

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of the City )  
of Parma, Ohio, )  
 )  
 Complainant, )  
 )  
 v. ) Case No. 97-650-TP-CSS  
 )  
 Ameritech Ohio as Area Code Admini- )  
strator of the 216 NPA and as the Public )  
Utility Which Provides the Local Exchange )  
Service to the City of Parma, Ohio, )  
 )  
 Respondent. )

OPINION AND ORDER

The Commission, considering the complaint, exhibits, the transcript of record, and the applicable law, and being otherwise fully advised, hereby issues its Opinion and Order.

APPEARANCES:

William D. Mason, Law Director, city of Parma, 6611 Ridge Road, Parma, Ohio 44129-5593, on behalf of the complainant.

Henry W. Eckhart, 50 West Broad Street, Columbus, Ohio 43215 and Barry M. Byron, Law Director, Orange Village, 4230 State Route 306, Suite 240, Willoughby, Ohio 44194, on behalf of Orange Village, intervenor.

Charles E. Merchant, Law Director, city of Bedford Heights, 5661 Perkins Road, Bedford Heights, Ohio 44146, and Katharine Lang Bettasso, Assistant Law Director, city of Bedford Heights, 466 Northfield Road, Bedford, Ohio 44146, and Henry W. Eckhart, 50 West Broad Street, Columbus, Ohio 43215, on behalf of Bedford Heights, intervenor.

Fred Andreas, Attorney at Law, 1392 S.O.M. Center Road, Mayfield Heights, Ohio 44124, on behalf of Mayfield Heights, Ohio, and Lyndhurst, Ohio, intervenors.

Nicholas Phillips, Law Director, 7530 Lucerne Drive, Middleburg Heights, Ohio 44130, on behalf of the city of North Royalton, Ohio, intervenor.

Kevin Weiler, Law Director, 8920 Brecksville Road, Brecksville, Ohio 44141, on behalf of Broadview Heights, Ohio, intervenor.

Walter & Haverfield P.L.L., by Mr. Todd Hunt, Law Director, 1300 Terminal Tower, 50 Public Square, Cleveland, Ohio 44113, on behalf of Richmond Heights, Ohio, intervenor.

Alvin Croucher, Mayor of Moreland Hills, 4350 S.O.M. Center Road, Moreland Hills, Ohio 44022, intervenor.

Walter & Haverfield P.L.L., by Chris Gibbon, Law Director, 1300 Terminal Tower, 50 Public Square, Cleveland, Ohio 44113, on behalf of the city of Pepper Pike, Ohio, intervenor.

Jon F. Kelly, Senior Attorney, Ameritech Ohio, 150 East Gay Street, Room 4C, Columbus, Ohio 43215, on behalf of Ameritech Ohio, respondent.

Betty D. Montgomery, Attorney General of Ohio, Steven T. Nourse, Johnlander Jackson-Forbes, and Jodi Bair, Assistant Attorneys General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the staff of the Public Utilities Commission of Ohio.

#### SUMMARY OF THE PROCEEDING:

The specific timeline for the development of the 216 area code relief plan is as follows:

- 4/95 First of ten industry meetings to discuss area code relief for the 216 area code
- 6/95 Community leaders in Cleveland, Akron, Canton and Youngstown are briefed on the planning process
- 9/95 Northeast Ohio Telecommunications Industry Team reaches consensus on recommending two new area codes to be implemented in two phases (the "two-phase" area code relief plan) for the 216 area code
- 9/95 Bellcore approves the two-phase approach and the area to be covered by the 330 area code established in phase one (the "330 split")
- 9/95 Press conferences held in Akron, Cleveland and Youngstown announcing the two-phase area code relief plan and the boundaries for the 330 split
- 9/28/95 First of seven meetings of the Blue Ribbon Panel
- 3/11/96 Blue Ribbon Panel reaches consensus on the specific area to be covered by the new 440 area code established in phase two (the "440" split)
- 3/15/96 Ameritech Ohio requests Bellcore to assign the 440 area code for phase two of 216 relief plan

- 3/26/96 Bellcore officially accepts relief plan and assigns the 440 area code
- 3/29/96 Blue Ribbon Panel issues its written Report and Recommendation
- 4/4/96 Press conference to announce area code boundaries for the 440 split
- 3/12/97 Bellcore issues its 216/440 Planning Letter
- 6/18/97 City of Parma files PUCO complaint
- 7/21/97 Evidentiary hearing on complaint commences
- 8/16/97 Optional dialing scheduled to begin
- 4/4/98 Mandatory dialing scheduled to begin

As indicated above, on June 18, 1997, the city of Parma filed a complaint<sup>1</sup> against Ameritech Ohio (Ameritech), as the Area Plan Administrator, alleging that the proposed relief plan which would result in Parma having two area codes, violates Sections 4905.26, 4905.35, 4905.381, 4909.16, and 4927.02, Revised Code. Parma sets forth the following claims: (1) despite the fact that a Blue Ribbon Panel was involved in the process of developing the relief plan, the complainant had no real opportunity to participate in preparing the plan and, specifically, no public hearing was held; (2) no formal Public Utilities Commission of Ohio (PUCO) investigation, public hearing, or determination of the fairness, justness, or reasonableness of the plan took place; (3) the proposed plan violates the policy of the state of Ohio, as set forth in Section 4927.02, Revised Code, which is to “ensure the availability of adequate basic local exchange service to citizens throughout the state”; (4) the Federal Communications Commission (FCC) has requested that this Commission review the matter; (5)<sup>2</sup> the proposed plan violates Section 4905.26, Revised Code, as it is unjust, unreasonable, unjustly discriminatory, and unjustly preferential; (6) technology in the way of a “protected code system” is available to protect Parma; and (7) the proposed plan, if implemented, would amount to Ameritech providing inadequate service to the city of Parma. As relief, Parma requested that Ameritech cease and desist from proceeding with the plan to split the city of Parma into two area codes, find that the effect of the proposed plan constitutes an emergency under Section 4909.16, Revised Code, and bar the proposed plan from going into effect, and require Ameritech to submit a new area code plan that would leave the entire city of Parma in the 216 area code.

On July 2, 1997, Ameritech filed its answer to the complaint, denying the allegations that the proposed plan is discriminatory and that Ameritech failed to provide a forum for adequate public input. In addition, on July 2, 1997, Ameritech filed

<sup>1</sup> Attached to the complaint, as Attachment 1, is a letter to the Chairman of the PUCO from the Chief of the Common Carrier Bureau of the FCC, requesting that the PUCO review the relief plan to determine whether it is the alternative that would best meet the needs of Parma and the Cleveland area in a manner consistent with the national numbering administration guidelines.

<sup>2</sup> Complainant’s claims were misnumbered in its complaint. The numbers used herein reflect the correct numbering.

a motion to dismiss the subject complaint, contending that the complaint fails to state reasonable grounds. Ameritech believes that the complaint is moot since the plan in dispute has been accepted by Bellcore and, therefore, has been determined to comply with the established national guidelines, including the appropriate consideration of public input. Ameritech contends that it is too late for the Commission to take any action, considering the months of work that has gone into implementing the approved plan and considering the fact that the permissive dialing phase of the plan is scheduled to begin on August 16, 1997. Ameritech emphasized that any delay in the implementation of the proposed relief plan will adversely affect the upcoming release of telephone directories,<sup>3</sup> which reflect the 440 area code designation and the requisite associated dialing patterns.

By attorney examiner entry issued on July 11, 1997, Ameritech's motion to dismiss was denied and reasonable grounds for complaint were found to have been set forth by the complainant. The matter was scheduled for a prehearing conference on July 17, 1997, and an evidentiary hearing on July 21, 1997, in Cleveland, Ohio. Notice of the hearing was published in the *Cleveland Plain Dealer*, a newspaper of general circulation in Cuyahoga County. The following entities were granted intervention in this proceeding Orange Village, Bedford Heights, Mayfield Heights, North Royalton, Broadview Heights, Moreland Hills, Pepper Pike, Richmond Heights, and Lyndhurst. At that hearing, testimony by 24 Parma residents and residents of other communities who intervened in this proceeding was taken on the record. The hearing was adjourned and reconvened on July 23, 1997, at the offices of the Commission for the purpose of taking testimony of expert witnesses and the staff of the Commission.

#### SUMMARY OF THE EVIDENCE:

##### Public testimony

Under the proposed plan, 13 communities will be served from both the 216 and 440 numbering plan areas (NPAs). They are: Bedford, Bedford Heights, Brookpark, Independence, Lyndhurst, Middleburg Heights, Moreland Hills, Orange Village, Parma, Parma Heights, Pepper Pike, Richmond Heights, and Seven Hills (Ameritech Ex. 1, at 12-13). Specifically, approximately 26 percent of the lines in Parma will be served from 216, while approximately 74 percent of the lines will be served from 440 (*Id.* at 14).

In general, the testimony revealed that all of the witnesses reject the proposed split of area code 216 into another area code and/or are against the splitting of their communities into two separate area codes for a variety of reasons. The underlying theme of this testimony is that splitting Parma would effect the "sense of community", as Dennis Kucinich, U.S. Congressman, 10<sup>th</sup> District of Ohio, testified (Tr. I, 16). Ms. Marsha Harrison, the superintendent of the Parma City School District, testified that the

<sup>3</sup> By examiner entry dated July 11, carriers were banned from issuing any directories announcing the 216 area code split.

district serves 13,000 students out of 21 buildings. The crux of the district's concern is that it will be difficult to communicate with parents efficiently both for the school personnel and the students, if the district were to be split (Tr. I, 30-33).<sup>4</sup> Testimony was also heard from Parma General Hospital, Parmadale Family Services, American National Bank, Parmatown Shopping Center, Parma Chamber of Commerce, and Cox Communication. The concerns related by these entities go to economic impact, inconvenience and customer confusion. In addition, a number of communities, in addition to Parma, testified as to the concern of being split between two area codes and also indicated their desire to get the same relief, if any, that Parma may get as a result of this complaint. It is the belief of these communities that their interests were not represented on the Blue Ribbon Panel by either the Cuyahoga County Regional Planning Commission or by the Cuyahoga County Mayors and Managers Association. Finally, several individuals testified as to their individual concerns as residential customers (Tr. I, 223-243).

The basis upon which Broadview Heights and North Royalton requested intervention is that, if the proposed boundary line for the area code split is not adopted and Parma would remain entirely in the 216 area code, it is likely that these two municipalities, which would otherwise not have been split, would be divided (Tr. I, 10-11). As to this issue, Ms. Robertson, manager of switched software and area code relief planning for Ameritech, testified that, if a change were made to keep the entire city of Parma in the 216 area code, 11 of the other 12 communities that are split under the proposed plan would still be split, absent further action by the Commission. In addition, Broadview Heights and North Royalton would become split if the boundaries of all of the central offices that serve Parma were encompassed. If Parma were to be placed entirely in 440 by moving the boundary, two additional communities, Brooklyn and Brooklyn Heights, would become split communities, as would the city of Cleveland. In that circumstance, 11 of the 12 existing split communities would remain split (Ameritech Ex. 1, at 15-16).

#### Background on the development of the area code plan

Ms. Robertson explained that area codes are administered pursuant to the North American Numbering Plan ("NANP"), which specifies the 10-digit telephone number format for North American countries. Under the NANP, telephone numbers consist of ten digits in the form NPA-NXX-XXXX, where N may be any number from two to nine and X may be any number from zero to nine. Numbering plan areas ("NPAs") are commonly known as area codes. The second three digits of a telephone number are known as the "NXX code", which identifies the central office switch or central office

<sup>4</sup> Ms. Harrison explained that her concern related to calling parents from the school buildings. According to Ameritech's testimony, incoming calls to the schools from within the school district would continue to be seven-digit dialed under the proposed plan. (See Ameritech Ex. 1, at 15).

(“CO”) code to which the telephone number has been assigned.<sup>5</sup> She further explained that a “CO” is normally associated with a specific geographic location within an NPA (Ameritech Ex. 1, at 4-5).

In Ohio, Ameritech serves as the Local Number or CO Code Administrator for the 216, 330, 419, 614, and 937 NPAs. According to Ms. Robertson, among the duties of the CO Code Administrator are (1) the assignment of NXX codes to telecommunications providers; (2) the prediction of area code exhaust; and (3) the development of plans for area code relief (*Id.*).

Between April 1995 until the final industry consensus was reached in September 1995, an industry team studied several alternatives for relief in the 216 NPA (Ameritech Ex. 1, at 9). Ms. Robertson testified that Bellcore, as the NANP administrator, approved a two-phase approach involving a three-way geographic split of the 216 NPA. On September 20, 1995, Bellcore approved the plan for the establishment of the new 330 NPA, which included the Greater Akron, Canton, and Youngstown areas, as the first phase (*Id.* at 9-11). Since no decision was made as to the boundaries of the second phase, Ameritech created the Blue Ribbon Panel, according to Ms. Robertson (*Id.*). The plan for the 216/440 geographic split that was recommended by the Blue Ribbon Panel and that was adopted by the industry team generally retained the Cleveland rate center in the 216 NPA (*Id.* at 11-12).

According to Ameritech, the area code relief plan that is the subject of this complaint does not impact the rates for any call. However, there will be changes in dialing patterns for local calls. All local calls placed within the same area code will require seven digits and all local calls placed between different area codes will require 1+10 digits, except for calls to numbers that are in protected codes, such as those for non-emergency police and fire departments, public schools, and government agencies in the split communities. The usual 1+10 digit dialing patterns (albeit with different area codes) will apply in the case of all toll calls, according to Ms. Robertson (*Id.* at 12).

#### Testimony as it relates to the Blue Ribbon Panel

Ameritech’s witness Mary Lynn Dickman-Engel, who served as project manager for the 330/440 area code introductions, testified as to the work of the Blue Ribbon Panel. In that capacity, she acted on behalf of and in coordination with the telephone industry team, which consisted of all the telecommunications providers in the 216 area code, and was responsible for customer education (Ameritech Ex. 2, at 3). She explained that, when the industry team began looking early on at options that would include the introduction of two new area codes, it looked to Ameritech to take the lead on formulating a recommendation for the phase two boundary since it would be in Ameritech’s territory. As a result, Ameritech formed a broad-based panel, which

<sup>5</sup> Administration of the North American Numbering Plan, Report and Order, 11 FCC Rcd 2588, 2593-94 (1995).

became known as the Blue Ribbon Panel, comprised of various community stakeholders (*Id.* at 6). There were eight voting members, none of which were telephone industry representatives. Industry representatives, however, from Ameritech and GTE Mobilnet attended to provide staff support on technical issues. Specifically, Ameritech provided maps and statistics. The Ohio Consumers' Counsel represented the interests of the residential customers. In addition, Deborah Gnann, Director of the Consumer Services Department of the Public Utilities Commission, served as an ex-officio, non-voting member (*Id.* at 7-9, 12). The panel convened on September 28, 1995 and continued to meet until the industry team announcement was made on April 4, 1996, adopting the final unanimous recommendation of the panel (*Id.* at 12-13).

According to Ms. Dickman-Engel, the panel was advised that the line dividing the 216 area code and the new area code would have to be along central office boundaries unless customers were required to change their seven-digit telephone numbers. In addition, the panel was advised that, in order to meet national guidelines, the ratio of lines served in each of the two areas had to be balanced within approximately 55 percent/45 percent (*Id.* at 10, Attachment 2). Further, she testified that members were given an overview of the basic information needed to understand the area code issue. In particular, they were given an explanation of the telephone network, including a primer on technology, and an explanation of the elements of a telephone number, instruction concerning wire centers and central offices, and other pertinent information (*Id.*). Ms. Dickman-Engel further testified that over 20 options were considered by the panel, and that the splitting of Parma was specifically discussed by the panel (*Id.* at 11, 13).

Mr. Paul Alsenas, director of the Cuyahoga County Regional Planning Commission, and a member of the Blue Ribbon Panel, confirmed the understanding of the various communities that he was not representing the Cuyahoga County Regional Planning Commission<sup>6</sup> at the deliberations of the panel. He explained that the original invitation went to Commissioner Mary Boyle, who was then the President of the Board of the Cuyahoga County Commissioners.<sup>7</sup> Further, he testified that only two alternatives were presented to the panel for consideration, either a geographical split or overlay. No information as to protected codes or local number portability, as technical alternatives, was presented to the panel (Tr. I, 64-65). Mr. Alsenas testified that the panel "had a whole series of criteria that the group was trying to satisfy at the same time." The criteria applied was to avoid splitting municipal boundaries, avoiding splitting school districts, and balancing the number of available numbers to about 45 percent/55 percent within each of the new area code designations (Tr. I, 67-68). He also indicated that the panel considered more than 20 options. According to Mr. Alsenas, Ameritech provided staff services to the panel, and that the panel relied on information

<sup>6</sup> The Commission is comprised of mayoral representatives on a regional basis.

<sup>7</sup> Mr. Alsenas testified that he was specifically representing Commissioner Mary Boyle on the Blue Ribbon Panel (Tr. I, 63).

from Ameritech as to the availability of numbers in each of the options that were being discussed (Tr. I, 70-72). Finally, Mr. Alsenas admitted that "there were no good solutions, but I think the Blue Ribbon Panel members in good faith tried to perform within the constraints that were given to them" (Tr. I, 75). Ameritech refutes Mr. Alsenas' testimony that he was not representing the various municipalities as a member of the Planning Commission by relying on specific excerpts of minutes from board meetings, wherein Mr. Alsenas had briefed members as to the Blue Ribbon Panel's activities (Ameritech Ex. 3).

David Sweet, Dean of the Maxine Goodman Levin College of Urban Affairs at Cleveland State University, chaired the panel. He testified as to the process that the panel went through in arriving at its report and recommendation to the industry team. Mr. Sweet testified that he was contacted directly by Ameritech and asked to chair the panel. He was unaware of who selected the other members of the panel. He also indicated that the issue of protected codes along with information concerning the options raised in Dr. Selwyn's testimony were not presented to the panel. Finally, he indicated that the panel did not engage in specific discussions relative to the number exhaust situation (Tr. I, 298-358).

#### The need for relief

Dr. Lee Selwyn, president of Economics and Technology, Inc., who testified on behalf of Parma, recommends that the Commission postpone the split of 216; that it initiate an investigation and audit of the utilization of codes within the 216 NPA, particularly the approximately 200 that have been assigned to wireless carriers; that the Commission determine whether the Central Office Code Assignment Guidelines have been followed; and that it determine whether the demands placed on number resources by wireless carriers are reasonable and in the public interest. In his opinion, the number of codes that have been assigned in 216 NPA as of the month of June, and as contained in the local exchange routing guide, is approximately 535, which would leave approximately 250 available codes. Therefore, he concludes that there is no immediate requirement for the introduction of another area code. Dr. Selwyn believes that wireless demand should be removed from any further growth factor, and that the wire line growth is fairly minimal. In addition, he testified that, once local number portability for wire line service takes effect next year, there should be no particular impact of the introduction of new wire line carriers on the total number demand (Tr. II, 8-18).

According to Ms. Robertson, exhaust is projected as early as the second quarter of 1998. Only 89 codes remained as of the date of her prefiled testimony, and codes are being assigned at the average rate of 15 per month this year (Ameritech Ex. 1, at 7). Since January 1, 1997, 126 NXX codes have been assigned in the 216 NPA (Ameritech late-filed

Ex. 11).<sup>8</sup> Ms. Robertson testified that, with the advent of new technology and the opening of the local exchange market, it is difficult to accurately forecast future demand. In particular, the Code Administrator is usually not aware of a new service provider's intentions until a request is made. Ms. Robertson cited to an example wherein a new provider has recently requested 23 NXX codes in the 216 NPA (Ameritech Ex. 1, at 17). Staff witness Potter testified that he had no reason to dispute Ameritech's calculation of the current state of the NXX codes (Tr. II, 264-265).

### Alternative solutions

Initially, Dr. Selwyn asserts that permanent data base local number portability will render further area code relief unnecessary from many years into the future (Parma Ex. P, at 23-41). He explained that, with such technology, numbers can be assigned one at a time, as needed by carriers to serve individual customers. He acknowledged, however, that it will not take effect until "next year" (Tr. II, 17). In the meantime, Dr. Selwyn proposes several interim solutions to "bridge the gap" between now and the availability of local number portability (Parma Ex. P, at 13).

Ms. Robertson explained that, once number portability is fully implemented, carriers will be able to "port" numbers to each other. The impact of this technology on the number of code requests is not certain at this time. Number portability, according to Ms. Robertson, is scheduled to be implemented for wireline carriers in Cleveland between January 1, 1998 and May 15, 1998. Consequently, according to Ms. Robertson, the relief planning process must continue (*Id.* at 18-19).

Staff witness Scott Potter testified that the projected date for the start of the location routing number/local number portability system trial in Chicago<sup>9</sup> was to begin August 11, 1997. His testimony reveals that local number portability is not ready to be implemented and casts doubt as to any certainty as to the status of its implementation (Tr. II, 268-269).

Next, Dr. Selwyn criticizes Ameritech for not assigning anything less than full NXX codes in blocks of 10,000 and, therefore, suggests his first solution as NXX code splitting. He testified that NXX code splitting which requires the translation of seven digit (NPA-NXXX-X), can and should be implemented immediately with respect to all new NXX code assignments and to all presently-assigned but not as yet opened NXX codes, confined to the same rate center, as an interim solution until local number portability can occur. While it is the typical industry practice to assign only one central office switching entity to a given NXX code, long-standing routing protocols permit and

<sup>8</sup> Ameritech's late filed Ex. 11, filed on July 29, 1997, indicates that an additional 10 codes are available, which would now make the total 99.

<sup>9</sup> Location routing number/local number portability is the system which the Ameritech region is developing to address the requirement under the Telecommunications Act of 1996 that local number portability be instituted.

support splitting of the same NXX code among multiple switching entities, according to Dr. Selwyn. Further, he testified that codes can be split in integral blocks of 1,000 numbers, and that unoccupied 1,000-number blocks in previously assigned NXX codes should be immediately returned to the code administrator for reassignment. Industry guidelines describe code splitting or code sharing as the assignment of the same central office code to two or more central office entities, thereby gaining increase use of station numbers in low-fill offices (Parma Ex. P, at 24-25). Dr. Selwyn acknowledges that there would be operational changes and costs involved in his proposal, indicating that they would likely be negligible, but admitted that he had not conducted a specific study to determine what these costs actually would be (*Id.* at 27; Tr. II, 76).

Ms. Robertson testified that she is aware of situations where a single code holder, as may have a block of 10,000 numbers split between more than one switching entity in a single rate center (Tr. II, 151). Dr. Selwyn acknowledged that he was not aware of any situation in the United States where the assignment of codes at the NXX-X level is in place today among competing local exchange carriers (*Id.* at 68). According to the Industry Carriers Compatibility Forum (ICCF) report, the impact of the NXX proposal on call routing could be mitigated if the infrastructure to support portability were in place (Ameritech Ex. 10, at 10).

Ms. Robertson explained that number pooling is an arrangement that permits more than one service provider to use phone numbers from a single NXX block. It can be accomplished simply by requiring the code administrator to assign carriers numbers in blocks of 1,000, rather than blocks of 10,000, and by mandating that those carriers holding already assigned blocks of numbers share numbers in blocks of 1,000. She indicated that there is no information available today as to the utilization of numbers assigned in blocks of 1,000, and that the industry is just beginning to analyze this concept (Ameritech Ex. 1, at 20).

Dr. Selwyn also proposed utilization of a temporary transparent overlay. This option would require the use of interim Remote Call Forwarding (RCF) number portability technology, using NXX codes from another NPA or by obtaining a temporary NPA for this purpose. Dr. Selwyn acknowledged that a drawback with this option is that telephone numbers that are ported with call forwarding may not support CLASS services. (Parma Ex. P, at 28-29). Ameritech points out that RCF number portability technology has been the subject of several Commission proceedings and, in particular, cites to the Commission's local service guidelines which recognize the "relative inferior quality of the service provided" in connection with interim number portability using RCF (Ameritech Br. at 65-66).

An additional interim solution proposed by Dr. Selwyn was route indexing, which is untried in Ohio. Route indexing permits calls to ported numbers to be redirected to a different switching entity without requiring that the customer be assigned a number in the "target" switch. Route indexing is analogous to, and utilizes

essentially the same technology as, Direct Inward Dialing (DID) arrangements that are commonly provided to PBX customers (Parma Ex. P, at 31-32). Dr. Selwyn explained that, with DID, the central office forwards the call along with the dialed number to the PBX, which then completes the call to the designated PBX extension. According to Dr. Selwyn, when utilized to accomplish interim local number portability, the relationship between the home switch and the target switch is essentially the same as that between the home switch and a DID PBX (*Id.*) Further, Dr. Selwyn refers to advantages of route indexing over RCF. First, he explained that route indexing eliminates the need for the assignment of a second telephone number to the customer's line in the target switch. If route indexing is used instead of RCF, there may be less or even no need for a temporary transparent overlay, according to Dr. Selwyn. Next, he indicated that RCF uses more capacity in the forwarding switch than does route indexing, so as to make route indexing more practical to implement (*Id.*)

Further, Dr. Selwyn proposed that protected codes (NXX codes that are not assigned) would be virtually a costless method which would allow Parma and other communities to retain integral NPA identity while permitting the planned split to go forward. Dr. Selwyn explained that this could be accomplished by redrawing the area code boundary so that the entire city of Parma would fall within 216. NXX codes that are assigned to customers on both sides of the revised boundary would be permissively dialable using either the 216 or 440 area code. According to Dr. Selwyn, with local number portability-based pooling available within less than a year, he is not concerned about exacerbating the utilization of NXX codes (Parma Ex. P, at 47-48).

Ms. Robertson testified that it is technically feasible to protect codes in order to maintain seven-digit dialing across an area code boundary. She explained that there are a variety of reasons why a code might be protected. These would include N11 codes such as 411 and 911 and NXX codes that are also adjacent NPAs to prevent misdialed calls. For example, in the 216 NPA, 330 is a protected code and in the 330 NPA, 216 is a protected code. Specifically, in order to sustain seven-digit local calling between 216 and 440 within Parma, 26 NXX codes working in Ameritech central offices serving Parma would have to be protected in 440. On a going forward basis, any new codes that would be assigned to Ameritech in the Parma central office would also have to be protected in 216 along with any new codes that would be assigned to new carriers who may obtain 440 codes to serve Parma. The reverse would be true on the other side of the 216 side. If such remedy is applied to all of the communities which would be split under the plan, approximately 173 NXX codes would have to be protected. It is Ms. Robertson's opinion that the ongoing use of protected codes could have a significant impact on the next 216 and future 440 exhaust date and contradicts the efficient utilization of numbers (Ameritech Ex. 1, at 23-25). According to the NPA Code Relief Planning and Notification Guidelines, Section 5.0(q), "the use of protected codes, which permit seven-digit dialing across NPA boundaries, should be eliminated or reduced to an absolute minimum as part of the NPA code relief planning process (*Id.*, Attachment 1, at 6-7). Ms. Robertson confirmed that the seven-digit dialing has been offered for police, fire,

schools and government agencies in the split communities. This would involve the protection of 31 codes between 216 and 440 (Ameritech Ex. 1, at 26).

On cross-examination, Ms. Robertson explained that protected codes allow customers in a split community to retain some seven-digit dialing within the local calling area and within the community. However, the correct area code (216 or 440) must be dialed after the permissive period outside of these restrictions (Tr. II, 162-163). Thus, Ameritech asserts that the use of protected codes would not change the fact that Parma and the other 12 communities that will be split would each still have customers assigned to both the 216 and 440 area codes (Ameritech Br. at 69) .

Dr. Selwyn also proposed rate center consolidation. Dr. Selwyn acknowledged that his suggestion that rating centers be consolidated would necessarily impact the rating of measured rate local calling, which is often the form of calling implemented in EAS cases. In particular, he testified that “it might require some adjustments, perhaps small, in the definition of local calling areas and of EAS rating areas and calling bands.” (Tr. II, 64-65). According to the ICCF Report on Rating and Routing in a Competitive Local Environment, such consolidation “may impact the existing local calling area and/or modify the existing toll rate boundaries. Accordingly, this proposal might be rate impacting and could cause considerable customer confusion.” (Ameritech Ex. 10, at 10).

Ameritech argues that the existence of rate centers is critical to the rating of traffic, both local and toll. Adoption of Dr. Selwyn’s proposal would require the Commission to open up the public policy debate of flat-rate versus measured-rate EAS, and perhaps even the issue of the availability of EAS, according to Ameritech. Ameritech is concerned that the “small adjustments” will loom large as the Commission considers the many serious implications of Dr. Selwyn’s proposals (Ameritech Br. at 60-61).

#### DISCUSSION:

This is a case of first impression for this Commission. In the past, the Commission has not been called on to make an official adoption of any such plan. This case, however, is the first challenge to a proposed relief plan. As such, the Commission must first analyze and establish the standards by which it should adjudicate the complaint. The specific questions which must be answered by us in this case are: 1) Is there a need for area code relief? and 2) Is the proposed plan just and reasonable?

In considering this complaint, the Commission must also be guided by the controlling federal law and policy in this area. Section 251(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, confers upon the FCC exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States, but authorizes the FCC to delegate to state commissions or other entities all or any portion of that jurisdiction. Traditionally, Ameritech has been

responsible for area code relief planning in all but the 513 NPA, as the central office code administrator. The FCC has authorized states to resolve matters involving the implementation of new area codes.<sup>10</sup> State commissions may determine which methods of area code relief, such as geographic splits and overlays, would best meet the needs of their communities, so long as they act consistently with the FCC's guidelines for numbering administration. Those guidelines state that numbering administration 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. Finally, the FCC has concluded that "geographic area code splits and boundary realignments are presumptively consistent with the Commission's numbering administration guidelines..." (Second Report and Order at para. 284).

At the outset, we find that the evidence demonstrates that area code relief, as planned and supported by the industry team, is necessary. The commission has not simply taken Ameritech's word on this issue; our staff has done its own independent analysis of the usage of numbers within the 216 area code. The record was further supported by the Commission's staff witness, Scott Potter, who testified that he had no reason to dispute Ameritech Ohio's calculation of the current state of the NXX codes (Tr. II, 264-265). Mr. Potter further testified that staff's initial analysis of a data request which it issued to the service providers in the 216 area code who hold NXX codes indicates that at least 572 codes had been assigned to 14 of the 30 code holding companies. Mr. Potter's opinion is that this number certainly would be higher if all the companies' responses were received and analyzed (See staff Ex. 1 and 2; Tr. II, 247, 249-250).

We acknowledge that the problem with area code exhaust has been caused, in part, by adherence to traditional industry standards of providing competitors with NXXs in blocks of 10,000 numbers. Without local number portability, once one number is used within a block the rest of that block is unavailable for assignment to another carrier regardless of how many numbers in the block it may be using. The Commission is taking steps today to address this problem on a going forward basis as will be discussed below.

Moreover, we cannot ignore additional demand due to advanced technology, e.g., fax machines and second lines due to computers. The reason for the area code split clearly reflects both the advent of more competition in telecommunications and the revitalization of the greater Cleveland economy and its keeping pace with technological innovation. Both are clearly aspects of development which are consistent with the state's telecommunications policy embodied in Section 4927.02 of the Revised Code. Unfortunately, the number exhaustion is an adverse consequence of these

<sup>10</sup> *In the Matter of the Implementation of the Local competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Second Report and Order (FCC 96-333) (August 8, 1996), at para. 271.

otherwise positive developments. Based on these factors, we find that the need for area code relief is necessary at this time to prevent the extremely adverse consequences of total number exhaust in the greater Cleveland 216 area code.

The complainants proposed that several possible technical solutions could either ameliorate the impact of the area code split or cause reason to delay the actual implementation of an area code split at this time. As more fully explained below, the Commission has carefully considered each of these proposals. We do appreciate the detailed presentation made by Parma and have carefully considered each of the alternatives it has proposed in our analysis.

First, we agree with Ameritech that the use of protected codes, even in the limited application of providing for seven-digit dialing for Parma, would be contradictory to the goal of maintaining an adequate supply of numbers. Clearly, such remedial application would accelerate the exhaust situation. We must reject this proposal.

Next, as for route indexing, we must reject this as an interim solution to number portability in light of the fact that permanent number portability is on tract, albeit a slow one. We specifically declined to adopt it as a requirement in the AT&T/Ameritech arbitration, concluding that it would be inefficient to devote substantial resources or time to implementing it since it was an interim solution only.<sup>11</sup> Nothing has been presented in this case to change and was not either technically or economical feasible our previous determinations on this issue. Further, we found that other currently available solutions already existed on an interim basis.

Next, as to the proposal for code splitting, the Commission agrees with Dr. Selwyn's testimony that the splitting of NXX codes between carriers will provide for the more efficient use of numbers and the delay of area code exhausts. However, the record does not indicate that Ameritech could have or should have been expected to divide NXXs between carriers to date. Based on the record, the Commission is of the opinion that NXX code splitting between competing carriers is a new number assignment methodology being investigated by the industry as well as state and federal regulators. However, even if number portability is operational in the near term, the record does not indicate that, at least for the 216 area code, number conservation through the porting of unused 1000s blocks of numbers would be a viable solution for relieving future 216 exhaust. The 216 area code is a very old code and, based on staff analysis, there would only be available a few clean 1000s blocks of numbers. Therefore, code splitting as a solution to postpone the future exhaust of 216 is unlikely.

Dr. Selwyn's next proposal was rate center consolidation. The Commission understands that NXXs cannot typically serve more than one rate center. Theoretically

<sup>11</sup> *AT&T Communications of Ohio, Inc.*, Case No. 96-752-TP-ARB, Arbitration Award, December 5, 1996, at 24.

speaking, to the degree that less than densely populated rate centers have more unused numbers, the consolidation of rate centers would make available more numbers in the higher demand, more densely populated rate centers. However, the Commission is of the opinion that the consolidation of rate centers is not a reasonable solution to the 216 exhaust. Changing rate center boundaries would have an impact on the rating of both local and toll services. The Commission agrees with Ameritech's argument that changing customer rates to forestall area code exhaust would have many serious implications and engender significant debate and Commission proceedings. For these reasons rate center consolidation is not reasonable.

The final proposal at issue is transparent overlay. While Dr. Selwyn suggests that a transparent overlay can technically allow for customers to maintain their 216 telephone number, the Commission is of the opinion that such an overlay is not a reasonable solution to the 216 area code exhaust. Based on the record, it is our understanding that the use of transparent overlay would require all calls to numbers in the overlay area to be remotely forwarded to a transparent number from a temporary or neighboring NPA. One primary concern we have is that remote call forwarding may not support CLASS features including 9-1-1- or E-9-1-1. The loss of 9-1-1 services to all or some significant portion of Parma residents does not seem to be a reasonable solution. Furthermore, the record does not offer us any evidence that the current public switched network will reliably handle such a volume of forwarded calls.

Additionally, while number portability may slow down the accelerated assignment of NXXs, the record is not clear as to what impact this new technology would have and when this may actually be implemented. Significant technical issues still need to be addressed before number portability could be perceived as a solution. The record does reflect that permanent number portability, when it becomes available, may lend to additional options in connection to area code relief efforts. However, until such time, there are no appropriate substitutes for the area code relief plan. Certainly, we are supportive of Ameritech's efforts in resolving the number portability issues. In fact, as the record indicates, we have, on a regional basis, dedicated staff to provide technical assistance on this issue.

We concur with the complainants that numbeAs Dr. Selwyn indicated, before NXX splitting in conjunction with local number portability, even if a carrier anticipates a demand for only a single NXX-X block (or less) for a given rate center, an entire NXX will be assigned. This inefficient process results in multiple NXX-X blocks becoming unavailable unnecessarily, thus thwarting future pooling efforts. To that end, we are initiating by entry issued this same date a Commission Ordered Investigation (COI) into this matter, in Case No. 97-884-TP-COI. In this docket, the Commission will explore the following: (a) telephone number usage in Ohio, (b) current number assignment procedures, (c) future area code relief plan development procedures, and (d) future number conservation possibilities.

Another concern raised by the complainants is that the plan was developed without sufficient public input, and that the process surrounding the Blue Ribbon Panel was flawed. As there is no perfect plan, there is no perfect process to develop such a plan. Direct participation of every municipality who could potentially have been impacted by the area code split would be ideal, but clearly not reality. Even so, we find that Parma itself had available a vehicle by which to become involved through its affiliation with the Regional Planning Commission. More importantly, the residential subscribers were represented by the Consumers' Counsel. Although the Ohio Consumers' Counsel did not choose to testify in this case to explain his rationale, the record is undisputed that his representative to the Blue Ribbon Panel signed off on the panel's recommendation after recommending certain language changes, which were incorporated into the final draft (Tr. I, 364, 374; Tr. II, 207). While the Commission took extensive testimony on the workings of the panel, we do not find that the process by which the plan evolved, in and of itself, should be pivotal in our deliberations as to whether the plan is reasonable. Rather, we must look at the result. Consequently, we find the criticisms raised by the complainants in this case as they relate to the activities surrounding the panel to have little relevance in terms of whether the plan is reasonable.

Further, we find that certain criteria had to be met and were met in developing this plan. Those include: the avoidance of splitting central offices and, therefore, avoiding seven-digit number changes; the balancing of prefixes between the two area codes; and the consideration of future growth of both landline and wireless carriers. While we certainly believe that avoiding the splitting of municipalities and school districts is a goal, it simply was unachievable in this case. Given the complexity and overlap of the central office boundaries and political jurisdictions, we find that it would be impossible to meet these goals on top of the above-listed criteria. We have conducted our own independent analysis, reviewing multiple options in light of the established criteria, and still conclude that the proposed plan, while not perfect, is reasonable and equitable and minimized the impact on the fewest number of municipalities. One of the many claims set forth in the complaint in this matter is that Parma is the victim of undue or unreasonable prejudice or disadvantage which is prohibited by Section 4905.35, Revised Code. However, the record clearly demonstrates that Parma, which is similarly situated to the 12 other communities that will be served by more than one area code, is being treated similarly to those other communities. Moreover, the record clearly reflects that the legitimate technical reasons for serving Parma from two area codes, given all of the circumstances, justify treating Parma and the other communities differently than those that will be served by only one area code. Thus, we fail to find that the plan results in unjust discrimination as prohibited in Section 4905.26, Revised Code, or undue or unreasonable prejudice or disadvantage under Section 4905.35, Revised Code. We note that Ameritech's plan to continue indefinitely permissive dialing for non-emergency police, fire, school, and government agency numbers is a reasonable response to the communities concerns.

Finally, in addition to finding that a number exhaust situation does currently exist in the 216 area code, that carrying out the second phase of the 216 area code split is necessary, and that none of the proposed technical solutions can practically be applied in this case, we must look at this plan in light of the fact that optional dialing is to go into effect in two days. That fact alone puts the Commission in an onerous situation, knowing that significant publicity and information about the proposed plan has been disseminated already. That being the case, we cannot simply analyze the reasonableness of the plan in a vacuum; rather, we have to consider the confusion and costs which would be involved in changing the plan at this late date to Ameritech and its customers as well as to other carriers and their customers, e.g., amending notice in directories and changing advertising and promotional material. Further confusion would result with the splitting of new communities which would have had little or no notice and perhaps incurred costs in preparation for the new area code. Moreover, new area code boundary lines would have to be drawn very quickly in these new split communities, which would include Broadview Heights and North Royalton, if Parma was kept in the 216 NPA, and Brooklyn, Brooklyn Heights and the city of Cleveland, if Parma were to be moved entirely into the 440 NPA. Furthermore, a revised plan would have to be resubmitted to Bellcore for approval which would cause further delay and could be subject to FCC review. Such delay of the implementation date could potentially place the 216 area code in a number jeopardy situation. In other words, we do not find that any of the other options, technical or otherwise, are so superior to the Ameritech one so as to outweigh the potential harm which might be caused to customers and other communities by changing the plan at this late date. Clearly, this Commission would have had more latitude to address Parma's concerns had these concerns been more timely raised at the Commission.

#### CONCLUSION:

After considering all of the testimony and record evidence, we find that the proposed plan is not unreasonable under the circumstances and that it should be implemented, as scheduled. While the alternatives and interim solutions posed by Dr. Selwyn in this case cannot practically be applied at this time, we find merit in exploring in more detail how they could be applied on a going forward basis. As set forth above, the Commission is committed to doing so in the context of the COI. There is no question that the introduction of the new area code will have an impact one way or another on business and residential subscribers. However, we firmly believe that the impact may be mitigated through customer education during the permissive dialing period. Therefore, we endorse the scheduled implementation of the area code relief plan and request that Ameritech work with the company and the affected communities and customers to ease the transition required by the plan. The Commission is committed to assisting in this effort as well. Finally, the Commission finds that it would be appropriate to lift the ban on the issuance of directories announcing the new area code on August 21, 1997.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On June 18, 1997, the city of Parma filed a complaint with the Commission against Ameritech Ohio as Area Code Administrator, alleging violations under Sections 4905.26, 4905.35, 4905.381, 4909.16, and 4927.02, Revised Code.
- (2) On July 2, 1997, Ameritech filed its answer to the complaint and a motion to dismiss the complaint.
- (3) By examiner entry issued on July 11, 1997, Ameritech's motion to dismiss was denied and reasonable grounds for complaint were found to have been set forth in the complaint.
- (4) Notice of hearing was duly published in the Cleveland Plain Dealer, a newspaper of general circulation in Cuyahoga County.
- (5) An evidentiary hearing commenced on July 21, 1997, in Cleveland, Ohio, and reconvened on July 23, 1997, at the offices of the Commission.
- (6) Nine municipalities filed for and were granted intervention in this case.
- (7) Twenty-Four witnesses from Parma and surrounding communities testified as to the impact of the proposed split of the 216 NPA.
- (8) The plan to split the 216 NPA, as accepted by Bellcore, is not unjust or unreasonable in violation of section 4905.26, Revised Code.
- (9) The plan, which results in the splitting of Parma and 12 other communities, does not result in undue or unreasonable prejudice or disadvantage in violation of Section 4905.35, Revised Code.
- (10) A number exhaust situation currently exists in the 216 NPA, and the second phase of the 216 area code split, as proposed, should be carried out, as scheduled.

It is, therefore,

ORDERED, That this complaint be dismissed. It is, further,

ORDERED, That the stay on the issuance of any directories announcing the area code will be lifted on August 21, 1997. It is, further,

ORDERED, That this case be closed of record. It is, further,

ORDERED, That a copy of this Opinion and Order be served upon all parties of record and all local service providers in the 216 area code.

THE PUBLIC UTILITIES COMMISSION OF OHIO

-----  
Craig A. Glazer, Chairman

-----  
Jolynn Barry Butler

-----  
Ronda Hartman Fergus

-----  
David W. Johnson

-----  
Judith A. Jones

MKF/vrh