

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for review of
proposed numbering plan relief
for the 305/786 area code - Dade
County and Monroe County/Keys
Region.

DOCKET NO. 990455-TL
ORDER NO. PSC-01-0754-FOF-TL
ISSUED: March 23, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
BRAULIO L. BAEZ

ORDER VACATING PORTION OF ORDER NO. PSC-00-1937-PAA-TL REGARDING
RATE CENTER CONSOLIDATION IN THE MIAMI-DADE 305/786 AREA

BY THE COMMISSION:

I. BACKGROUND

By Order No. PSC-00-1937-PAA-TL, issued October 20, 2000, we
ordered area code relief for the 305/786, 954, 561, and 904 area
codes. The Order was a final agency action with the exception of
portions concerning rate center consolidation (RCC) and code
sharing in the Keys and Miami/Dade areas, which were rendered as
proposed agency action (PAA). We issued Amendatory Order No. PSC-
00-1937A-PAA-TL on November 3, 2000, due to a technical difficulty
in our computer system, which resulted in text set forth in table
headings on pages 42, 74, 76 and 77 of the original order being
inadvertently omitted.

On November 7, 2000, the Florida Code Holders Group (FCHG)¹
filed a joint motion for reconsideration and request for hearing on

¹ AllTel Florida, Inc., AT&T Communications for the Southern
States, Inc., AT&T Wireless Services, Inc., BellSouth
Telecommunications, Inc., Cingular Wireless LLC, MCI WorldCom,
Inc., and Sprint

DOCUMENT NUMBER-DATE

03741 MAR 23 01

FPSC-RECORDS/REPORTING

the PAA portion of the Order addressing code sharing. Pursuant to the Notice of Further Proceeding attached to the Order, motions for reconsideration were due within 15 days of the issuance of this Order. The FCHG joint motion for reconsideration was filed on November 7, 2000, one day late, and is considered untimely under case law. The request for hearing on the PAA portion of the Order concerning code sharing, however, was filed timely within the 21 day protest period.

On November 9, 2000, AT&T and AT&T Wireless filed a joint motion to accept the FCHG petition for reconsideration as timely filed, stating that "technical difficulties were encountered which delayed the completion of the copying process." The messenger who was sent with the FCHG motion for reconsideration arrived late and found the doors to the Office of Records and Reporting locked. The messenger returned the next morning and filed the motion for reconsideration and request for hearing on the PAA at 8:00 a.m. on November 7, 2000, causing the late filing.

On November 13, 2000, the Office of Public Counsel (OPC) filed a protest to the portion of the Order that requires a ballot in the Keys on a rate additive. By Order PSC-01-0091-PAA-TL, issued January 10, 2001, in Docket No. 920260-TL, we approved the BellSouth Telecommunications, Inc. (BellSouth) and OPC stipulation which provides that BellSouth will absorb the non-recurring cost for the operational support system upgrades necessary to implement rate center consolidation. The stipulation also provides that BellSouth will absorb the recurring cost of eliminating Extended Calling Service as a result of consolidating the seven Florida Keys rate centers into one. This negates the requirement in Order No. PSC-00-1937-PAA-TL to ballot customers of the Keys area, because they would not experience a rate additive for the rate center consolidation. There is, however, a possibility that customers in the Keys area may incur a cost should BellSouth seek to establish a new exchange due to rate center consolidation. Consummating Order No. PSC-01-0310-CO-TL, issued February 5, 2001, made Order PSC-01-0091-PAA-TL final and effective.

Also on November 13, 2000, BellSouth filed a Petition for Withdrawal or Modification of Proposed Agency Action, or, in the Alternative, Formal Hearing. In this Petition, BellSouth requested that we withdraw the proposed agency action portion of our Order to

reflect that the rate center consolidation will be implemented voluntarily by BellSouth in the Miami-Dade area provided: 1) those customers approve it in a balloting process; 2) BellSouth recovers the resulting costs and lost revenues; and 3) numbering resources are resolved. As noted above, BellSouth, by agreement with OPC, has agreed to absorb the rate center consolidation costs in the Keys area.

On November 20, 2000, Cingular Wireless LCC (Cingular) and BellSouth, each filed a Notice of Appeal with the Florida Supreme Court appealing Order No. PSC-00-1937-PAA-TL. On November 20, 2000, a joint motion for reconsideration of Order No. PSC-00-1937-PAA-TL, as amended by Order No. PSC-00-1937A-PAA-TL, was filed by Cingular and BellSouth. This Motion asserted that it was timely, because it was filed within 15 days of the date that the Amendatory Order was issued.

On November 29, 2000, we received notification from the North American Numbering Plan Administrator (NANPA) that the Florida telecommunications industry request for a new NPA code for relief of the 561 NPA was denied. NANPA indicated that the request was denied, stating that our decision for area code relief for NPA 561 did not meet the Industry Numbering Committee (INC) guidelines. The chosen area code relief only provides relief in one region for 3.1 years, which does not meet the INC minimum guidelines of five years for a area code relief plan.

Also on November 29, 2000, VoiceStream Wireless (VoiceStream) filed VoiceStream Wireless' Notice of Joinder in Support of Motions for Reconsideration. VoiceStream indicated that it joined and supported the previously filed motions for reconsideration, specifically with respect to the pending requests for reconsideration and clarification of the Commission's further rationing of NXX codes and establishment of a 75 percent utilization threshold rate for new codes.

On December 12, 2000, we filed a petition with the Florida Supreme Court requesting that the Court relinquish jurisdiction of the BellSouth and Cingular appeals back to us to review and reconsider Order No. PSC-00-1937-PAA-TL on our own motion. On December 29, 2000, the Federal Communications Commission (FCC) issued Order No. FCC 00-429, the Second Report and Order, Order on

ORDER NO. PSC-01-0754-FOF-TL
DOCKET NO. 990455-TL
PAGE 4

Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking CC Docket No. 99-200. Order FCC 00-429 addressed several items included in PSC-00-1937-PAA-TL which are a matter of dispute including code rationing and aging of numbers.

On January 2, 2001, the Florida Supreme Court issued an Order granting our Motion to Relinquish Jurisdiction. The Court granted our motion for a period of ninety (90) days to allow us to reconsider Order No. PSC-00-1937 on our own motion and in light of the FCC's recent numbering optimization decision, and to pursue and perhaps approve settlement of these cases and the outstanding protest to the proposed agency action decisions of Order No. PSC-00-1937.

On January 8, 2001, in response to NANPA's refusal to issue a new NPA for the 561 area, we filed a petition with the FCC for an "Expedited Decision for the Release of a New Area Code to Provide Relief for the 561 Numbering Plan Area; CC Docket No. 96-98." The FCC assigned Delegation of Authority No. 01-341 to our petition. Comments were due March 9, 2001 with reply comments due March 23, 2001.

On January 16, 2001, our staff conducted an issue identification and settlement meeting to identify and discuss the issues to be addressed at hearing regarding the petitions on the PAA portion of Order No. PSC-00-1937-PAA-TL. Parties and staff also discussed possible settlement of the appeal. All interested persons were invited to attend, but discussion was limited to the parties of record.

On January 26, 2001, we issued Order No. PSC-01-0241-PCO-TL, establishing procedure regarding the protests of the PAA portion of Order No. PSC-00-1937-PAA-TL. Accordingly, an administrative hearing was scheduled to address our decision regarding rate center consolidation and code sharing.

On February 2, 2001, the Joint Parties² filed an Offer of Settlement to Resolve the Code Sharing Protest, Reconsideration Requests, and Appeals of Order No. PSC-00-1937-PAA-TL. By letter dated February 19, 2001, the Joint Parties amended their Offer of Settlement to withdraw their request for reconsideration regarding wireless grandfathering. We approved the Offer of Settlement, as amended, at the February 22, 2001 Agenda Conference. Also on February 2, 2001, BellSouth filed a Motion to Resolve Reconsideration or Challenges to Rate Center Consolidation for the Miami/Dade 305/786 Region, which by reference, is incorporated herein at Attachment A of this Order. This Order addresses BellSouth's motion.

II. JURISDICTION

We have authority to address area code relief pursuant to 47 C.F.R. §§ 52.3 and 52.19. In addition, as part of our ongoing effort to conserve area codes, on April 2, 1999, we filed a petition with the Federal Communications Commission (FCC) seeking authority to implement number conservation measures, which could help minimize consumer confusion and expenses associated with imposing new area codes too frequently.

On September 15, 1999, the FCC issued Order FCC 99-249, granting our Petition for Delegation of Additional Authority to Implement Number Conservation Measures. FCC 99-249 granted us interim authority to: 1) Institute thousand-block pooling by all LNP-capable carriers in Florida; (2) Reclaim unused and reserved NXX codes; (3) Maintain rationing procedures for six months following area code relief; (4) Set numbering allocation standards; (5) Request number utilization data from all carriers; (6) Implement NXX code sharing; and (7) Implement rate center consolidation.

²AllTel Florida, AT&T Communications for the Southern States, Inc., AT&T Wireless Services, Inc., BellSouth Telecommunications, Inc., Cingular Wireless LLC, Florida Cable Telecommunications Association, Inc., VoiceStream Wireless, Sprint-Florida, Inc., Sprint Communications Company Limited Partnership, Sprint PCS, Volusia County, and WorldCom, Inc.

III. BELLSOUTH'S MOTION

As discussed earlier, by Order No. PSC-00-1937-PAA-TL, issued November 3, 2000, we ordered RCC in the Miami-Dade 305/786 area. We stated that RCC may be effective in the Miami-Dade portion of the 305/786 region and that implementation of RCC may provide significant relief from the exhaustion of NXXs in this rapidly growing region. We recognized that revenue neutral cost recovery would be appropriate for the implementation of RCC in the Miami-Dade region. Since RCC would have an impact on customers in this region, we ordered BellSouth to ballot the customers in the Miami-Dade region to determine if they would be willing to pay a rate additive to implement rate center consolidation in this region.

By Order PSC-00-2055-PAA-TL, issued October 27, 2000, we acknowledged that it would be appropriate to use the survey criteria in Rule 25-4.063, Florida Administrative Code, as balloting guidelines regarding RCC in the Miami-Dade area, and ordered that to be valid, not less than 40 percent of the ballots must be returned, and a simple majority of those ballots must vote in favor of the proposed action. If approved, the proposed action would result in an increase in monthly rates in exchange for the proposed rate center consolidation.

On February 2, 2001, BellSouth filed a Motion to Resolve Reconsideration or Challenges to Rate Center Consolidation for the Miami/Dade 305/786 Region. In its motion, BellSouth requests that we vacate the portion of Order No. PSC-00-1937-PAA-TL requiring RCC in the Miami-Dade 305/768 region, or provide BellSouth a means to recover its costs associated with balloting the Miami-Dade region regardless of the outcome of the ballot.

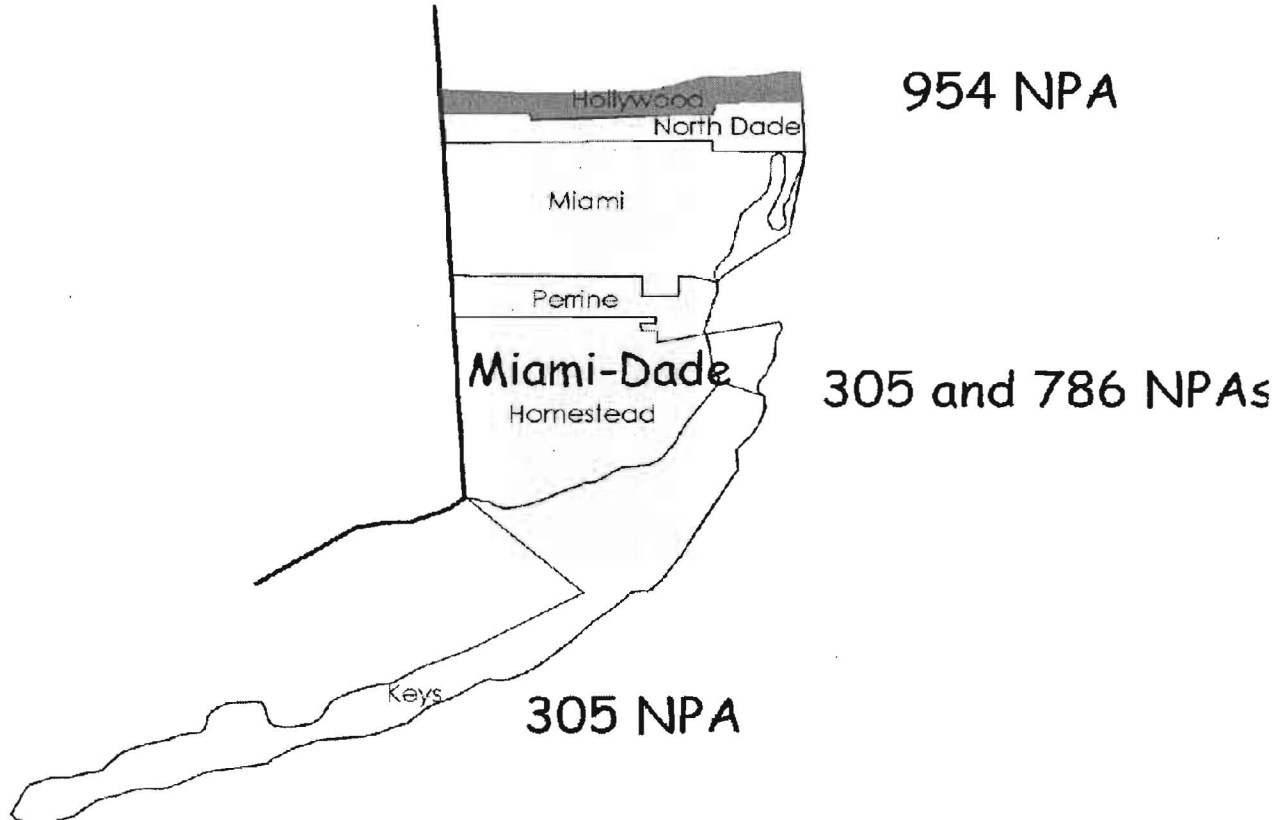
BellSouth estimates that it will incur between \$350,000 and \$830,000 in non-recurring costs to conduct the Miami-Dade poll and ballot mail-out. If the minimum threshold requirement of 40 percent of ballots returned is met, RCC would be implemented and the cost of the balloting would be included in the incremental increase to customers. If the minimum threshold requirement of 40 percent of ballots is returned and customers vote against RCC, or if the 40 percent minimum threshold ballot requirement is not met, BellSouth indicates that it would incur a cost of \$350,000 to \$830,000 for balloting with no means to recover it.

BellSouth indicates that approximately 1.5 million ballots would need to be mailed to customers in the Miami-Dade area. To meet the balloting criteria established in Order No. PSC-00-2055-PAA-TL, at least 600,000 ballots would need to be returned and counted for the ballot to meet the 40 percent balloting requirement. Further, BellSouth notes that the Commission would be responsible for tallying the 600,000 ballots, which would create a unique and laborious task that would likely have to be out-sourced. Finally, BellSouth states that it is unlikely that responding customers in the Miami exchange, which is the most populous exchange, would approve an increase in basic local service of approximately \$1/month to call Hollywood, Florida on a flat rate basis, which is essentially what the result of RCC in the Miami-Dade area produces.

IV. DECISION

A cursory review of the calling patterns of the Miami customers shows that less than 15 percent of the accounts make four or more calls to the Hollywood area during a typical month. Therefore, given the existing \$0.25 ECS rate to call Hollywood, the \$1.00 monthly rate additive would not be beneficial to the majority of customers for the calling scope that would be gained.

A map of the Miami-Dade rate centers and EAS calling scopes before and after a Miami-Dade rate center consolidation are as follows:



Exchanges
 North Dade

EAS before RCC
 Hollywood, Miami,
 Perrine

EAS after RCC
 Hollywood, Miami,
 Perrine, North Dade,
 Homestead

Miami

Homestead, Perrine,
 North Dade

Hollywood, Miami,
 Perrine, Homestead,
 North Dade

Perrine

Homestead, Miami,
 North Dade

Hollywood, Miami,
 Perrine, Homestead,
 North Dade

Homestead

Miami, Perrine

Hollywood, Miami,
 Perrine, Homestead,
 North Dade

RCC in the Miami-Dade 305/786 area was not addressed in our staff's September 15, 2000 area code recommendation. The concept was brought up for discussion at the September 29, 2000 Special Agenda Conference. After a discussion on RCC, we instructed our staff to include Miami-Dade and the Keys RCC as part of the PAA. We instructed staff to separate the RCC issue for the Keys from the RCC issue for Miami-Dade to allow us to evaluate each issue independently.

As discussed earlier, by agreement between BellSouth and OPC, RCC in the Keys area is being accomplished through a stipulation approved by Order PSC-01-0091-PAA-TL, issued January 10, 2001. The stipulation provides that BellSouth will absorb the non-recurring cost for the operational support system upgrades and will absorb the recurring cost of eliminating Extended Calling Service as a result of consolidating the seven Florida Keys rate centers into one.

By voting to order RCC and balloting in the Miami-Dade region, we did not contemplate a scenario where the Miami-Dade rate center ballot would fail to pass, or where the minimum threshold return would not be received. We indicated in Order No. PSC-00-1937-PAA-TL that "[R]evenue neutral cost recovery would be appropriate for the implementation of RCC in the Miami-Dade region". If the ballot fails to pass or the minimum threshold for returned ballots is not met, BellSouth will have expended up to \$830,000 with no means to recover the cost, other than a rate case.

Based upon the small calling scope to be gained, the high cost of the Miami-Dade 305/786 balloting, and the unlikely result of the ballot passing, we find that RCC should not be implemented in the Miami-Dade 305/786 area. Based on the foregoing, we hereby vacate that portion of Order No. PSC-00-1937-PAA-TL which requires rate center consolidation in the Miami-Dade 305/786 area. Therefore, the requirement to ballot the customers in those areas is rendered moot.

By Order No. PSC-00-1937-PAA-TL, we ordered that an implementation schedule for the 305/786 NPA must be submitted to us no later than October 1, 2001. Therefore, this docket shall remain open until a final order has been issued.

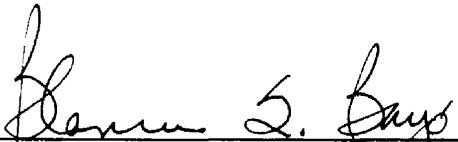
Based on the foregoing, it is

ORDER NO. PSC-01-0754-FOF-TL
DOCKET NO. 990455-TL
PAGE 10

ORDERED by the Florida Public Service Commission that the portion of Order No. PSC-00-1937-PAA-TL which requires rate center consolidation in the Miami-Dade 305/786 area is hereby vacated. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 23rd day of March, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

TV

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of

ORDER NO. PSC-01-0754-FOF-TL

DOCKET NO. 990455-TL

PAGE 11

Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.