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D.T.E. 99-71

Petition by the Massachusetts Association of Information and Referral Services and the Council of Massachusetts United Ways, acting in partnership as the Mass 211 Task Force, requesting approval by the Department of Telecommunications and Energy for the assignment of the abbreviated dialing code "211" to the Mass 211 Task Force for use as a statewide community information and referral service.

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IN PARTNERSHIP AS THE MASS 211 TASK FORCE

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I. INTRODUCTION AND PROCEDURAL HISTORY

On May 26, 1999, the Massachusetts Association of Information and Referral Services ("MAIRS")⁽¹⁾ and the Council of Massachusetts United Ways ("COMUW"),⁽²⁾ acting in partnership as the Mass 211 Task Force ("Task Force" or "MTF") filed with the Department of Telecommunications and Energy ("Department") a Petition for Assignment of an N11 Dialing Code ("Petition"). The Petition seeks assignment of the abbreviated dialing code 211 to the Task Force as a statewide community services information and referral ("I&R") number. The Department docketed its investigation of the Petition as D.T.E. 99-71.

On September 10, 1999, the Department issued a notice of public hearing and procedural conference in this docket setting a September 24, 1999 deadline for the filing of petitions to intervene. New England Telephone and Telegraph Company d/b/a Bell Atlantic - Massachusetts ("Bell Atlantic" or "BA-MA") filed a timely petition to intervene. The Department held a public hearing and procedural conference on September 30, 1999 and granted full intervenor status to Bell Atlantic. On November 23, 1999, Cellco Partnership d/b/a Bell Atlantic Mobile ("BAM") filed an untimely petition to intervene as a party in this docket. BAM's late-filed petition to intervene was allowed by the Department on December 1, 1999, and BAM was granted full intervenor status. The Department issued a revised procedural schedule on December 27, 1999.

On February 2, 2000, the Department held an evidentiary hearing in this docket. At the hearing, the Task Force presented the joint testimony of Jean Strock, Sandra Courtney, and Paul Mina;⁽³⁾ the joint testimony of Melanie Lowenstein and Carol MacElwee;⁽⁴⁾ the testimony of Edward Sanders-Bey;⁽⁵⁾ and the testimony of Eric Buch. Bell Atlantic presented the testimony of Eileen Rush. BAM did not present any witnesses.

II. STANDARD OF REVIEW

Pursuant to the Communications Act of 1934 as amended by the Telecommunications Act of 1996 ("Act"), the Federal Communications Commission ("FCC") has exclusive jurisdiction over "those portions of the North American Numbering Plan that pertain to the United States."⁽⁶⁾ 47 U.S.C. § 251(e)(1). In addition, the Act allows the FCC to delegate its jurisdiction to state commissions. Id.

On February 19, 1997, the FCC issued its Abbreviated Dialing Order⁽⁷⁾ which set forth guidelines regarding abbreviated dialing arrangements. Specifically, the FCC stated that "no federal policy bars the use of [abbreviated dialing] arrangements for intrastate service offerings." Abbreviated Dialing Order at ¶ 62. The FCC, however, also stated that "the states have no authority to permit use of N11 codes in a manner inconsistent" with its conclusions in the Abbreviated Dialing Order. Id. at ¶ 57. Thus, the Department is not prohibited from permitting local use of an N11 code that has not been previously assigned nationally, provided that the such local use is consistent with the Abbreviated Dialing Order and can be discontinued on short notice in the event the FCC assigns the N11 code for other purposes on a national basis. Id. at ¶¶ 5, 64.

Moreover, pursuant to G.L. c. 159 § 12(d), the Department has "general supervision and regulation of, and jurisdiction and control over . . . [t]he transmission of intelligence within the commonwealth by electricity, by means of telephone lines or telegraph lines or any other method or system of communication" when furnished for public use by common carriers. The Department determines that our general supervisory authority extends to matters of intrastate assignment of abbreviated service codes.

III. OVERVIEW

A. Abbreviated Dialing Arrangements - N11 Codes

Abbreviated dialing arrangements are telephone numbers of less than the standard seven or ten digits. Abbreviated dialing arrangements include N11 codes, which are three-digit telephone numbers where the first digit may be any digit other than zero or one and the last two digits are both one. There are a total of eight N11 codes.

Prior to the Act, Bell Communications Research ("Bellcore"), the states, incumbent local exchange carriers ("ILECs"), and the FCC performed functions relating to the administration of N11 codes. The FCC allowed Bellcore, the states, and ILECs to continue performing number administration functions until such functions were transferred to the new NANP administrator. Local Competition Order⁽⁸⁾ at ¶ 329; see also, NANP Order⁽⁹⁾ at ¶¶ 65-67. The current FCC-designated NANP administrator is NeuStar, Inc.⁽¹⁰⁾ At the present time, the following N11 dialing codes have been designated for use on a nationwide basis: 311 for non-emergency services; 411 for directory assistance services; 711 for relay services; and 911 for emergency services.⁽¹¹⁾ Abbreviated Dialing Order at ¶¶ 23, 35, 47, and 56. Furthermore, the FCC specifically allows continued use of the following codes which are used by certain local exchange carriers on a local basis: 611 for access to telephone repair services; and 811 for business office uses. Id. at ¶ 2. The 211 and 511 service codes are currently unassigned by the FCC for national use.

B. The Task Force's Petition⁽¹²⁾

The Task Force indicates that its member I&R agencies respond to more than 100,000 inquiries annually from Massachusetts residents on all topics related to human and health

services, including domestic violence, substance abuse, elder services, crisis intervention, health care, housing, food and fuel donations, support groups, family counseling, and a range of other topics (Exh. MTF-1, at 2; MTF Brief at 2-3). The Task Force states that the network of I&R services is the point of access for most people in Massachusetts who are in need of social services and that it desires to improve and enhance the provision of I&R services within Massachusetts (Exh. MTF-1, at 2-3).

The Task Force notes that the Task Force was formed in order to design and implement a 211 information and referral telephone system that is high in quality, cost-effective, and community-based (id. at 3). To achieve its goals, the Task Force seeks to have the abbreviated dialing code "211" assigned to the Task Force as a statewide number for use in connection with its network of community and I&R services across the state (id. at 1).⁽¹³⁾ The Task Force states that a three-digit dialing code greatly enhances access to service because it is easier to remember and dial than traditional seven- or ten-digit telephone numbers, and that ease of access to services provided by public and not-for-profit agencies should be a high priority public service goal for Massachusetts (id.). The Task Force contends that granting its Petition for assignment of the abbreviated dialing code 211 is in the public interest (id. at 4).

IV. DISCUSSION

A. Factors to be Considered

1. The Proposed 211 Program

a. Introduction

The Task Force contends that the proposed 211 program will provide substantial public benefits and, thus, urges the Department to approve assignment of the abbreviated dialing code to the Task Force. Neither Bell Atlantic nor BAM disputes the Task Force's claim.

b. Positions of the Parties

i. Task Force

The Task Force argues that granting its Petition will provide substantial public benefits by providing the public with easy and instant access to social services 24 hours a day, 365 days a year, without the need to remember an agency's name or phone number (Exh. MTF-5, at 3-5; MTF Brief at 10). Specifically, the Task Force indicates that there are thousands of phone numbers for the various agencies that provide social services and over 100 specialized and comprehensive I&R services in Massachusetts (Exh. MTF-5, at 3). For example, the Task Force notes that the First Call for Help program at the United Way has 1,700 programs in its database for central Massachusetts alone and that the total number of phone numbers for agencies providing social and human services across the entire state is significantly higher (Tr. at 35, 72). However, the Task Force states that in order to reach any I&R service, the caller must know its name or its seven- or ten-digit

telephone number (Exh. MTF-5, at 3; Exh. DTE-1 Attachment at 5; MTF Brief at 2). The Task Force claims that many callers do not have this information, and, as a result, many of those in need do not get the help they need (Exh. MTF-5, at 3; Exh. DTE-1, Attachment at 5; MTF Brief at 2).

The Task Force contends that the proposed 211 program is a more efficient means to provide I&R services (Exh. MTF-3, at 2; Exh. MTF-5, at 4). The Task Force indicates that use of a toll-free 800 number would not resolve confusion whereas a 211 system would because it is simple like the 911 system (Tr. 43). By establishing a three-digit access number, the Task Force states that people in need of services can access them more quickly thereby minimizing frustration; businesses and individuals wanting to donate money, time and material goods may do so more easily; and organizations contemplating new programs can collaborate more effectively (Exh. MTF-3, at 2; Exh. MTF-5, at 4). In addition, since the proposed 211 program will serve the entire state, the Task Force states that callers will be able to reach an I&R center from any location within Massachusetts (MTF Brief at 10). Moreover, the Task Force expects the proposed 211 program to be comprehensive and also to include information and referral programs from across the country (Tr. 60-61).

The Task Force explains that the proposed 211 program will operate as follows. When 211 is dialed from any location within Massachusetts, callers will reach the Task Force's centralized call center whereupon the call would be directed to one of the six to eight regional I&R centers based upon the location of the calling party (Exh. DTE-1, Attachment at 2; Exh. DTE-31; Tr. at 41; MTF Brief at 6). The Task Force indicates that this will be a seamless process for the caller (Tr. at 41). Once the regional I&R center receives the call, an I&R Specialist will respond to the caller's questions and needs and, in most cases, will provide the name, phone number and basic service information for the human service provider that best meets the caller's needs (Exh. DTE-1, Attachment at 2; Exh. DTE-31; Tr. at 41; MTF Brief at 7). In emergency situations, such as suicide calls or child abuse cases, the I&R Specialist will transfer the call directly to a specialized hotline or I&R service (MTF Brief at 7). The Task Force states that the existing I&R network already handles more than 100,000 calls annually and that its call volumes would increase by 50 percent over the first three years (Exh. MTF-5, at 4).

The Task Force notes that the Massachusetts Department of Transitional Assistance fully supports the proposed 211 program and that there is support from legislators as well as social service providers (Exh. MTF-2; Exh. DTE-33; Exh. DTE-35; Tr. at 70; Exh. DTE-34; Exh. DTE-36 through Exh. DTE-41). The Task Force also indicates that other states, including Georgia, Connecticut, Alabama, Utah and North Carolina, have approved similar petitions (RR-DTE-4; MTF Brief at 5-6).

ii. Bell Atlantic

Bell Atlantic's concerns with the Petition do not involve the public interest aspect of the Task Force's 211 proposal. In fact, Bell Atlantic indicates that the Task Force's 211 proposal appears to have the merit of providing a social service benefit to the residents of

the Commonwealth (Exh. BA-MA-1, at 9). Bell Atlantic, however, states that if the Department determines that a single community services telephone number is in the public interest, then an easily-remembered seven-digit or 800 number could as readily be used (Exh. BA-MA-1, at 10; BA-MA Brief at 6).

c. Analysis and Findings

The Department finds that assignment of the abbreviated dialing code 211 to the Task Force as a statewide community information and referral number is consistent with the public interest by providing a single easily-remembered number to access comprehensive information regarding the Commonwealth's social service programs and private non-profit agencies as well as available national resources. The type of information to be provided through the proposed 211 program is broad-based and not for commercial use. Thus, the Department concludes that the information provided by I&R centers is of significant value to the general public. We are persuaded that the proposed 211 program is a more efficient and effective means to provide this information to Massachusetts residents than the system which currently exists. Once the proposed 211 program is implemented and the public becomes aware of the program, use of the 211 abbreviated dialing code will facilitate access to assistance from human services agencies.

The Department recognizes the relative inadequacy of a seven-digit or toll-free number in comparison to an easily remembered three-digit number, particularly in situations when a caller is seeking assistance during a crisis (Tr. at 42). Bell Atlantic alone provides services for approximately 40,000 toll-free numbers in Massachusetts, and the Department finds that the vast number of toll-free numbers currently in use impedes the goal of a convenient easily-remembered number that would not require the caller to know the name or number of the agency or I&R center (Exh. DTE-29; Tr. at 42-43, 82). A three-digit number would avoid the confusion some callers have with 800 numbers (Tr. at 43).

Moreover, we note that the FCC indicated that N11 numbers "have significance that go beyond state boundaries." Abbreviated Dialing Order at ¶ 58. The Department finds that since Massachusetts borders a state, Connecticut, that has already assigned 211 for use as a community information and referral resource, by granting the Task Force's Petition, we advance the Federal goals for using N11 codes.

In sum, while we find that the proposed 211 program is consistent with the public interest and would provide substantial benefits to Massachusetts residents, our analysis does not end there. We must consider other factors before approving the Task Force's Petition.

2. Funding of the Proposed 211 System

a. Introduction

The Task Force projects the costs to implement and manage the proposed 211 information and referral system in Massachusetts over the next five years to be

approximately \$15 million (Exh. MTF-5, at 8; RR-DTE-1). The Task Force expects the United Way to provide nearly \$3 million of the total costs over the next five years, with the Commonwealth providing about \$12 million (Exh. DTE-5, at 9). In addition, the Task Force intends to compensate Bell Atlantic, as well as other telecommunications carriers, for the costs associated with the establishment, operation, and potential dismantling of 211 in Massachusetts should the FCC later assign 211 for another purpose (Exh. DTE-1, at 5; Exh. DTE-3, at 1).

b. Positions of the Parties

i. Task Force

The Task Force contends that it has the capacity to implement its plan for its proposed 211 program (MTF Brief at 8). The Task Force states that it has developed a budget that includes all of the marketing, technology, staffing, and telephone usage costs that will be incurred in operating the central 211 and regional I&R centers (Exh. DTE-3, at 2; RR-DTE-1; MTF Brief at 8). The Task Force states that it has the unanimous support of United Way agencies in Massachusetts -- agencies that have a well-established history of obtaining public and private financial support for worthwhile programs such as 211 (RR-BA-MA-2; MTF Brief at 8). The Task Force also notes that it has received commitments to fund the proposed 211 program from MAIRS and COMUW (Exh. DTE-3, at 2; Exh. MTF-3, at 2; Exh. MTF-5, at 9; Tr. at 9-10). In particular, the Task Force points to the United Way's commitment to provide at least 20 percent of the operational budget for the 211 program (Exh. DTE-3, at 2).

Moreover, the Task Force indicates that discussions are underway with government officials to have \$3.5 million designated in the Commonwealth's Fiscal Year 2001 budget for the technological upgrades and first year operational expenses to implement the proposed 211 program (Exh. MTF-5, at 9). The Task Force states that it intends to obtain state funding for the majority of its operational budget and is also exploring federal government and private foundation sources (Exh. DTE-1, at 5; Tr. at 46; MTF Brief at 17).

Finally, the Task Force notes that it will bear the costs of making any technical changes needed to implement 211 and, therefore, no net costs will be imposed on local exchange carriers (Exh. DTE-1, at 5; Exh. DTE-2, at 1; MTF Brief at 6, 7). Nor, says the Task Force, will those calling 211 bear any costs since the 211 number will be translated into a toll-free number (Exh. DTE-2, at 5; MTF Brief at 8).

ii. Bell Atlantic

Bell Atlantic states that the Task Force must bear the costs incurred by Bell Atlantic to establish and operate the 211 service (Exh. DTE-11; BA-MA Brief at 7).⁽¹⁴⁾ Bell Atlantic estimates that the preliminary non-recurring and service costs for implementing the 211 service would be approximately \$54,000 (Exh. DTE-24; BA-MA Brief at 9). This cost estimate includes labor charges for performing the necessary network translations in 261

rate centers (Exh. DTE-24; Tr. at 84; BA-MA Brief at 8). However, the cost estimate does not include all non-recurring costs since some could not presently be quantified (Exh. BA-MA-1, at 8; Exh. DTE-24; BA-MA Brief at 9; BA-MA Reply at 1-2). Nor does the cost estimate include Bell Atlantic's charges for providing toll-free access to the I&R service (Exh. BA-MA-1, at 8; Exh. DTE-24; BA-MA Brief at 9; BA-MA Reply at 1-2). Moreover, Bell Atlantic estimates that it will need at least six months to develop and complete implementation of the 211 dialing code once the Department issues its decision (Exh. DTE-24; BA-MA Brief at 8; BA-MA Reply at 1).

Bell Atlantic also expresses concern regarding additional network and operational changes associated with removing and converting the 211 code if a Department decision approving this Petition is superseded by an FCC ruling that assigns the 211 code for another purpose (Exh. BA-MA-1, at 6; Exh. DTE-6; Exh. DTE-9; BA-MA Brief at 5, 7; BA-MA Reply Brief at 2). Bell Atlantic notes that additional costs would be incurred to change the switch translation tables for all rate centers, update the translation tables and call-processing records in Bell Atlantic's databases to reflect the new routing scheme in its Advanced Intelligent Digital Network platform, and update its operational procedures (Exh. DTE-6; BA-MA Brief at 5, n.6). If the Department approves the Petition, Bell Atlantic urges the Department to ensure that Bell Atlantic's costs will be covered, whether in implementing or removing the 211 service (BA-MA Brief at 9).

c. Analysis and Findings

There is no dispute as to who should bear the burden of costs associated with the 211 program. Indeed, the Task Force accepts this responsibility (Exh. DTE-1, at 5; Exh. DTE-2, at 1; MTF Brief at 6, 7). While the Department has little doubt that the Task Force is willing to compensate local exchange carriers to implement and operate the 211 program, we note that obtaining the funding needed to implement and operate such a system cannot be taken for granted. In fact, the Task Force acknowledges that it cannot proceed with implementing the 211 system until it has raised the funds to operate the system and states that it will not require any carrier to make technical network changes until funding is secure (MTF Brief at 17).

A review of the record pertaining to funding issues shows the following. The Task Force's most recent three-year financial projection anticipates significant funding from the state and the United Way as well as grants (RR-DTE-1). The financial projection also contains a number of cost estimates to operate the 211 line, including estimated costs for reimbursement to telecommunications service providers to make the necessary network translations to allow for 211 dialing to the Task Force's I&R services (id.). The Task Force notes that the combined budgets of MAIRS members exceeds \$2.5 million (Exh. MTF-1 at 2; MTF Brief at 17). Although Bell Atlantic has not quantified all costs associated with implementing the 211 program, the Task Force's budget for network changes is significantly greater than Bell Atlantic's estimate (Exh. DTE-24; RR-DTE-1; Tr. at 72).⁽¹⁵⁾

In addition, the United Way has indicated its commitment to provide in excess of \$600,000 annually (Tr. at 10). The Task Force has also received a grant from the Hoche-Scofield Foundation and has several outstanding grant proposals (id. at 43-44). Moreover, we note the introduction of Senate Bill No. 2160, which provides for a statewide information and referral system utilizing an abbreviated dialing code. Although Senate Bill No. 2160 does not explicitly provide a funding mechanism, the Task Force indicates that funding legislation is expected and we note that there is support from some legislators for the overall 211 program (Exh. DTE-1, at 5; Exh. DTE-34; Exh. DTE-35; Tr. at 38, 51).⁽¹⁶⁾

The Department emphasizes, however, that nothing in this Order is intended - nor may it be fairly construed - to bind or otherwise commit any other state agency to fund a 211 program. We especially emphasize that nothing an administrative agency (as a creature of statute) does or can do may prejudice the exercise of the Constitutionally-derived power of the General Court in matters of appropriations for a proposed 211 program. That judgment lies well outside our purview; and we would not presume to trench on legislative authority. We confine ourselves to sanctioning the 211 concept, subject to satisfaction of the condition that secure funding be obtained.

After review and consideration of the evidence in the record, the Department finds that the Task Force has made a sufficient showing that it has carefully considered the extent of the costs needed to implement and operate the program, that it has obtained commitments for partial funding, and that it is actively seeking additional funding. However, we cannot ignore the fact that the Task Force has yet to obtain a portion of the funding to implement the 211 program. Thus, any assignment of the 211 code must be conditioned upon the Task Force actually obtaining sufficient funding to implement the 211 program. We note that the Task Force acknowledged this possibility (Exh. MTF-5, at 9). Accordingly, we accept the Task Force's offer to file a report with the Department of its then-current financial status at the time it actually requests carriers to make the necessary system changes.⁽¹⁷⁾ The Department would then conduct an expedited review of the sufficiency and firmness of both short and longer term funding for the 211 program before the Task Force proceeds to implementation. We note that funding should take into consideration the costs to compensate Bell Atlantic and other local exchange carriers for expenses incurred to implement the 211 system as well the costs to operate the system, and, in the event of a subsequent FCC assignment of the 211 code, to dismantle the system. Furthermore, we note that Department approval of the Petition and assignment of the 211 code to the Task Force, even if only on a conditional basis, should still assist the Task Force in procuring the funding it seeks (Exh. DTE-3, at 2; MTF Brief at 12).

3. Technical Considerations

a. Introduction

During the proceeding, several technical problems regarding the 211 system were raised. First, there are potential call-routing problems associated with requiring wireless carriers to participate in the proposed 211 system in Massachusetts at this time (Exh. DTE-32).

Second, implementation of the 211 program could result in confusion between the use of 211 for I&R calls and the use of 911 for emergency calls and, although a call to 211 intended for 911 could be directly transferred to a 911 operator, it would not be subject to call tracing capabilities normally utilized by the 911 system (Exh. DTE-3, at 5-6; RR-DTE-6).⁽¹⁸⁾ Third, when implementing the 211 dialing code for I&R services in Connecticut, technical problems arose with calls dialed to seven- or ten-digit phone numbers where 211 is a sequence within the number called (Tr. at 17). These calls are referred to as "phantom" calls (Exh. MTF-3, at 3; Tr. at 89-90). Finally, before the 211 service code was assigned as an I&R number in Connecticut, some private payphone companies had programmed their payphone equipment to allow customers to call the payphone company's customer service department by dialing a three-digit code, often using the 211 digits.⁽¹⁹⁾ Thus, after the implementation of 211 in Connecticut, callers dialing 211 on a payphone to reach customer service would reach the 211 I&R services (Tr. at 17).

b. Positions of the Parties

i. Task Force

The Task Force is aware of potential call-routing problems for wireless carriers and, thus, is not seeking to include wireless carriers in the 211 program at the present time (Exh. MTF-5, at 9-10; Exh. DTE- 32, at 1; Tr. at 25-26; MTF Brief at 9). The Task Force adds that while wireless customers in Massachusetts will not be able to benefit from the use of 211 dialing until the technology changes, or until 211 is adopted in all bordering states, callers will still be able to reach I&R services by calling its seven- or ten-digit telephone number (Tr. at 57-58; MTF Brief at 10).

With regard to emergency 911 calls, the Task Force indicates that it is working with the state 911 program to ensure that the 211 dialing code would enhance, rather than hinder, the use of the 911 system (MTF Brief at 7).⁽²⁰⁾ In the case of an emergency, if a caller should mistakenly call 211 instead of 911, an I&R Specialist can directly transfer the call to the 911 system along with the caller's telephone number (Tr. at 50; RR-DTE-6; MTF Brief at 7).

Regarding calls placed to seven-digit numbers that have 211 in the dialing sequence, the Task Force indicates that such a problem initially existed in Connecticut, and that it was quickly and easily resolved (MTF Brief at 15). Last, with respect to the 211 speed-dialing situation with payphone providers, the Task Force argues that there is no technical reason why payphone companies cannot comply with a Department Order implementing statewide use of the 211 dialing code for I&R services from payphone locations (MTF Brief at 15).⁽²¹⁾

ii. BAM

BAM focuses solely on those aspects of the Task Force's plan relating to wireless providers (BAM Brief at 2). BAM argues that wireless carriers should not be required to

participate in the Task Force's 211 plan (id. at 5). BAM explains that wireless carriers are technically constrained in providing 211 service because wireless networks are designed to provide seamless coverage to customers in more than one state, e.g., across state lines (id. at 2). More precisely, BAM indicates that cell sites, switches, and the land line system are programmed to route ten-digit numbers to and from wireless subscribers seamlessly near and across state boundaries, and, thus, calls made by customers physically located in one state may be handled by cell sites in another state, especially near state borders (Exh. DTE-12; BAM Brief at 3). Because cell sites are located along both sides of state borders, if an adjacent state has not assigned 211 for a designated use or assigned it for a use inconsistent with the proposed use in Massachusetts, the adjacent state's cell site may be unable to recognize the 211 code, and calls may be misrouted to an unintended point of termination (Exh. DTE-12; Exh. DTE-13; BAM Brief at 3). BAM states that such problems would create significant customer confusion (BAM Brief at 3).

iii. Bell Atlantic

With regard to phantom calls, Bell Atlantic indicates that it is not aware of any interface that would correct the problems when the 211 digits are contained within a seven-digit number, although a delay could be introduced for each call, which would wait a certain period to see if any other digits are dialed before that call is processed (Tr. at 89-90). Bell Atlantic indicates that this is something that it generally does not want to do (id. at 90).

c. Analysis and Findings

The Department finds that wireless telecommunications service providers face technical difficulties not shared by wireline companies in the implementation of the 211 service code. Wireless carriers typically provide services to mobile customers throughout Massachusetts and other jurisdictions, often through the use of facilities that serve areas outside the borders of Massachusetts. Therefore, callers may have difficulty reaching the intended I&R service as the caller moves around the borders of Massachusetts. We note that the decisions in Connecticut and Atlanta, Georgia approving the 211 I&R systems excluded wireless carriers from participation (RR-DTE-4; RR-DTE-7).⁽²²⁾

The record is clear that technical issues impede implementation of the proposed 211 program by wireless carriers, and, because of these technical problems, the Task Force does not seek to include wireless carriers in the 211 program. Despite the value that access to the 211 program would provide to wireless customers, particularly in light of the substantial growth of the wireless market, the Department accepts that technical issues prevent the inclusion of the wireless industry in the 211 program at this time.

The Department concludes that non-participation by wireless carriers in the 211 program does not unduly diminish its value to Massachusetts residents. However, because we find access by all persons in Massachusetts including wireless customers to the 211 I&R system to be a worthwhile goal, wireless carriers should continue to explore the technology to enable its customers to reach the 211 system. In the meantime, we

encourage the Task Force to take steps to minimize any confusion for wireless customers, such as maintaining the current telephone numbers for I&R centers (See Tr. at 58).

Next, the Department concludes that possible confusion between emergency 911 calls and calls to 211 seeking I&R services does not outweigh the benefits that the 211 system will provide. Although there may be instances where callers mistakenly dial 211 when seeking emergency 911 assistance, we note that the Task Force is working with the SETB and that any 911 calls received by the 211 I&R system can be directly transferred to 911 along with identifying information (Tr. at 48-50; RR-DTE-6). Moreover, the Department is confident that consumer education would minimize possible confusion without depriving Massachusetts residents of the benefits of the 211 system.

Likewise, the Department concludes that the problems associated with phantom calls amount to only a minor inconvenience to the 211 I&R Specialist receiving such calls and does not outweigh the overall benefits to the public that the 211 system will provide. We note that the same problem of phantom calls exists in the 911 system (Tr. at 94). There is no doubt that the 911 system provides substantial benefits and should remain regardless of any problems with phantom calls. Accordingly, phantom calls do not dissuade us from assigning the 211 code to the Task Force.

Lastly, the Department believes that all Massachusetts consumers should have access to information and referral services using the abbreviated 211 dialing code at no cost, subject to technical feasibility. Unlike wireless carriers, there is no technical reason to exclude payphones companies from participation in the 211 system. Therefore, we conclude that all payphone service providers in Massachusetts must participate in the 211 program and route calls utilizing the 211 service code to the Task Force's I&R services gateway at no cost to the caller. Stated differently: payphone providers in Massachusetts may not utilize the 211 abbreviated code for access to their customer service departments and must reprogram, and possibly relabel, their payphone equipment to be consistent with assignment of the 211 code to the Task Force. We note that the Task Force indicated that, in Connecticut, there were some problems with compliance by pay phone companies in implementing (RR-DTE-8). Should there be problems in Massachusetts, we urge the Task Force, or Bell Atlantic, to notify the Department, which will take action as appropriate.

4. Potential Federal Action Regarding N11 Codes

a. Introduction

As noted above, the FCC has exclusive jurisdiction over N11 codes on the national level. Currently, there are two petitions for N11 assignment pending before the FCC including: 1) a petition by the Alliance of Information and Referral Systems ("AIRS") and various United Ways⁽²³⁾ to assign 211 as an abbreviated dialing code for community resource information across the United States ("national 211 petition"); and 2) a petition by the U.S. Department of Transportation⁽²⁴⁾ requesting assignment of an N11 code to deliver travel-related information to the public ("DOT petition").

b. Position of the Parties

i. Task Force

The Task Force contends that the possibility of adverse FCC action on the national 211 petition is slim since no other entity is seeking assignment of 211 (MTF Brief at 13). The Task Force notes that the DOT petition to the FCC does not specifically seek 211 and that there are two N11 numbers immediately available for national assignment (Exh. DTE-1, at 5; Tr. at 79; MTF Brief at 13). The Task Force also notes that 611 and 811 have not been permanently assigned and could be reassigned by the FCC (MTF Brief at 13).

Moreover, the Task Force notes that the national 211 petition before the FCC was first filed on May 28, 1998 and that the FCC has not indicated when it might rule (Exh. DTE-1, at 4; MTF Brief at 13). The Task Force also indicates that there is no indication when the FCC will rule on the DOT petition (Exh. DTE-1, at 5). In addition, the Task Force states that it is seeking a funding commitment from the Commonwealth of Massachusetts but that this commitment will not be forthcoming until Department approval of the Petition (Exh. DTE-3, at 2).⁽²⁵⁾ The Task Force states that in order to be included in the State's Fiscal Year 2001 Budget, the Task Force seeks approval by the Department as soon as possible, and that the closer Department approval is to finalization of the State's Fiscal Year 2001 budget, the less likely that funding for the 211 program will be included (id.). Thus, the Task Force argues that if the Department decides to delay a ruling on its Petition because of the mere possibility of adverse FCC action, the Task Force may never obtain a ruling from the FCC and certainly will not obtain a timely ruling for state funding purposes (MTF Brief at 13).

Lastly, the Task Force states that it is willing to bear the costs and risk associated with the FCC assignment of the 211 dialing code on a national basis for purposes other than community information and referral services (Exh. MTF-5, at 8; Tr. at 54; MTF Brief at 16). The Task Force indicates that it could discontinue use of the 211 dialing code in a relatively short period of time (Tr. at 62-63). Even if the FCC were to later assign the 211 dialing code for other purposes, the Task Force contends that it is in the best interest of the Commonwealth to implement the 211 program even if only for a short period, and that, at the time of reassignment, a level of awareness would have been reached that would be easier to transfer to another number than to start from square one (id. at 63-64).

ii. Bell Atlantic

In light of the two petitions seeking assignment of N11 codes pending before the FCC, Bell Atlantic urges the Department to defer assignment of 211 for a state-specific purpose, stating that assignment of 211 for a state-specific purpose prior to the FCC's rulings could result in additional cost and widespread confusion among 211 users should the FCC designate that code for another purpose (Exh. BA-MA-1, at 6; Bell Atlantic Brief at 5). In addition, Bell Atlantic claims that subsequent inconsistent FCC assignment could require Bell Atlantic and other service providers in Massachusetts to make

additional network and operational changes to comply with FCC directives (Exh. DTE-6; Bell Atlantic Brief at 5).

c. Analysis and Findings

Although the Department shares Bell Atlantic's concern regarding the possibility of 211 assignment in Massachusetts' being disturbed by a subsequent inconsistent assignment by the FCC, the Department does not agree with Bell Atlantic's wait and see approach. The Department notes that the pendency of FCC action on the national 211 petition for nearly two years does not preclude assignment of the 211 abbreviated dialing code on a statewide basis unless the FCC specifically assigns 211 for another purpose. To date, the FCC has not issued any decision on the national 211 petition or the DOT petition, and, as noted by the Task Force, there are two available N11 codes for immediate FCC assignment (211 and 511), as well as two additional N11 codes that may be used for national purposes (611 and 811). Thus, the Department is persuaded that local designation of 211 is appropriate despite the potential of an inconsistent assignment by the FCC at some point in the future.

B. Assignment of the 211 Abbreviated Code

After review of the record, the Department concludes that, subject to the conditions outlined above, assignment of the 211 abbreviated code to the Task Force for use in connection with its proposed statewide I&R service is appropriate. First, the Task Force has demonstrated that the proposed 211 program is consistent with the public interest. Second, for purposes of a conditional assignment, the Task Force has displayed the financial capability to implement the proposed 211 program. Third, there are no outstanding technical issues barring assignment of the abbreviated code to the Task Force, given that wireless carriers will not be included in the 211 program. Last, the Department is persuaded that assignment of the 211 code to the Task Force at this time is warranted despite the potential of FCC assignment of the 211 code on a nationwide for purposes inconsistent with the proposed 211 program.

C. Implementation Date for the Proposed 211 Program

1. Introduction

The Task Force has set a February 1, 2001 implementation date for its proposed 211 program and, thus, needs Bell Atlantic to make the necessary technical changes to Bell Atlantic's equipment by September 30, 2000. Bell Atlantic indicates that it needs a minimum of six months from approval of the Petition to complete the technical work.

2. Positions of the Parties

a. Task Force

The Task Force seeks to have the proposed 211 program fully implemented by February 1, 2001 (Exh. DTE-1, Attachment at 3; Exh. MTF-5, at 12; Tr. at 8, 39). To do so, the Task Force requires that Bell Atlantic make the necessary translations in its switches by September 1, 2000 (Exh. MTF-5, at 2-3, 12; MTF Brief at 16). The Task Force indicates that it does not object to Bell Atlantic taking six months to make the necessary changes if the Department issued its decision by April 1, 2000; however, if the Department issues its decision after April 1st, and Bell Atlantic takes six months to implement the changes, the Task Force contends that its implementation schedule would be impeded (MTF Reply at 2).⁽²⁶⁾ Moreover, the Task Force argues that Bell Atlantic's six-month estimate is contrary to the evidence and states that, in Connecticut, local exchange carriers completed the necessary work for 211 service in a matter of weeks (Exh. DTE-25, at 2; Tr. at 19; MTF Brief at 8; MTF Reply at 2).

b. Bell Atlantic

Bell Atlantic argues that it must be given adequate time to implement the 211 program and argues that it needs a minimum of six months to implement the 211 service (BA-MA Brief at 7-8; BA-MA Reply at 1). Bell Atlantic indicates that it conditioned its completion of 211 service on an FCC or Department decision being issued by March 2000 (Exh. DTE-24; BA-MA Reply Brief at 1). Bell Atlantic notes that the work required by Bell Atlantic to implement 211 service in Connecticut consisted of work on two switches serving two rate centers, whereas the work required in Massachusetts is significantly greater (Exh. BA-MA-1, at 8; Tr. at 83-84). Bell Atlantic notes that it serves 261 rate centers in Massachusetts whereas Connecticut consists of 86 rate centers served by Southern New England Telephone (Exh. BA-MA-1, at 8; Exh. DTE-25; Tr. at 83).

3. Analysis and Findings

In Connecticut, the 211 assignment as a statewide I&R service was originally approved on May 13, 1998, with 211 service expected to begin more than six months later on January 1, 1999 (Exh. DTE-25). Thus, the Department does not find that Bell Atlantic's six-month estimate to make the necessary changes to be unreasonable particularly in light of the fact that there are more than three times the number of rate centers in Massachusetts as compared to Connecticut. Upon this record, six months appears to be a reasonable period for Bell Atlantic to complete its work. Moreover, we note that the Task Force did not object to Bell Atlantic taking six months to implement the 211 service had the Department issued a decision by April 1, 2000. Bell Atlantic did not control the pace of this docket; and it would not be reasonable to reduce the time which Bell Atlantic needs to implement the service because an arbitrary April 1 date was not met.⁽²⁷⁾

The Department finds that Bell Atlantic should be afforded the time it needs to make the necessary changes, and we are not convinced that implementation of the 211 service

could be completed in less than the six months proposed by Bell Atlantic. Thus, we require all telecommunications providers, including pay phone service providers to take the necessary steps to implement the 211 abbreviated code within six months of this Order, so that callers may access the Task Force's 211 I&R gateway. However, given the broad based public purpose of the 211 system, the Department directs the Task Force and Bell Atlantic, as well as other local exchange carriers and pay phone operators, to work cooperatively in implementing the 211 system efficiently.

V. ORDER

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

ORDERED: That the Mass 211 Task Force's Petition for Assignment of N11 Dialing Code be and hereby is, subject to the securing of firm commitments for sufficient operational funding, APPROVED; and it is

FURTHER ORDERED: That the abbreviated dialing code 211 be assigned to the Mass 211 Task Force, and ultimately to the Mass 211, Inc. or other to-be-incorporated non-profit and tax-exempt organization that will manage the 211 information and referral service for the residents of the Commonwealth, for use as a community and social services information and referral program in the Commonwealth of Massachusetts; and it is

FURTHER ORDERED: That the Secretary of the Department shall notify local exchange carriers and payphone providers operating in the Commonwealth of this Order; and it is

FURTHER ORDERED: That the Mass 211 Task Force has the responsibility to effectuate use of the 211 code; and it is

FURTHER ORDERED: That all carriers operating in the Commonwealth are required to make the necessary technical changes to implement the 211 system in accordance with the directives contained herein; and it is

FURTHER ORDERED: That the Mass 211 Task Force comply with all other directives contained herein; and it is

FURTHER ORDERED: That a certified copy of this Order be transmitted by the Secretary of the Department to the Federal Communications Commission.

By Order of the Department,

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, 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 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).

1. MAIRS is a non-profit corporation whose members consist of approximately 35 local I&R agencies in Massachusetts that serve the public by linking residents, public officials and other non-profit organizations to community resources (Exh. MTF-1, at 2). The mission of MAIRS is to support and enhance the operations of its members in order to foster the effective provision of information and referral services to the residents of the Commonwealth (id.).
2. COMUW is also a non-profit corporation with its members consisting of 28 United Way agencies across Massachusetts that support local I&R services within their communities (Exh. MTF-1, at 2).
3. Mr. Mina did not appear at the evidentiary hearing; however, Ms. Strock and Ms. Courtney adopted the pre-filed joint testimony as their own. See Tr. at 24.
4. Ms. MacElwee did not appear at the evidentiary hearing. Ms. Loewenstein adopted the pre-filed joint testimony as her own. See Tr. at 13.
5. Prior to the evidentiary hearing, the parties agreed that Mr. Sanders-Bey's presence at the evidentiary hearing would not be necessary. Mr. Sanders-Bey submitted a sworn affidavit attesting to his pre-filed testimony and the pre-filed testimony was accepted into evidence.
6. The North American Numbering Plan (NANP) established the basic numbering format for the telecommunications network used by 18 nations, including the United States and Canada. Under NANP, N11 codes are known as service codes.
7. In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, First Report and Order and Further Notice of Proposed Rulemaking, FCC 97-51, CC Docket No. 92-105 (rel. February 13, 1997) ("Abbreviated Dialing Order").
8. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order, FCC 96-333, CC Docket No. 98-98 (re. August 8, 1996) ("Local Competition Order").
9. Administration of the North American Numbering Plan, Report and Order, CC Docket No. 92-237, 11 FCC Rcd 2588 (1995) ("NANP Order").
10. In October 1997, the FCC affirmed Lockheed Martin's Communication Industry Division as the NANP Administrator. On November 17, 1999, the FCC approved the transfer of Lockheed Martin's CIS Division to NeuStar, Inc., a wholly-owned subsidiary.

11. AT&T originally designated 911 as a national code for access to emergency services approximately 30 years ago and the FCC has not altered this designation. Abbreviated Dialing Order at ¶ 23.

12. The Task Force's Petition was marked and moved into evidence as Exh. MTF-1.

13. The Task Force indicates that it would become Mass 211, Inc., a to-be-incorporated non-profit and tax-exempt organization that will manage the 211 information and referral services for the residents of the Commonwealth (Exh. MTF-5, at 2, 10).

14. Bell Atlantic costs include one-time set-up costs as well as monthly recurring charges such as those for database queries and call transport (BA-MA Brief at 7).

15. The record does not indicate the costs that would be incurred by other local exchange carriers to program their switches, but we expect those costs to be small relative to Bell Atlantic's costs.

16. The Department received additional letters of support for the 211 program from legislators since the evidentiary hearing.

17. The Task Force presented this offer in its Initial Brief (see MTF Brief at 17).

18. Unlike the existing E911 System in Massachusetts, which provides the telephone number and address of the phone used to make the emergency call, a call redirected to 911 will identify only the caller's telephone number (RR-DTE-6).

19. These calls were routed to a predesignated seven- or ten-digit telephone number belonging to the payphone company.

20. The Statewide Emergency Telecommunications Board ("SETB"), which is overseen by the Executive Office of Public Safety, is responsible for administering the state-wide Enhanced 9-1-1 (E911) System in Massachusetts.

21. The Task Force alleges that, in Connecticut, some payphone companies were not willing to cooperate fully in getting the right information to customers (MTF Brief at 15).

22. The remaining states (Alabama, North Carolina, Ohio, Texas and Utah) do not reference wireless carriers in the decisions approving the 211 I&R program.

23. The national 211 petition was filed by the AIRS, United Way of America, United Way 211 of Atlanta, GA, United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc. and Texas I & R Network for Assignment of 211 Dialing Code. In May 1998, the FCC opened docket NSD L No. 98-80 to address this petition.

24. Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Nationwide (March 8, 1999).

25. As noted above, the Senate has introduced a bill that establishes a statewide information and referral system using the abbreviated dialing code 211. See Senate Bill No. 2160. However, the bill currently does not contain any funding mechanism.

26. The Task Force hoped to procure Department approval by April 30, 2000 (Exh. MTF-5, at 12; Exh. DTE-3, at 2).

27. We note that the Task Force has not yet secured all necessary funding for the 211 program, at any rate.