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Public Service Commission

June 28, 2001

VIA AIRBORNE EXPRESS

Ms. Magalie R. Salas, Secretary
Federal Communications Commission
Portals II, TW-A325
445 Twelfth Street, SW
Washington, DC 20554

Re: Florida Public Service Commission Petition for Expedited Declaratory Statement and/or Petition for Expedited Temporary Waiver of 47 C.F.R. 52.19(c)(3)(ii) in the 954 NPA, CC Docket No. 96-98

Dear Ms. Salas:

Enclosed is an original and fifteen copies of the Florida Public Service Commission's Petition for Expedited Declaratory Statement and/or Petition for Expedited Temporary Waiver of 47 C.F.R. 52.19(c)(3)(ii) in the 954 NPA. Please date-stamp and return one copy in the enclosed, postage-paid envelope.

Sincerely,

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Bureau of Intergovernmental Liaison

Harold McLean, Esquire
General Counsel

CBM:tf

Attachment

cc: Chief, Competitive Pricing Division, Common Carrier Bureau
International Transcription Services
Brad Ramsay, National Association of Regulatory Utility Commissioners

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
Florida Public Service Commission)
Petition for Expedited Declaratory)
Statement and/or Expedited Petition) CC Docket No. 96-98
for Temporary Waiver of 47 C.F.R.)
Section 52.19(c)(3)(ii) in the)
954 NPA)

**FLORIDA PUBLIC SERVICE COMMISSION
PETITION FOR EXPEDITED DECLARATORY STATEMENT AND/OR
PETITION FOR EXPEDITED TEMPORARY WAIVER OF
47 C.F.R. 52.19(c)(3)(ii) IN THE 954 NPA**

Pursuant to Rule 1.2 of the Federal Communications Commission (FCC) Rules (47 C.F.R. 1.2), the Florida Public Service Commission (FPSC) seeks a declaratory ruling to remove uncertainty. In the alternative, the FPSC seeks a temporary waiver of 47 C.F.R. 52.19(c)(3)(ii) in the 954 numbering plan area (NPA).

By Order No. PSC-00-1937-PAA-TL, issued October 20, 2000, in Docket No. 990457-TL, the FPSC approved a relief plan for the 954 area code. The North American Numbering Plan Administrator (NANPA) subsequently assigned 754 as the new area code for relief of the 954 NPA. The FPSC withheld approval of implementation dates pending the outcome of the various number conservation measures which included a 954 NPA number pooling trial that was implemented January 22, 2001. The FPSC directed the Local Exchange Companies in the affected area codes to jointly file a notice to inform the FPSC of the outcome of various number conservation measures and

recommend, no later than October 1, 2001, the permissive and mandatory dialing periods.

On March 22, 2001, NANPA advised the FPSC that a critical situation has been uncovered in the 954 and 561 NPAs. NANPA stated that due to certain established extended area service (EAS) routes between the 954 NPA and the 561 NPA, the Coral Springs, Deerfield Beach, Pompano Beach, and Fort Lauderdale rate centers in the 954 NPA had only 14 NXXs available for assignment out of the possible 119 NXX codes remaining in the 954 NPA. NANPA also advised the FPSC that due to the EAS calling scopes across NPA boundaries, the Delray Beach and Boca Raton rate centers in the 561 NPA had only 6 NXXs available for assignment out of the possible 143 NXX codes remaining in the 561 NPA. These situations are due to the number of codes protected for seven-digit dialing.

Because of this critical situation, NANPA held an industry teleconference on April 10, 2001, to re-address the current 954 and 561 NPA rationing procedures approved by the industry. During that teleconference, the industry approved, by consensus, a new rationing plan for the Delray Beach and Boca Raton rate centers in the 561 NPA of one code per month for the six remaining available NXX codes that are available for these two rate centers. The Industry also approved, by consensus, a new rationing plan for the Coral Springs, Deerfield Beach, Pompano Beach, and Fort Lauderdale

rate centers of two codes per month for the remaining available NXX codes that are available for these two rate centers.

Also on April 10, 2001, carriers in the affected areas filed a petition with the FPSC to establish implementation dates for the 954 area code. In that petition, the carriers suggested two options that would eliminate the code conflicts, allow carriers access to numbering resources, and minimize any potential technical problems: (1) the FPSC could change the EAS dialing from 7 to 1+10-digit dialing, or (2) the FPSC could implement the overlay relief plan adopted in Order No. PSC-00-1397-PAA-TL.

Option one (changing the EAS dialing from 7 to 1+10-digit dialing) would require customers in the affected EAS areas to switch from 7 to 1+10-digit dialing, and then change back to 10-digit dialing once the new 754 overlay is implemented. The FPSC believes that this option is unacceptable because the multiple dialing changes would be completed within a very short time frame and it would create excessive consumer confusion.

Option two (implementing the new 754 overlay immediately), the industry's consensus choice, would implement the new 754 overlay in two phases. Phase one would implement 7 to 10-digit permissive dialing within Broward County for the 954 area code as well as implement the 754 NPA on a mandatory 10-digit basis at the same time. Phase two would implement permissive 7 or 10-digit dialing

for the 954/754-561 EAS routes, with later 10-digit mandatory dialing for these EAS routes between Broward and Palm Beach Counties.

The FPSC approved Option two of the industry's consensus proposal at its June 12, 2001, Agenda Conference. The FPSC believes that this action will provide the most practical, expeditious, and least disruptive solution to a critical situation existing in the 954 and 561 NPAs. Although 47 C.F.R. 52.19(c)(3)(ii) states "No area code overlay may be implemented unless there exists, at the time of implementation, mandatory ten-digit dialing for every telephone call within and between all area codes in the geographic area covered by the overlay area code," the FPSC believes that its June 12, 2001, vote is not inconsistent with this rule.

The FCC's intent behind requiring ten-digit dialing when an NPA overlay is activated is to ensure that competition is not deterred as a result of local dialing disparity.¹ According to the FCC, absent mandatory ten-digit dialing, customers will be deterred from choosing competitors to the incumbent because the incumbent's customers, most of whom have telephone numbers in the old NPA, can dial seven digits to call other users in the old NPA, while the competitor's customers will be mostly assigned numbers in the new

¹ *Local Competition Second Report and Order*, 11 FCC Rcd at 19518-19. The Commission reaffirmed this rationale in the *Third Reconsideration, Local Competition Second Report and Order*, 14 FCC Rcd at 17990-96.

overlay NPA, and will have to dial ten digits to reach a telephone user in the old code.²

The FPSC's decision to implement the 754 NPA overlay with mandatory 10-digit dialing, while simultaneously implementing 7 or 10-digit permissive dialing in the 954 NPA, is clearly not to hinder competition, but rather to provide needed numbering resources in this area as soon as possible. The industry reached a consensus that the best relief plan under the circumstances is to implement 7 or 10-digit permissive dialing in the 954 NPA, while simultaneously implementing 10-digit mandatory dialing in the 754 NPA. As mentioned above, the FPSC agreed with the industry through its vote at the June 12, 2001, agenda conference. The FPSC, therefore, respectfully requests a declaratory ruling that this temporary action is not inconsistent with 47 C.F.R. 52.19(c)(3)(ii).

If, however, the FCC believes that implementing the 754 NPA overlay with mandatory 10-digit dialing for the 754 NPA, while concurrently having 7 to 10-digit permissive dialing in the underlying 954 NPA may be inconsistent with 47 C.F.R. 52.19(c)(3)(ii), the FPSC requests a temporary waiver of 47 C.F.R. 52.19(c)(3)(ii) in the 954 NPA. The FPSC believes that a temporary

² *Local Competition Second Report and Order*, 11 FCC Rcd at 19518-19.

eight-month waiver would provide the necessary time frame to conduct a 7 to 10-digit permissive dialing period in the 954 NPA, while having mandatory 10-digit dialing for the 754 overlay. This eight-month time frame would allow the alarm industry sufficient time to make the necessary changes to its systems, provide the necessary consumer education, and furnish carriers with necessary numbering resources.

The FCC Common Carrier Bureau (CCB) previously has considered three requests for waiver of the ten-digit dialing requirement. The CCB denied two requests from state public utility commissions for a permanent waiver of the ten-digit dialing requirement in the case of the activation of an overlay NPA,³ and granted one.⁴ In both cases where it denied waiver requests, the CCB did, however, grant temporary delays of seven and eight months for implementing ten-digit dialing, citing three factors: (1) insufficient time to adjust telecommunications networks for the change to ten-digit

³ Pennsylvania Public Utility Commission Petition for Expedited Waiver of 47 CFR Section 52.19 for Area Code 412 Relief, DA 97-675, *Memorandum Opinion and Order*, 12 FCC Rcd 3783 (CCB 1997) (*Pennsylvania Order*); New York Department of Public Service Petition for Expedited Waiver of 47 CFR Section 52.19(c)(3)(ii), *Order*, DA 98-1434, 13 FCC Rcd 13491 (CCB 1998) (*New York Order*).

⁴ Public Utility Commission of Texas Petition for Expedited Waiver of 47 CFR Section 59.12(c)(3)(ii) for Area Code Relief, DA 98-2141, *Memorandum Opinion and Order*, 13 FCC Rcd 21798 (CCB 1998) (*Texas Order*). In the *Texas Order*, the Bureau observed that the Texas commission did not finalize area code relief plans until shortly before exhaust, and consequently, only five months remained in which to prepare customers for the change in local dialing patterns and to program alarm equipment. *Id.* at para. 8.

dialing;⁵ (2) insufficient time to educate customers to the change in dialing patterns;⁶ and (3) conditions relating to geographic uniformity in the areas affected that weighed in favor of a temporary delay.⁷

In conclusion, the FPSC believes that unforeseen "special circumstances" have occurred in the 954 NPA, and that immediate action is imperative. Therefore, the FPSC requests a declaratory ruling that temporary implementation of the 754 NPA overlay with mandatory 10-digit dialing for the 754 NPA, with concurrent 7 to 10-digit permissive dialing in the underlying 954 NPA, in this instance, is not inconsistent with 47 C.F.R. 52.19(c)(3)(ii). In the alternative, we ask for a temporary eight-month waiver of this rule for the 954 NPA.

Expedited treatment of this petition is imperative in order to provide necessary numbering resources in the 561 and 954 NPAs. It is estimated that only a six-month supply of numbers is available in the Delray Beach and Boca Raton rate centers of the 561 NPA (one per month rationing), and a seven-month supply of numbers is

⁵ *Pennsylvania Order* at para. 25 (granting an approximately seven-month delay to implement ten-digit dialing after area code overlay). *See also New York Order* at para. 16 (granting an approximately eight-month delay to implement ten-digit dialing after area code overlay).

⁶ *Pennsylvania Order* at para. 25, *New York Order* at para. 16.

⁷ *New York Order* at para 15.

available in the Coral Springs, Deerfield Beach, Pompano Beach, and Fort Lauderdale rate centers (two per month rationing).

Immediate action by the FCC is essential to prevent carriers, and ultimately, the citizens of Florida, from running out of telephone numbers in the 561 and 954 NPAs. We, therefore, respectfully request that the FCC take action on this petition by September 1, 2001. If the FCC fails to make a decision by that date, the FPSC will have no other option than to proceed and require carriers to implement the FPSC decision made at the June 12, 2001, agenda conference to provide numbering resources to carriers, and ultimately the citizens of the State of Florida.

WHEREFORE, the FPSC petitions the FCC for this expedited declaratory statement and/or petition for expedited temporary waiver of 47 C.F.R. 52.19(c)(3)(ii) in the 954 NPA. The FPSC seeks a ruling by September 1, 2001.

Respectfully submitted,

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Florida Public Service Commission
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FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
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DATED: June 28, 2001

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing petition of the Florida Public Service Commission will be sent this date to the parties on the attached service list.

Cynthia B. Miller, Esquire
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DATED: June 28, 2001

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