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July 9, 2001

Bea Klemmensen
NANPA CO Code Administration
1800 Sutter Street, Suite 570
Concord, CA 94520

RE: D.T.E. 01-33 - Verizon Request for a Growth Code in 617/857 NPA, Boston Rate Center

I. INTRODUCTION

On May 29, 2001, Verizon-Massachusetts (Verizon) requested a growth code in the Boston rate center in order to accommodate an end-user's request for an entire exchange code ending in a specific digit. On June 1, 2001, the North American Numbering Plan Administrator (NANPA) denied Verizon's request for the growth code. On June 25, 2001, Verizon submitted a letter to the Department of Telecommunications and Energy (Department) requesting that the Department overturn NANPA's denial of Verizon's growth code request.

II. ANALYSIS AND FINDING

NANPA denied Verizon's code request because Verizon did not meet the FCC's months-to-exhaust requirement. Pursuant to 47 C.F.R. ' 52.15(g)(3)(iii),

All service providers shall maintain no more than a six-month inventory of telephone numbers in each rate center or service area in which it provides telecommunications service.

The Department has the authority to review NANPA's denial of code requests pursuant to 47 C.F.R. ' 52.15(g)(3)(iv), which reads in relevant part:

The carrier may challenge NANPA's decision to the appropriate state regulatory commission. The state regulatory commission may affirm or overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination of compliance with the reporting and numbering resource application requirements herein.

On June 19, 2001, the Department issued a Letter Order (Verizon Harvard Order) addressing NANPA's denial of Verizon's request for a growth code to accommodate the specific request of Harvard University. Harvard University had requested a code ending in a specific digit in order to support uniform, 5-digit internal dialing, but NANPA denied Verizon's request because Verizon did not meet the six months-to-exhaust requirement. The Department found that NANPA's denial presented competitive concerns, in that the end-user would be forced to seek service from an alternative carrier if it could not get the numbers it needed from Verizon.

The instant case presents a situation similar to that addressed in the Verizon Harvard Order. Verizon's customer, Massachusetts General Hospital/Partners HealthCare System, Inc. (Mass General), predicts that it will be out of numbers by early summer, and states that it needs the full exchange code in order to maintain uniform internal 5-digit dialing and to support an aggressive building plan.

Verizon submitted confidential and proprietary information to the Department concerning its numbering resource inventory and utilization rates in the Boston rate center, and the Department is satisfied that Verizon is truly unable to meet Mass General's needs from its existing inventory. The Department is further satisfied that Verizon's inability to meet Mass General's needs from its existing inventory is not the result of Verizon's having managed its numbering resources in a manner contrary to the letter or spirit of regulatory number resource conservation requirements.

The Department concludes that the denial of a growth code in this circumstance presents competitive concerns, because Mass General is unable to obtain service from its provider of choice. When the FCC delegated authority to the Department to impose threshold requirements on carriers seeking growth codes, the FCC cautioned the Department to not apply any threshold test in such a manner as to deprive customers of their choices of carriers from whom to purchase service upon request.¹ The Department sees no reason to conclude that the FCC is

¹ In the Matter of Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes, CC Docket No. 96-98, FCC 99-246, NSD File No. L-99-19, & 32 (September 15, 1999).

less concerned about the potential anti-competitive effects of the inflexible application of a threshold requirement when the threshold requirement is the FCC's own.

Parties should not construe this Order as an indication that number resource conservation requirements will be leniently enforced by the Department. Indeed, the Department regards threshold tests such as utilization rates and MTE requirements as valuable tools. The Department merely seeks to balance threshold requirements against carriers' ability to serve their customers, in order to determine whether an exemption from a threshold requirement is in the public interest; any such balancing test must include a consideration of competing demands for the numbering resources sought and, significantly, an evaluation of the end-user's need.

When a carrier seeks an exemption from a threshold requirement in order to satisfy a particular end-user's request, the Department has the obligation to determine whether that end-user's request is legitimate, and whether it warrants granting the carrier an exemption from the threshold requirement. In the absence of such oversight, threshold requirements would soon cease to have any practical effect. Massachusetts has had to implement six new area codes in the past five years; determining the legitimacy of an end-user's need, and balancing that need against the larger goals of prudent number resource management, is essential if Massachusetts is to slow the need for future area code relief.

In both the Verizon Harvard Order and the instant case involving Mass General, the end-users requested full exchange codes not only to support the convenience of internal 5-digit dialing, but in order to provide numbering resources for expansion and building plans. Granting Verizon these exemptions from the months-to-exhaust requirement will facilitate the ability of an educational institution and a health care facility to grow and expand, and is clearly in the public interest.

Massachusetts D.T.E.
Denial of Verizon Growth Code Request
D.T.E. 01-33
July 9, 2001

Page

III. ORDER

Accordingly, after due consideration, Verizon's request is granted, and NANPA is directed to immediately assign an NXX ending in 3 to Verizon.

By the Commission,

_____/s/_____
James Connelly, Chairman

_____/s/_____
W. Robert Keating, Commissioner

_____/s/_____
Paul B. Vasington, Commissioner

_____/s/_____
Eugene J. Sullivan, Jr., Commissioner

_____/s/_____
Deirdre K. Manning, Commissioner