on calling rates, Staff did not recommend consolidation.

Next, Staff stated that imposing mandatory pooling, as opposed to optional pooling, also would not make a material difference because there were only a few areas where pooling was not already mandatory. Moreover, Staff believed that there would not be a strong demand for numbers in the areas where pooling was not mandatory. Staff nevertheless stated that the Commission could seek authority to mandate pooling in all areas to ensure efficient use of numbers.

As to increasing the contamination level, Staff stated that increasing the acceptable contamination level for block donations from 10 to 20 percent would require FCC approval, which in other instances has been granted only as an interim measure until a new area code is implemented. Thus, any benefit would be short-lived. In addition, Staff noted that a higher contamination level is more cumbersome for carriers to administer and the benefit is difficult to quantify. Staff concluded that the number of additional blocks that would be eligible for donation in some rate centers if the contamination level was raised to 20 percent was not sufficient to materially extend the life of the area code.

As to a specialized services overlay, Staff contemplated whether to recommend that the Commission request authority from the FCC to implement an overlay along with a waiver request for implementing 10 digit dialing. In that scenario, following FCC approval, a new area code would be assigned to New Hampshire for use by certain types of services such as VoIP or wireless. According to Staff, however, the FCC has only approved this approach with conditions that it be an interim measure leading to an all-services overlay within a few years, and that 10-digit dialing be implemented within a brief period. Staff also noted that no state has implemented such an overlay with the conditions required by the FCC. Staff thus believed that this option would not conserve the area code and would not forestall the requirement to implement 10-digit dialing.

Lastly, Staff's Recommendation discussed the possibility of reclaiming the numbers previously assigned to Global NAPs and concluded that reclamation was the best course of action. Prior to the implementation of number pooling, Global NAPs was assigned 44 full codes, containing 440,000 individual telephone numbers. According to Staff's Recommendation, when pooling was implemented, Global NAPs claimed that each of the codes it was assigned was contaminated to such a degree that it could not contribute any to the pool. In addition, the Recommendation stated that in its Numbering Resource Utilization Forecast, Global NAPs had been reporting that 100 percent of its numbers were in use.

Staff noted that FairPoint terminated interconnection with Global NAPs on August 16, 2010, pursuant to its interconnection agreement with Global NAPs. *See* Docket No. DT 10-137. Prior to the termination, Global NAPs informed its customers it would no longer carry traffic in New Hampshire, and Global NAPs customers with working telephone numbers then ported their

telephone numbers to other providers. Subsequently, Global NAPs forfeited its authority to operate in New Hampshire as indicated in a memo from Staff dated November 17, 2010, in Docket No. DT 08-028. Therefore, Staff noted, Global NAPs is no longer operating in New Hampshire and cannot use the numbers assigned to it.

Staff's Recommendation recounts that it sent a letter to each of the seven carriers to which numbers had been ported from Global NAPs and asked the carriers to identify the number of working telephone numbers assigned to end-users in each of Global NAPs' codes. Staff stated that it received responses from each of the carriers and determined that, in total, only 2,423 of the 440,000 telephone numbers once assigned to Global NAPs are actually in use. Thus, rather than the 100 percent utilization reported by Global NAPs, only about one-half of one percent of the numbers are in use. Staff's Recommendation also points out that most of the ported numbers are used by customers of an e-fax business and that it was not able to determine how many, if any, of the e-fax customers were located in New Hampshire. Staff also stated that it contacted each of the carriers with numbers ported from the Global NAPs codes to inform them that Staff would recommend the Commission reclaim the codes.

According to Staff's Recommendation, in 2010, four codes were released to serve the demand for new telephone numbers and, assuming a similar level of demand, the 44 Global NAPs codes would extend the life of the 603 area code for an additional 11 years. Staff argued that if Global NAPs' codes are not reclaimed, but are reassigned to a new carrier, many of the telephone numbers within the codes may never be used. This is so because even if they are reassigned to a new carrier, they would remain in their current rate centers and many of those rate centers are in relatively rural areas where demand is low. Thus, areas with low demand

would have numbers, but higher demand areas would not and the life of the area code would not be extended. Further, according to Staff, while reclaiming the codes will require a very small number of New Hampshire customers to change their phone numbers, extending the life of the area code for another 10 years could indefinitely forestall the need to add a new area code because it is possible that the FCC would, in that time, create a scheme of uniform intercarrier compensation, which would eliminate the distinction between local and long distance calls. This would allow the state to be treated as a single rate center where numbers could be used most efficiently without regard to current rate center boundaries. Staff also contended that preserving the area code would benefit the majority of New Hampshire citizens as well as the entire North American Numbering Plan because reclaiming the codes will ensure efficient use of numbers, where and when they are needed. Ultimately, Staff concluded with its assessment that it is in the public interest to reclaim the Global NAPs codes and return them to NANPA for later assignment to rate centers where they are necessary.

III. COMMISSION ANALYSIS

Pursuant to RSA 374:59, II: “The commission should promote and adopt telephone number conservation measures to the maximum extent allowed by federal law for area code 603 and any subsequently assigned New Hampshire area codes.” Following this directive, we consider it our obligation to aggressively pursue measures that conserve the 603 area code to the maximum extent possible. We are appreciative of the efforts to identify possible methods of conserving the area code and for the work to determine the effectiveness of those methods. In light of the information we have available, and for the reasons that follow, we adopt Staff’s recommendation and conclude that Global NAPs’ codes should be reclaimed. To that end,

customers with numbers in codes once assigned to Global NAPs should, within 6 months of the date of this order, be assigned new numbers outside the Global NAPs codes. We further conclude that once the former Global NAPs codes are no longer contaminated, NANPA should reclaim the codes for reassignment at a later date. A list of the affected codes is provided in a table near the end of this order. This conclusion is the culmination of an earlier investigation regarding the use of numbering resources by Global NAPs. *See Implementation of Number Conservation Methods Authorized by the Federal Communications Commission*, Order No. 23,454 (May 1, 2000) at 8-9.

This order is within the scope of our authority to administer New Hampshire's numbering resources. Pursuant to authority delegated to the states in *In the Matter of Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking*, 15 FCCR 7574 (March 17, 2000) at ¶ 232 *et seq.*, state commissions may order reclamation of codes that have not been activated within 6 months of assignment. Once a carrier has been assigned a code, its proof of activation comes from its entry of routing information into the Local Exchange Routing Guide and the submission to NANPA of a form known as a Part 4, which shows that there are numbers activated in the code. *Id.* at ¶ 233. The state commission has authority to investigate whether activation has occurred. *Id.* at ¶ 237. If the Part 4 is not received, NANPA may begin its own reclamation procedures or, if ordered by a state commission, NANPA shall reclaim codes that were not activated within the time limit. *Id.* This delegation of authority to the states to order reclamation focused on reclamation of codes that have not been activated. The practices relied upon by the FCC and NANPA and noted in the above-referenced delegation order, however, extend to reclamation of codes that have been activated as discussed below.

NANPA, in exercising the authority granted it by the FCC, *see* 47 C.F.R. § 52.13, administers numbering resources according to the guidelines developed by the Industry Numbering Committee of the Alliance for Telecommunications Industry Solutions, Inc. (ATIS-INC). *See* www.nanpa.com/area_codes/index.html (visited April 1, 2011) (“NANPA uses NPA Allocation Plan and Assignment Guidelines prepared by the ATIS-sponsored Industry Numbering Committee to administer area codes.”). The portion of the FCC’s order delegating authority to the states to reclaim codes relies, in part, on the Central Office Code Assignment Guidelines (Guidelines) adopted by ATIS-INC and applied by NANPA. A copy of the Guidelines may be found at www.atis.org/inc/incguides.asp.

According to the Guidelines, at paragraph 8.2, a state commission may order NANPA to reclaim any code that is:

- Assigned, but no longer in use by the assignee(s),
- Assigned to a service no longer offered,
- Assigned, but not placed in service within six months from the original effective date returned on the Part 3 and entered on the ACD screen in BIRRDs,
- Assigned, but not used in conformance with these assignment guidelines.

Paragraph 8.2.4 of the Guidelines states that if there are active or pending Local Number Portability requests for numbers within the code to be reclaimed, the process in Appendix C is to be followed. Thus, ATIS-INC has developed a specific process for dealing with the reclamation of codes with active or pending Local Number Portability requests, or ported numbers. The fact that codes with active or pending ports are specifically addressed indicates that the authors understood that there would be occasions where reclamation is sought, though the code was activated and numbers assigned.

Appendix C of the Guidelines covers “voluntarily returned” codes and “abandoned” codes but does not define what “abandoned” means in this context. Parts 6 and 7 of Appendix C cover abandoned codes, non-pooled and pooled respectively, and paragraphs 6.2 and 7.2 state that NANPA is to work with the state authority to obtain information about service providers abandoning service. Those paragraphs also state that the circumstances of abandonment are under the direction of the regulatory authority or court. This indicates that state authorities have the power to define the circumstances of abandonment and to direct NANPA in dealing with abandoned codes that had been activated. We view this as an affirmation of our authority to direct NANPA to reclaim these codes.

Global NAPs, as noted, has forfeited its certification to act as a public utility in New Hampshire, *see* November 17, 2010 Staff Memo Recommendation in Docket No. DT 08-028, and, consequently, its ability to obtain or use numbering resources. Further, Global NAPs is in receivership. *See* Docket No. DT 10-137; and Civil Action No. 02-12489-RWZ and Civil Action No. 05-10079-RWZ, *Global NAPs v. Verizon New England*, United States District Court for the District of Massachusetts. Finally, on August 16, 2010, FairPoint terminated interconnection with Global NAPs leaving Global NAPs unable to provide service in New Hampshire. *See* Staff Memo dated August 19, 2010, in Docket No. DT 10-137. Thus, Global NAPs has lost its ability to obtain new numbers, has no ability to use any numbers it may have retained, and is not able to use any of the existing codes it holds. Accordingly, we conclude that the New Hampshire codes held by Global NAPs are “abandoned” for purposes of Appendix C of the Guidelines. In these unique circumstances, we would not be fulfilling our duty to conserve the 603 area code if we did not ensure that these numbers are used more efficiently.

Paragraph 6.4(a) of Appendix C states that in those instances where there is porting, NANPA or the pooling administrator, unless otherwise directed by the regulatory authority, will contact the providers with ported numbers to determine if they wish to become the new code holder. Virtually identical processes are outlined relative to pooled numbers in paragraphs 7.4 and 7.5. This process would reassign the code to a new carrier, but the code would remain in service in the rate center to which it is currently assigned.

In this instance, we conclude that it would not be an efficient use of numbering resources, and may in fact be wasteful, to permit NANPA to follow this protocol. Many of the codes held by Global NAPs are in rate centers in relatively rural areas, such as Errol, Milan, Monroe, and Piermont, with relatively low demand for numbers. Because the vast majority of numbers in these codes are not assigned, and the codes would remain assigned to those rate centers regardless of the identity of the code holder, simply reassigning the numbers to a new code holder will do nothing to address the need for new numbering resources in areas with greater need. By not addressing the areas of greatest need, reassignment would do little or nothing to extend the life of the 603 area code. As a result, we use this opportunity to “otherwise direct” NANPA to reclaim all codes previously assigned to Global NAPs because those codes have been abandoned, rather than reassign them to a different carrier.

Merely determining that the codes have been deemed abandoned, however, does not address the fact that there are some active numbers within those codes that have been ported to other carriers. Use of those existing numbers must be discontinued in order to permit reclamation. We must, therefore, determine whether there is authority to order that use of these numbers be discontinued in order to remove any contamination of the codes.

According to paragraph 1.0 of ATIS-INC's document Guidelines for the Administration of Telephone Numbers, "telephone numbers are North American Numbering Plan (NANP) resources that are considered a public resource and are not owned by the assignees. Consequently, the resources cannot be sold, brokered, bartered, or leased by the assignee for a fee or other consideration." That statement is echoed in ATIS-INC's NPA Allocation Plan and Assignment Guidelines at paragraph 2.1.² This is made more explicit in paragraph 3.4 of that document where it states "NPA resources will continue to be administered for the overall good and utilization by the user public and the telecommunications sector and, as such, are not to be considered 'owned' by the service providers or users utilizing the resource." Therefore, there is no "right" to the numbers and the numbers may be administered, including through reclamation, for the overall good and utilization by the user public.

This sentiment is also publicly acknowledged in FairPoint's tariff at §1.4C where it states that a telephone number is subject to change at any time. Similar statements may be found in the tariffs of other incumbent providers in New Hampshire: Bretton Woods Telephone, Part I, Section VII; Dixville Telephone Company, Part I, Section VII; Dunbarton Telephone, Section 1.3.; Granite State Telephone, Part I, Section VII; Merrimack County Telephone, Part I, Section VII; Northland Telephone, Section 3.R.; and Union Telephone, Part I, Section VII. In other words, all carriers responsible for filing tariffs in New Hampshire have filed tariffs with language stating that the numbers do not belong to the customers and that they may be changed at any time. Also, while not required to publish a tariff, we note that Verizon Wireless informs

² Paragraph 2.1 also references the Telecommunication Standardization Sector of the International Telecommunication Union, the United Nations' agency for information and communications technology. That sector's recommendation E.190 at paragraph 6.2.5 states that numbers are administered for the overall good and use of the telecommunications community and are not "owned" by the assignee.

customers through its Customer Agreement that: “You don't have any rights to your wireless phone number, except for any right you may have to port it.” *See* Customer Agreement of Verizon Wireless at www.verizonwireless.com/b2c/globalText?textName=CUSTOMER_AGREEMENT&jspName=footer/customerAgreement.jsp (visited April 1, 2011).

Thus, based on information from the entity relied upon by NANPA in administering numbers as well as from the telecommunications companies themselves, there is no ownership or property right in the numbers belonging to the carriers or end-users. Further, the numbering resources are to be assigned so as to promote the overall good and utilization of the user public. Accordingly, we conclude that use of any numbers in the codes previously held by Global NAPs, approximately 2,500, should be discontinued to remove the contamination of the codes. For any carrier with customers assigned to numbers in those codes, once all customers have migrated from use of telephone numbers within the codes, or within six months of the date of this order, the carrier shall file with the Commission a document confirming that the carrier no longer has any active numbers within the codes. In order to allow customers with numbers in those codes sufficient time to obtain and transition to new numbers, we order that NANPA reclaim the abandoned Global NAPs codes seven months from the date of this order. While this process may cause some inconvenience to the carriers and their end-user customers, reclaiming these numbers will promote the public good by assuring that numbering resources are used efficiently.

Currently, as noted in Staff's Recommendation, at least 52 percent of the telephone numbers in the 603 area code are not in use. To permit a new area code to be opened and require 10 digit dialing for all calls within New Hampshire when more than half of the existing code is not in use is wasteful and contrary to the directive of the legislature in RSA 374:59, II. *See*

Telephone Numbering Facts, Numbering Utilization in the United States, data as of December 31, 2009, released Jan. 3, 2011, www.fcc.gov/wcb/iatd/number.html (visited April 1, 2011), at 16. Reclamation of these 440,000 numbers, of which less than one percent are in use, will enable a substantial extension of the existing 603 area code in compliance with the mandate that the Commission should promote and adopt conservation measures to preserve the 603 area code. Finally, reclaiming these numbers will allow New Hampshire to continue using a single area code for many years, thereby helping to extend the life of the entire North American Numbering Plan, a matter about which the FCC has expressed substantial concern. *See In the Matter of Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking*, 15 FCCR 7574 (March 17, 2000) at ¶ 6.

The effect of our order is that any customer holding a number in the codes listed below will be required to discontinue use of that number within six months of the date of this order and will be given an opportunity to adopt a new number in the same rate center, if so desired. Upon discontinuance of all numbers ported to a carrier from the codes below, and within six months of the date of this order, each carrier shall certify to the Commission that they no longer have customers with active numbers in the codes.

NXX Codes within the 603 NPA to be Reclaimed			
251	258	288	299
307	308	309	316
368	375	441	451
453	457	484	506

507	514	584	619
649	688	691	696
697	698	699	710
720	794	804	805
806	807	825	849
907	908	909	917
949	954	962	963

Based upon the foregoing, it is hereby

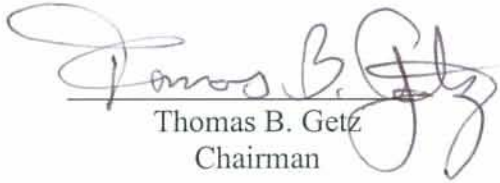
ORDERED, that the above codes previously held by Global NAPs are deemed abandoned and subject to reclamation; and it is

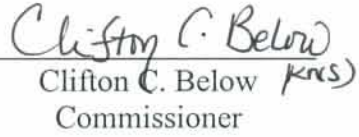
FURTHER ORDERED, that any carrier with customers using a number in any of the above codes notify those customers that they must discontinue use of those numbers by a date certain and allow them to migrate to a new telephone number in the same rate center; and it is

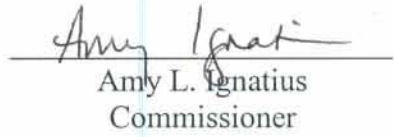
FURTHER ORDERED, that any carrier with customers using a number in any of the above referenced codes certify, within six months of the date of this order, that all such customers have discontinued use of the numbers within those codes; and it is

FURTHER ORDERED, that seven months from the date of this order, NANPA shall reclaim the above codes.


By order of the Public Utilities Commission of New Hampshire this fourth day of April,
2011.


Thomas B. Getz
Chairman


Clifton C. Below (KRS)
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director

