

October 2, 1997

D.P.U. 97-90

Investigation by the Department of Public Utilities, on its own motion, into extension of the permissive-dialing period established in Area Code Relief, D.P.U. 96-61 (1997).

APPEARANCES: L. Scott Harshbarger, Attorney General
By: Daniel Mitchell
Assistant Attorney General
Regulated Industries Division
Office of the Attorney General
200 Portland Street, 4th Floor
Boston, Massachusetts 02114
Intervenor

Barbara Anne Sousa, Esq.
185 Franklin Street, Room 1403
Boston, Massachusetts 02110
FOR: NEW ENGLAND TELEPHONE
AND TELEGRAPH COMPANY D/B/A
BELL ATLANTIC-MASSACHUSETTS
Intervenor

Jeffrey F. Jones, Esq.
Palmer & Dodge LLP
One Beacon Street
Boston, Massachusetts 02108
FOR: AT&T COMMUNICATIONS
OF NEW ENGLAND, INC.
Intervenor

Robert L. Dewees, Jr., Esq.
Peabody & Brown
101 Federal Street
Boston, Massachusetts 02110

FOR: SOUTHWESTERN BELL MOBILE SYSTEMS, INC.
D/B/A CELLULAR ONE
Intervenor

Alan D. Mandl, Esq.
Ottenberg, Dunkless, Mandl & Mandl
260 Franklin Street-Suite 1880
Boston, Massachusetts 02110
FOR: MCI Telecommunications Corporation
Intervenor

Robert H. Munnely, Jr., Esq.
100 Grandview Road, Suite 210
Braintree, Massachusetts 02184
FOR: NEW ENGLAND CABLE
TELEVISION ASSOCIATION
Intervenor

Cathy Thurston, Esq.
1850 M Street, N.W.
Suite 1110
Washington, D.C. 20036
FOR: SPRINT COMMUNICATIONS COMPANY L.P.
Intervenor

Ralph Wayne Sevinor
Wayne Alarm Systems, Inc.
424 Essex Street
Lynn, Massachusetts 01902
PRO SE
Intervenor

Richard L. Sampson
American Alarm & Communications, Inc.
7 Central Street
Arlington, Massachusetts 02174
PRO SE
Intervenor

I. INTRODUCTION AND PROCEDURAL HISTORY

On January 23, 1997, the Department of Public Utilities ("Department") issued its Order implementing a geographic split of the 617 and 508 area codes, creating two new area codes, 781 and 978. Area Code Relief, D.P.U. 96-61 (1997). The introduction of new area codes required New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts ("Bell Atlantic" or "Company") to complete a technical conversion of the telephone network to accommodate the new area codes. Id. at 16. Following this conversion for the two new area codes, the Department required Bell Atlantic to implement a three-month permissive-dialing period wherein callers are connected to the called number regardless of whether the new or old area code is dialed. Id. at 17. This permissive-dialing period is currently scheduled to end December 1, 1997. Id. At that time, the Company would begin the transition of its central offices to a three-month mandatory dialing/announcement period wherein a recording would inform callers of the need to dial a new area code. Id.

On September 11, 1997, in response to concerns about telephone customers adjusting to the area code changes required in D.P.U. 96-61, the Department voted to open an investigation into extending the permissive-dialing period. This investigation was docketed as D.P.U. 97-90.

After notice duly issued, the Department conducted a public hearing and procedural conference on September 22, 1997. The Department granted intervenor status to AT&T Communications of New England, Inc. ("AT&T"); Bell Atlantic; MCI Telecommunications Corporation ("MCI"); New England Cable Television Association, Inc. ("NECTA");

Southwestern Bell Mobile Systems, Inc. d/b/a Cellular One ("Cellular One"); Sprint Communications Company L.P. ("Sprint"); Wayne Alarm Systems, Inc. and American Alarm & Communications, Inc. In addition, the Attorney General of the Commonwealth intervened as of right pursuant to G.L. c. 12, § 11E.

In response to the Department's notice, the Department received written and oral comments from the Attorney General, elected officials, municipalities, telephone companies, alarm companies and the general public. Following the public hearing, the Department directed Bell Atlantic to submit, by October 15, 1997, testimony explicitly addressing the issues raised by the alarm companies.¹

This Order addresses only the issue of extending the permissive-dialing period. Issues specific to the alarm industry will be addressed in a subsequent Order.

II. EXTENSION OF THE PERMISSIVE-DIALING PERIOD

A. Bell Atlantic's Proposal

Bell Atlantic proposes that the permissive-dialing period, which is scheduled to end on December 1, 1997, be extended for an additional month, until January 1, 1998 (Tr. at 6). The Company states that if the permissive-dialing period is extended until January 1, 1998, Bell Atlantic will still need two months to make the transition to the mandatory dialing/announcement period, which was set to begin on February 1, 1998 (*id.* at 6-7). Therefore, the Company also requests that the Department modify the duration of the

¹ In general, the alarm companies seek a specific technical solution that will give them time to complete the reprogramming of their customers' equipment to accept the new area codes.

mandatory dialing/announcement period from three to two months (id. at 7). Bell Atlantic states that, if approved, the mandatory period will be in effect in all offices beginning March 1, 1998, and will continue through to May 1, 1998. The Company indicates that the May 1, 1998 date for implementation for new area codes is an absolute deadline (Tr. at 6).

B. Comments on the Proposal

Bell Atlantic states that an additional month of permissive dialing will: (1) allow Bell Atlantic additional time to conduct customer education; (2) enable all customers to become more familiar with the area code geography and dialing patterns; (3) benefit business customers since the transition to the mandatory dialing/announcement period would not begin until January 1, 1998, after the December holiday shopping season; and (4) allow the alarm industry additional time to continue their reprogramming efforts to ensure public safety (Tr. at 6; Bell Atlantic Letter to the Department dated September 25, 1997). The Company stresses that the May 1, 1998, date for availability of new telephone numbers cannot be extended because of the severe number shortage and the considerable pent-up demand for them, both from customers and from carriers (Tr. at 6). Bell Atlantic requests that its proposal to extend the permissive-dialing period be ruled on by October 1, 1997, independent of the issues raised by the alarm companies during the public hearing (id. at 52).

Comments in support of the proposed extension of the current three-month permissive-dialing period were received from State Senator Charles Shannon, State Representative William C. Galvin and the Town of Sudbury (Tr. at 9; Galvin Comments at 1; Town of Sudbury Comments at 1). Senator Shannon states that an extension will give more time for

residents to get used to ten-digit dialing for local [inter-area code] calls, for businesses to notify their clients, and for alarm companies to reprogram their equipment (Tr. at 9). The Town of Sudbury states that the extension makes sense to avoid jeopardizing the retail industry during the holiday season (Sudbury Comments at 1).

The Attorney General, AT&T, Cellular One, MCI, NECTA and Sprint do not oppose Bell Atlantic's proposal (Tr. at 52-53; Cellular One Comments at 1; MCI Comments at 1; AT&T Comments at 1). In addition, Bell Atlantic Mobile ("BAM") supports the extension, indicating that it would be a challenge to reprogram its cellular customers' equipment by December 1, 1997, and states its customers will be better served if the permissive-dialing period is extended (BAM Comments at 1-2). AT&T, BAM, Cellular One and MCI oppose any actions that would delay the availability of new numbers beyond May 1, 1998 (AT&T Comments at 1; BAM Comments at 2; Cellular One Comments at 1; MCI Comments at 1-2).

C. Alarm Company Representatives

Representatives from several alarm companies state that although the one-month extension of the permissive-dialing period would provide additional time for them to continue their reprogramming efforts, they still have serious concerns regarding the timely completion of reprogramming customers' alarm lines as a result of the area code conversion (Tr. at 10-18, 24). The alarm company representatives indicate that they have proposed to Bell Atlantic a possible technical solution that would allow the industry additional time to reprogram their alarm equipment (Tr. at 15).

III. STANDARD OF REVIEW

The Department's authority to review the implementation methods for area code relief is provided by the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§151 et seq. and the FCC's decision implementing the Act, Second Report and Order, CC Docket 96-98, ¶ 272. Specifically, § 251(e)(1) of the Act states that "the [FCC] shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States ... [and may] delegat[e] to State commissions or other entities all or any portion of such jurisdiction." The FCC has delegated its authority to implement new area codes to state commissions. Second Report and Order, CC Docket 96-98, ¶ 268 (August 8, 1996).

The FCC stated:

State commissions are uniquely positioned to understand local conditions and what effect area codes will have on those conditions. Each state's implementation method is, of course, subject to our guidelines for numbering administration

In that case, the FCC set forth specific guidelines that states must follow when implementing area code relief. Second Report and Order at ¶ 281. The guidelines provide that states should: (1) seek to facilitate entry into the communications marketplace by making numbering resources available on an efficient and timely basis; (2) not unduly favor or disadvantage any particular industry segment or group of consumers; and (3) not unduly favor one technology over another.

In addition, in making its determination of the appropriateness of the area codes the Department follows four criteria: (1) maintain an equitable distribution of telephone lines between the new and the old area codes; (2) minimize customer confusion and forced number

changes; (3) consider socioeconomic factors such as community of interest, school districts and emergency services; and (4) consider the total cost of the project to NYNEX. D.P.U. 96-61, at 14-15; Walpole v New England Telephone and Telegraph Company, D.P.U. 87-95, at 14 (1994).

IV. ANALYSIS AND FINDINGS

Since Bell Atlantic introduced the new area codes in eastern Massachusetts on September 1, 1997, there has been considerable confusion among telephone customers regarding the new boundary lines for the 617/781 and 508/978 area codes. Moreover, confusion also has arisen from the coincident implementation of new dialing patterns. See D.P.U. 96-61, at 17, n.10.

The record demonstrates that a one-month extension to the permissive-dialing period, coupled with a one-month reduction in the mandatory dialing/announcement period, will ease the transition to new area codes for customers, with no appreciable harm to Bell Atlantic's implementation schedule. Given the current shortage of telephone numbers and the evidence that Bell Atlantic will run out of numbers by May 1, 1998, the Department remains convinced that Bell Atlantic needs to activate new exchange codes in Eastern Massachusetts on May 1, 1998.

Accordingly, the Department finds that it is in the public interest to extend the permissive-dialing period for an additional month and reduce the mandatory dialing/announcement period by one month.

The Department will keep this docket open in order to continue investigating issues specific to the alarm industry pursuant to the procedural schedule in place.

V. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts shall extend the permissive-dialing period until January 1, 1998; and it is

FURTHER ORDERED: That the mandatory dialing/announcement period shall extend from March 1, 1998 to May 1, 1998.

By Order of the Department,

Janet Gail Besser, Acting Chair

John D. Patrone, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).