



Public Service Commission

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RECORDS/REPORTING

DATE: MAY 31, 2001

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMPETITIVE SERVICES (ILERI, CASEY) *xi*
DIVISION OF LEGAL SERVICES (B. KEATING, FORDHAM) *2/4*
DK

RE: DOCKET NO. 990455-TL - REQUEST FOR REVIEW OF PROPOSED NUMBERING PLAN RELIEF FOR THE 305/786 AREA CODE - DADE COUNTY AND MONROE COUNTY/KEYS REGION.

DOCKET NO. 990457-TL - REQUEST FOR REVIEW OF PROPOSED NUMBERING PLAN RELIEF FOR THE 954 AREA CODE.

AGENDA: 6/12/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 10/1/01 (EXHAUST DATE¹ FOR THE 305 AREA CODE)
10/1/02 (EXHAUST DATE FOR THE 954 AREA CODE)

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\990455C.RCM

CASE BACKGROUND

By Order No. PSC-00-1937-PAA-TL, issued October 20, 2000, in Docket Nos. 990455-TL and 990457-TL, the Commission approved relief plans for the 305/786 and 954 area codes. However, the Commission withheld the approval of implementation dates for these area codes pending the outcome of various number conservation measures. The Commission directed the Local Exchange Companies (LECs) in the affected area codes to jointly file a notice to inform the Commission of the outcome of various number conservation measures and recommend, no later than October 1, 2001, the permissive and mandatory dialing periods.

¹The exhaust dates are taken from the April, 2000, Central Office Code Utilization Survey (COCUS).

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PSC-RECORDS/REPORTING

On March 22, 2001, prior to receiving a LEC filing, the North American Numbering Plan Administrator (NANPA) notified staff and the parties via phone that certain rate centers in the 954 and 561 area codes were critically short of available numbering resources because of protected blocks for the extended area service (EAS)² routes across the two numbering plan areas (NPAs or area codes).

Due to the critical shortage of numbering resources in certain rate centers of the 561 and 954 NPAs, the LECs³ filed a notice on April 10, 2001 recommending implementation schedules for the Commission approved area code relief plans. Subsequent to the April 10, 2001 filing, four other LECs joined the notice: two LECs⁴ on April 11, 2001, and two LECs⁵ on April 12, 2001.

NANPA has advised staff that as of May 29, 2001, only 13 of the 119 available NXXs in the 954 NPA could be assigned in the Ft. Lauderdale, Deerfield Beach, Pompano Beach, and Coral Springs rate centers without creating a code conflict with NXXs in the 561 NPA. In addition, only 6 of the 143 available NXXs in the 561 NPA could be assigned in the Delray Beach and Boca Raton rate centers without creating a code conflict with NXXs in the 954 NPA. The conflicts occur because of protected codes due to the current 7-digit dialing plans between the 954 and 561 NPAs.

A protected NXX code is a code which cannot be assigned in an EAS rate center because one of the other rate centers in the adjoining NPA EAS area has that active code. For example, if the Boca Raton rate center in the 561 NPA is assigned the 893 NXX code, the 893 NXX code cannot be assigned in the 954 NPA rate centers of Coral Springs, Deerfield Beach, or Pompano Beach because of the existing 7-digit dialing patterns. Another example is a problem

² Extended Area Service (EAS) is a form of local service for calls between neighboring or nearby exchanges. EAS is provided by a local telephone company and the cost is usually included in the charge for local service. Some companies, however, have a separate, flat monthly EAS charge. Some areas charge for EAS calls on a usage basis, and some offer a choice between a measured and a flat rate option. EAS was first introduced in the 1940's to recognize growing communities of interest between exchanges. Since then, EAS has expanded.

³ AT&T Communications for the Southern States, Inc., AT&T Wireless Services, Inc., BellSouth Communications, Inc., Florida Cable Telecommunications Association, Intermedia Communications, Inc., Verizon Florida, Inc., Verizon Wireless, and WorldCom, Inc.

⁴ Cingular Wireless, LLC, and VoiceStream Wireless

⁵ Sprint Communications Company Limited Partnership and Sprint PCS

which exists because of the 561 NXX presently assigned to the Ft. Lauderdale rate center, and the adjoining 561 NPA. Because of the existing 7-digit dialing patterns, a person in the Coral Springs, Deerfield Beach, or Pompano Beach rate centers in the 954 NPA who is attempting to make a call to a number in the 561 NPA, and starts dialing a 10-digit number (instead of 1+10) starting with the 561 NPA, may be routed to the 561 NXX in the Ft. Lauderdale rate center.

On July 1, 1999, the industry established jeopardy⁶ procedures in the 954 and 561 NPAs, and agreed to ration six NXX codes per month in the 954 NPA, and seven codes per month in the 561 NPA. Due to the critical shortage of numbers in certain rate centers of these areas, the industry re-addressed the rationing procedures on April 10, 2001, and agreed, by consensus, to reduce the number of codes rationed to two codes per month in the Ft. Lauderdale, Deerfield Beach, Pompano Beach, and Coral Springs rate centers, and one code per month in the Delray Beach and Boca Raton rate centers. Staff believes that these rationing procedures pose a threat to competition in the area and immediate action is needed to provide numbering resources.

In its petition, the LECs furnished two options that would eliminate the code conflicts in the 954 and 561 NPAs, and free-up needed numbering resources. Both options achieve the same goal. However, each has a different means of accomplishing it. Option 1 involves changing the EAS dialing patterns. Under this option, EAS calls made from the 954 NPA to the 561 NPA would change from the current 7-digit dialing to a 1+10 dialing pattern, and the new area code would be implemented at a later date.

Under Option 2, the new overlay relief plan would be implemented. EAS dialing patterns would remain as 7-digit dialing until the mandatory dialing pattern began. At that time, the EAS dialing patterns in the 954 NPA would change to 10-digits. The industry is proposing the Commission implement Option 2. This recommendation addresses each of these options for the 954 NPA, along with implementation dates for the 305/786 NPAs.

The Commission is vested with jurisdiction pursuant to Sections 364.01 and 364.16(4), Florida Statutes, and 47 C.F.R. §§ 52.3 and 52.19.

⁶ A jeopardy situation exists when the demand for NXX codes exceeds projections and there is insufficient time to implement a relief plan before exhaust.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission establish implementation dates for the 954 NPA?

PRIMARY RECOMMENDATION: Yes, staff recommends Option 2 which establishes implementation dates for the 954 NPA by initiating permissive 7 or 10-digit dialing in the 954 NPA, and concurrent mandatory 10-digit dialing in the new 754 NPA overlay immediately after receiving a Federal Communication Commission (FCC) temporary waiver of 47 C.F.R. 52.19(c)(3)(ii). The Commission should also approve the filing of a petition to the FCC for a temporary waiver of 47 C.F.R. 52.19(c)(3)(ii) in the 954 NPA (Attachment A). However, if the FCC fails to act on the Florida Public Service Commission's (PSC) petition by October 1, 2001, the alternative recommendation should be initiated. **(CASEY)**

ALTERNATIVE RECOMMENDATION: No. In lieu of establishing implementation dates for the 954 NPA at this time, staff recommends a modification of Option 1, changing the EAS dialing patterns of calls made from the 954 NPA into the 561 NPA from 7-digit to 1+10-digit dialing to eliminate the code conflicts between these NPAs and provide needed numbering resources to carriers and customers immediately. Staff also recommends that the EAS permissive and mandatory 1+10-digit dialing in the 954 NPA should begin 60 days and 120 days, respectively, after the issuance of the Commission's order. In addition, staff recommends that BellSouth provide carriers notice of the dialing change at least 30 days prior to the permissive dialing date to allow sufficient time to educate their customers and make any necessary network changes. **(ILERI)**

PRIMARY STAFF ANALYSIS: Staff's primary recommendation is the industry's consensus proposal (Option 2) to implement the new 754 NPA overlay relief plan in two phases. Phase one involves implementing permissive dialing within Broward County for the 954 NPA. During the permissive dialing period, calls within Broward County could be dialed on a 7 or 10-digit basis. Concurrently, the new NPA, 754, would be implemented but would require customers to dial 10-digits for all local calls.

In Phase two, permissive dialing would be extended to the EAS routes within the 954/754 NPA. Mandatory 10-digit dialing for the EAS routes would be implemented at the end of the permissive dialing period. Staff notes that if a two phase approach is not implemented with this option, code conflicts would create network

dialing issues, resulting in an unacceptable four to seven second delay to allow for proper routing.

Option 1 of the LEC proposal requires EAS calls initiated from the 954 NPA into the 561 NPA to be changed from a 7 to 1+10 dialing pattern. Because customers will temporarily be using the 1+10 dialing pattern, they may believe that they are initiating a toll call. While this will be confusing to some customers, the situation will become even more confusing once the 754 NPA is implemented. Under Option 1, once the 754 NPA is initiated, the calling pattern for the EAS calls will change from the 1+10 dialing pattern, to a 10-digit dialing pattern. The customers will undergo two dialing pattern changes within a short period of time. Staff believes that changing dialing patterns from 7 to 1+10 then to 10-digit dialing once the overlay is implemented would only exacerbate the NPA implementation confusion.

Staff believes implementing the new 754 NPA in two phases would minimize disruption and customer confusion and provide needed numbering resources immediately. However, staff also 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), which 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 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.⁷ 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 overlay NPA, and will have to dial ten-digits to reach a telephone

⁷*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.

user in the old code.⁸ Staff's goal in implementing the overlay is clearly not to hinder competition, but rather to provide needed numbering resources in this area as soon as possible.

Some carriers have suggested that the industry should be given authority to proceed with the implementation of the overlay. They do not believe that the industry implementation proposal conflicts with the FCC rule given that the proposed relief mechanism was recommended by the industry rather than ordered by the Commission.

However, in an abundance of caution, staff recommends the Commission file a petition (Attachment A) with the FCC requesting a temporary eight-month waiver of 47 C.F.R. 52.19(c)(3)(ii) in the 954 NPA. Staff believes that a temporary eight-month waiver would provide the necessary timeframe 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 timeframe would allow the alarm industry sufficient time to make the necessary changes to their 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,⁹ and granted one.¹⁰ 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

⁸*Local Competition Second Report and Order*, 11 FCC Rcd at 19518-19

⁹Pennsylvania 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 © (3) (ii), *Order*, DA 98-1434, 13 FCC Rcd 13491 (CCB 1998) (*New York Order*).

¹⁰Public 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;¹¹ (2) insufficient time to educate customers to the change in dialing patterns;¹² and (3) conditions relating to geographic uniformity in the areas affected that weighed in favor of a temporary delay.¹³

Staff recognizes the pro-competitive purpose behind the ten-digit dialing rule. However, special circumstances have created a critical shortage of numbering resources in certain rate centers in the 561 and 954 NPAs because of the existing EAS routes. Although there are existing number pooling trials in the 954 and 561 NPAs which would assist LNP capable carriers participating in the pools, non-LNP carriers may be denied numbering resources once the NXX codes in the affected rate centers are used up. We believe this would create an unacceptable barrier to competition in the area. One group of carriers would be able to receive numbering resources from the pool, while another group of carriers would be "locked out" with no numbering resources available to them. In Order No. DA 01-386¹⁴, the FCC stated:

Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources.

FCC No. DA 01-386 at ¶11.

On April 25, 2001, BellSouth filed a letter stating that it believes that Option 2 is appropriate due to the unique circumstances associated with the 954 NPA. In addition, BellSouth believes that Option 2 is justified given that the industry itself has proposed this relief mechanism instead of the Commission ordering such relief. However, BellSouth does state that in the event the Commission chooses Option 2, it may need to seek a waiver of Rule 47 C.F.R. §52.19(c)(3)(ii) from the FCC.

¹¹*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).

¹²*Pennsylvania Order* at para. 25, *New York Order* at para. 16.

¹³*New York Order* at para 15.

¹⁴DA 01-386, CC Docket No. 99-200, CC Docket No. 96-98, In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (February 14, 2001)

On May 3, 2001, AT&T Wireless Services filed a letter stating its belief that if the 754 overlay is implemented in two phases, a waiver of the 10-digit dialing requirement should be sought. It believes that a request to the FCC for expedited processing could lead to the timely implementation of Option 2 if the PSC quickly requests such relief.

Staff believes that unforeseen "special circumstances" have occurred in the 954 NPA, and that implementing the new 754 NPA overlay after receiving a temporary waiver of 47 C.F.R. 52.19(c)(3)(ii), would provide the most practical, expeditious, and least disruptive solution to a critical situation existing in the 954 and 561 NPAs. Staff recognizes that the FCC may not act expeditiously on the PSC petition, and believes that if the FCC has not approved the PSC petition by October 1, 2001, the alternative recommendation should be initiated changing the EAS dialing patterns. This would prevent numbering shortages during the holiday season.

Therefore, staff recommends that the Commission establish implementation dates for the 954 NPA by initiating permissive 7 or 10-digit dialing in the 954 NPA, and concurrent mandatory 10-digit dialing in the new 754 NPA overlay immediately after receiving an FCC temporary waiver of 47 C.F.R. 52.19(c)(3)(ii). The Commission should also approve the filing of a petition to the FCC for a temporary waiver of 47 C.F.R. 52.19(c)(3)(ii) in the 954 NPA (Attachment A). However, if the FCC fails to act on the PSC's petition by October 1, 2001, the alternative recommendation should be initiated.

ALTERNATIVE STAFF ANALYSIS: Pursuant to PSC Order No. PSC-96-0558-FOF-TP, issued April 25, 1996, the Commission ordered that all EAS routes between the 561 and 954 area codes remain under 7-digit dialing. Thus, currently, there are two-way 7-digit EAS routes between the 954 and the 561 area codes as illustrated in Figure 1. Staff notes that the only EAS exchanges that are affected are: Delray Beach and Boca Raton exchanges in Palm Beach County, and Pompano Beach, Coral Springs, and Deerfield Beach exchanges in Broward County.

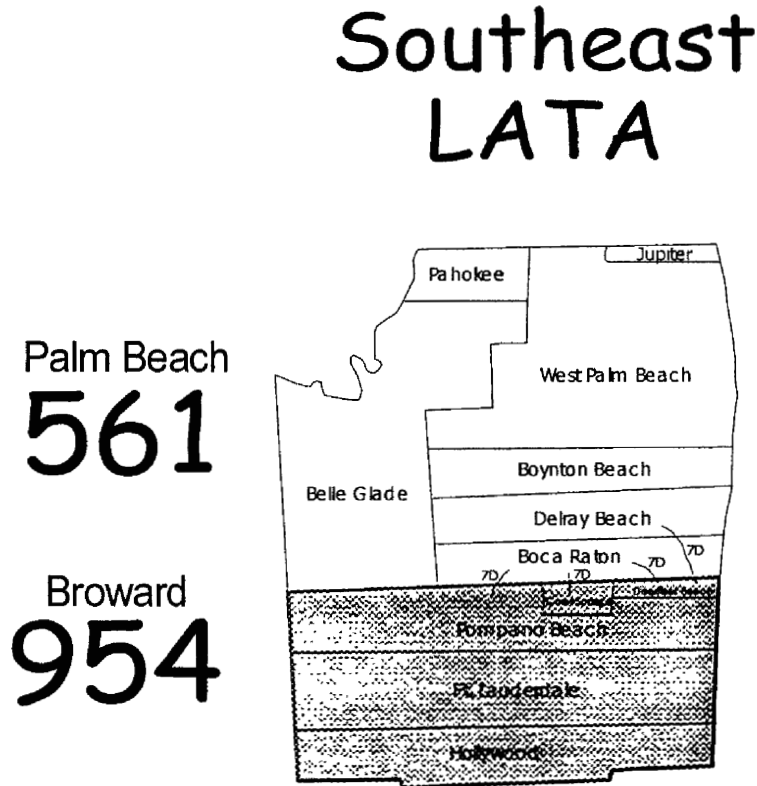


Figure 1: Southeast LATA area codes and EAS routes between Palm Beach and Broward Counties.

Staff's alternative recommendation is to temporarily change the dialing patterns of EAS calls made from the 954 NPA to the 561 NPA from 7 to 1+10-digit dialing to eliminate the code conflicts. Staff notes that only the EAS routes would change, not the Extended Calling Service (ECS) toll routes. This is because the ECS routes are currently dialed on a 1+10-digit basis. The new 754 NPA overlay would be implemented at a later date once the results of number conservation measures are known.

The main benefit of changing the EAS dialing patterns is that the industry could implement the dialing change in a very short timeframe. This would prevent any immediate code conflicts, and provide numbering resources to carriers and customers quickly. This temporary solution would provide "a quick fix" and solve the immediate numbering needs and issues in the 954 area code.

In their notice, the LECs assert that there may be some customer confusion if Option 1 is chosen because customers' dialing patterns would be changed twice. Staff acknowledges that changing dialing plans during any NPA implementation (split or overlay) causes some temporary customer confusion. Initially, the 954 NPA to 561 NPA EAS routes would change from 7 to 1+10-digit dialing, and 561 NPA to 954 NPA EAS routes would change from 7 to 10-digit dialing. Then, once the overlay relief plan is implemented, the 954 NPA to 561 NPA EAS routes would change from 1+10 to 10-digit dialing, pursuant to Order PSC-00-1937-PAA-TL, issued October 20, 2000.

Staff believes that any customer confusion caused by this option could be overcome by adequate customer notice, and, if technically possible, recorded intercepts when incorrect dialing occurs. To ease the dialing pattern transition for carriers, staff recommends that BellSouth provide carriers notice of the dialing change to allow sufficient time to educate their customers and make any necessary network changes.

The LECs also recommend that the permissive dialing period should begin 60 days after the Commission issues a final order, and the mandatory dialing period should begin 60 days after the permissive dialing period starts. Staff endorses this timeline as it would provide needed numbering resources to customers and carriers as quickly as possible.

Staff believes that it is premature to establish any implementation dates for the 954 NPA because the industry, to date, has been unable to determine the effect of number conservation measures. Staff believes that the Commission's goal in delaying implementation dates was to provide 7-digit local dialing to customers for as long as possible. Approval of this option would enable customers to retain their 7-digit local dialing until the overlay relief plan is implemented, unlike the primary option which imposes 10-digit dialing for the 754 NPA overlay. Staff notes that this change only affects a small number of customers which reside in the EAS areas of the 954 NPA. The remainder of the customers in the 954 NPA will retain 7-digit dialing. Staff believes that this option best meets the needs of the customers because there would be

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less confusion about dialing plans. In addition, numbering resources would be immediately available to the customers and industry.

Unlike the primary recommendation, the 10-digit local dialing would begin simultaneously in the 954 and 754 NPAs, which would reduce customer confusion regarding the proper NPAs and dialing patterns to use because customers would already be educated regarding the 10-digit dialing requirement once the implementation dates are established. Staff believes that any other remedy to solve the code conflicts, such as getting a waiver from the FCC, would harm the customers and carriers because the FCC may not act quickly. Staff believes that the Commission should act on a solution which is quick and simple.

Therefore, in lieu of establishing implementation dates for the 954 NPA at this time, staff recommends that the Commission change the dialing patterns of EAS calls made from the 954 NPA to the 561 NPA from 7 to 1+10-digit dialing to eliminate the code conflicts between the two NPAs and provide needed numbering resources to carriers and customers. Staff also recommends that the EAS permissive and mandatory 1+10-digit dialing in the 954 NPA should begin 60 days and 120 days, respectively, after the issuance of the Commission's order. In addition, staff recommends that BellSouth provide carriers notice of the dialing change at least 30 days prior to the permissive dialing date to allow sufficient time to educate their customers and make any necessary network changes.

Once the results of the number conservation measures are determined by the Pooling Administrator and the North American Numbering Plan Administration, staff will file a recommendation with a recommended implementation date for 954/754 overlay area codes.

ISSUE 2: Should the Commission establish implementation dates for the 305/786 NPAs?

RECOMMENDATION: Yes. Staff recommends that the Commission establish the permissive dialing period for 7 or 10-digit local dialing beginning on August 1, 2001, with the mandatory 10-digit dialing period beginning on February 3, 2002. **(ILERI)**

STAFF ANALYSIS: By Order No. PSC-00-1937-PAA-TL, issued October 20, 2000, in Docket No. 990455-TL, the Commission approved the implementation of an extended overlay relief plan for the 305 NPA (the Keys region). This relief plan extends the 786 NPA from the Miami region into the Keys region as an overlay. The Commission withheld the approval of implementation dates pending the outcome of number conservation measures. In addition, through Order Nos. PSC-01-0091-PAA-TL, issued January 10, 2001, and PSC-01-0808-AS-TL, issued March 27, 2001, the Commission adopted proposals to implement rate center consolidation and number pooling in the Keys region.

Pursuant to Order No. PSC-00-1937-PAA-TL, the Commission also directed the LECs in the affected NPAs to jointly file a notice no later than October 1, 2001, to inform the Commission of the outcome of the various number conservation measures. In addition, the LECs were required to inform the alarm companies of the need to reprogram their equipment nine months prior to the implementation of the mandatory 10-digit dialing.

On April 3, 2001, the LECs sent a letter to the security alarm companies, stating that the industry planned to recommend that the Commission implement the adopted NPA relief mechanism in the Keys. The notice stated that rate center consolidation would be implemented in the fourth quarter of 2001.

The Keys region number pooling trial is scheduled to begin on May 28, 2001. The LECs state that as of March 1, 2001, there were only eleven NXXs in the 305 NPA available for assignment in the Keys. Staff also notes that according to NANPA, there are ten additional NXX codes which are protected. Based on staff's discussion with BellSouth on April 12, 2001, these additional protected codes may be able to be used in the Keys region, which would extend the life of the 305 NPA.

The LECs recommend that the permissive 7 or 10-digit local dialing period for the 305/786 should begin on August 1, 2001, and mandatory 10-digit local dialing should begin on November 1, 2001. Staff believes that customer education is important before, and

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during a permissive dialing period. Staff agrees that there is a limited number of available telephone numbers in the Keys region, and that the carriers could be further harmed because of the existing rationing plan of one code per month. Staff believes that establishing implementation dates for the 305/786 NPAs is unavoidable. In fact, FCC Rule C.F.R. §52.9(a)(1) states that any NPA relief plan must be implemented in a manner that ". . . facilitate[s] entry into the telecommunications marketplace by making telecommunications numbering resources available on an efficient, timely basis to the telecommunications carriers . . . "

Staff believes that the permissive 7 or 10-digit dialing period in the 305 NPA should begin on August 1, 2001, as recommended by the industry. However, staff disagrees with the industry's proposal to begin mandatory 10-digit dialing November 1, 2001. Since the number conservation measures have not been fully implemented, there is no evidence of how long the number conservation measures would extend the life of the 305 NPA once rate center consolidation and number pooling are implemented. Furthermore, based on the Pooling Administrator's assessment call on May 1, 2001, no new NXX codes need to be opened until next year. Also, the recommended mandatory dialing period begins just prior to the holiday season when many customers move to Florida for the winter season. To prevent any mandatory dialing confusion and provide enough time for the security alarm companies to reprogram their equipment, staff believes that the mandatory dialing period should begin on Sunday, February 3, 2002.

Staff notes that the time difference between the proposed November 1, 2001 and February 3, 2002 dates is only three months, and according to the LECs' notice and BellSouth, there are some additional protected NXX codes that could be used during this interval.

Staff believes that additional time should be given to customers to adjust to the new dialing plans, as well as, the new rate center structure. Therefore, staff recommends that the permissive dialing period for 7 or 10-digits should begin on August 1, 2001, and the mandatory 10-digit dialing period should begin on February 3, 2002.

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ISSUE 3: Should these dockets be closed?

RECOMMENDATION: No. Staff recommends that these dockets should remain open pending the implementation of rate center consolidation and number pooling in the Keys, as well the implementation of overlay relief plans in the 305/786 and 954 NPAs. **(B. KEATING, FORDHAM)**

STAFF ANALYSIS: Staff recommends that these dockets should remain open pending the implementation of rate center consolidation and number pooling in the Keys, as well the implementation of overlay relief plans in the 305/786 and 954 NPAs. Once rate center consolidation and number pooling is implemented in the Keys, and overlay relief plans are implemented in the 305/786, and 954 NPAs, staff will recommend that these dockets be closed.

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

In the Matter of)
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Florida Public Service Commission)
Petition for Expedited Temporary) CC Docket No. 96-98
Waiver of 47 CFR Section)
52.19(c)(3)(ii) in the 954 NPA)
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**EXPEDITED PETITION FOR A TEMPORARY WAIVER OF
47 C.F.R. 52.19(c)(3)(ii) IN THE 954 NPA
BY THE FLORIDA PUBLIC SERVICE COMMISSION**

The Florida Public Service Commission (FPSC) submits this petition requesting a temporary waiver of 47 C.F.R. 52.19(c)(3)(ii) in the 954 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 an approval of implementation dates pending the outcome of the various number conservation measures which included a 954 NPA number pooling trial which was implemented January 22, 2001. The FPSC directed the Local Exchange Companies (LECs) 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, the Local Exchange Companies (LECs) in the affected areas filed a petition with the FPSC to establish implementation dates for the 954 area code. In its petition, the LECs 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 since it would create excessive consumer confusion because the multiple dialing changes would be completed within a very short timeframe.

Option two (implementing the new 754 overlay immediately) 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 between Broward and Palm Beach Counties.

The FPSC believes that Option two of the industry's proposal would minimize disruption and customer confusion, and provide needed numbering resources immediately. However, the FPSC also 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), which 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.

Therefore, in an abundance of caution, the FPSC respectfully requests a temporary waiver of 47 C.F.R. 52.19(c)(3)(ii) in the 954 NPA. The FPSC believes that a temporary eight-month waiver would provide the necessary timeframe 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 timeframe would allow the alarm industry sufficient time to make the necessary changes to their systems, provide the necessary consumer education, and furnish carriers with necessary numbering resources.

The FPSC recognizes the pro-competitive purpose behind the ten-digit dialing rule. However, special circumstances which are causing a critical shortage of numbering resources have surfaced in certain rate centers in the 561 and 954 NPAs because of the existing EAS routes. Although there are existing number pooling trials in the 954 and 561 NPAs which would assist LNP capable carriers participating in the pools, non-LNP carriers may be denied numbering resources once the NXX codes in the affected rate centers are used up. We believe this may create an unacceptable barrier to competition in the area. One group of carriers would be able to receive numbering resources from the pool, while another group of carriers would be "locked out" with no numbering resources available to them. In Order No. DA 01-386¹, the FCC stated:

Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources.

FCC No. DA 01-386 at ¶11.

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,² and granted one.³ In

¹DA 01-386, CC Docket No. 99-200, CC Docket No. 96-98, In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (February 14, 2001)

² 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*).

³ 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.

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 dialing;⁴ (2) insufficient time to educate customers to the change in dialing patterns;⁵ and (3) conditions relating to geographic uniformity in the areas affected that weighed in favor of a temporary delay.⁶

In conclusion, the FPSC believes that unforeseen "special circumstances" have occurred in the 954 NPA, and that a temporary waiver of 47 C.F.R. 52.19(c)(3)(ii), would provide the most practical, expeditious, and least disruptive solution to a critical situation existing in the 954 and 561 NPAs. Therefore, the FPSC respectfully requests the FCC grant a eight-month temporary waiver of 47 C.F.R. 52.19(c)(3)(ii), in the 954 NPA.

Expedited treatment of this petition is necessary 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 available in the Coral Springs, Deerfield Beach, Pompano Beach, and Fort Lauderdale rate centers (two per month rationing).

⁴ *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).

⁵ *Pennsylvania Order* at para. 25, *New York Order* at para. 16.

⁶ *New York Order* at para 15.

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