

June 1, 2001

Ms. Blanca Bayo, Director  
Division of Records and Reporting  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: PROTEST FOR PROPOSED AGENCY ACTION ORDER AFFECTING NANPA  
TO PROVIDE BELLSOUTH WITH A GROWTH CODE FOR BROADBAND  
SWITCH, PETITION FOR A FORMAL HEARING PROCEEDING PURSUANT  
TO RULE 25-22.029, FLORIDA ADMINISTRATIVE CODE IN FPSC  
DOCKET NO. 010309-TL.

Dear Ms. Bayo:

Enclosed for filing on behalf of the Florida citizens, their communication needs and services, and the Alternative Local Exchange Companies (ALECs) are an original and fifteen copies of their formal Protest of the Florida Public Service Commission (FPSC) Order No. PSC-01-1146-PAY-TL issued May 21, 2001 and Petition for a Formal Hearing Proceeding pursuant to Rule 25-22.029, Florida Administrative Code in Docket No. 010309-TL.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "FILED" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,



Thomas Enderson  
10943 West Colonial Drive  
Orange, FL 34761



Jonathan W. Kylleskwy, III  
3343 North 5th Street  
Suite 911  
Miami, Florida 33130

TE-JWK/jjj

Enclosure

cc: Parties of Record  
Other ALECs affiliates and their customers

DOCUMENT NUMBER-DATE  
06875 JUN 15  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for expedited review of North American Plan Administration's (NANPA) denial of application for use of central office code numbering resources or NXX codes in Orlando Magnolia switch by BellSouth Telecommunications, Inc.

DOCKET NO. 010309-TL

FILED: June 1, 2001

**PROTEST FOR PROPOSED AGENCY ACTION ORDER DIRECTING NANPA TO PROVIDE BELLSOUTH WITH A GROWTH CODE FOR THE ORLDFLMADS1 SWITCH AND PETITION FOR A FORMAL HEARING PROCEEDING PURSUANT TO RULE 25-22.029, FLORIDA ADMINISTRATIVE CODE.**

On behalf of the Florida citizens, their communication needs and services, and the Alternative Local Exchange Companies (ALECs) file this formal protest of the Florida Public Service Commission (FPSC) Order No. PSC-01-1146-PAA-TL issued May 21, 2001 and petition for a formal hearing proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

1. On January 24, 2001, BellSouth Telecommunications, Inc. (BellSouth) submitted an application to the North American Numbering Plan Administrator (NANPA) for a central office (NXX) code for the ORLDFLMADS1 switch in the Orlando rate center. The code request was made to fulfill a request made by a specific customer who is in need of 2,500 consecutive Direct Inward Dialing (DID) numbers in an NXX with a four as the last digit (NX4).

2. The Orlando rate center consists of six central offices and seven switches [(Azalea Park (ORLDFLAPDS0), Colonial (ORLDFLCLDS0), Magnolia (ORLDFLMADS1 and ORLDFLMA42E), Pinecastle (ORLDFLPCDS0), Pinehills (ORLDFLMADS0), and Sand Lake (ORLDFLSADS0)]. On February 6, 2001, NANPA denied BellSouth's request for a NXX code for the ORLDFLMADS1 switch because BellSouth had not met the rate center months-to-exhaust (MTE) criteria currently required to obtain a growth code. On March 9, 2001, BellSouth filed a petition for expedited review of NANPA's denial of its application.

3. We acknowledge that the code denial poses a possible barrier to competition. A customer desiring service from BellSouth may have to turn to another carrier. This is simply competition. There are other carriers in all of the six rate centers, where this specific customer can obtain its 2500 numbers. This does not justify the FPSC or any other carrier to obtain new numbering resources when they did not meet the MTE rate center requirement as well as any utilization threshold that the FCC required and ordered in its rules, as indicated in FCC Order Nos. 99-200. 00-104, and 00-249. Our citizens and other carriers' substantial interests are greatly affected by the FPSC's decision to grant a new code to BellSouth while others have to suffer!

4. The FPSC suggests that "Another carrier who may have just one switch in the rate center, would have an advantage and may be able to obtain a growth code to provide the service." That's correct, if this is not competition to conserve a carrier's available numbers and use them efficiently, considering that BellSouth has more administrative numbers than any other carrier in the South, BellSouth should not be granted any new numbering resources.

5. Pursuant to Order No. FCC 00-104<sup>1</sup> applicants must now show the MTE criteria by rate center instead of by switch, and have no more than a six-month inventory of telephone numbers. Pursuant to 47 C.F.R. § 52.15(g)(3)(iii):

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

The FPSC has to follow the FCC's requirements; otherwise, the FPSC is violating the FCC's rules and the Telecommunications Act.

5. It is quite ironic that the FPSC in its order states "In Order No. DA 01-386<sup>2</sup>, the FCC stated:

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<sup>1</sup>Report and Order, CC Docket No. 99-200, In the Matter of Number Resource Optimization, Order No. FCC 00-104 (March 31, 2000)

<sup>2</sup>DA 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)

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." If the telecommunications act were fully implemented in Florida, the FPSC would realize the customers do not know that there are other carriers where they can get numbering resources.

6. Does BellSouth inform its customers that there are other carriers where they can obtain numbering resources when BellSouth cannot meet the customers' needs?

7. The FPSC's staff believes that "the new MTE criteria creates a disadvantage for carriers with multiple switch rate centers because it is now based on rate centers, rather than switches." There is no rationale for this conclusion. Has the FPSC investigated and pursued an investigation into BellSouth's numbering resources? And if so, what is the outcome? Public needs to know the facts.

8. The FPSC further states that "One switch in a multiple-switch rate center may be near exhaust while the average MTE for the rate center is above six months, thus preventing a carrier from obtaining a growth code for the switch near exhaust. For example, at the time of the NANPA denial of BellSouth's code request, the Orlando rate center MTE was 14.74 months with a 76.7% utilization level, while the MTE for the Magnolia-ORLDFLMADS1 switch was four months. BellSouth has stated that 'Months-to-Exhaust criteria on a per rate center basis establishes a requirement that is difficult, and in some cases, impossible to meet.'" Surprisingly, BellSouth's magic math does add up. Has the FPSC ever verified the accuracy of these numbers? We are not asking BellSouth to provide some paper/spreadsheet to the FPSC staff, we want factual information not VISUAL. We challenge that BellSouth forged its numbers to make itself look more believable.

9. Is this statement came from BellSouth's mouth when they visited the FPSC staff? Does not the FPSC know that this is an anti-competitive behavior because any other carrier has to meet the same requirement, and lost customers. Our and everybody else's financial interests are affected by the FPSC's decision. But we believe that this is a result of competition, and we are happy that COMPETITION DOES exist, and BellSouth should PLAY its mother role carefully. We believe that a full enforcement of the FCC's rules is

a MUST. This Commission's role is to promote competition in its entirety.

10. The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

In its order, the FPSC has given a notice that "the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code."

With that, and the fact that the FPSC is vested with jurisdiction pursuant to Sections 364.01 and 364.16(4), Florida Statutes, and 47 U.S.C. §151, and 47 C.F.R. §52.15(g)(3)(iv), we respectfully ask that the FPSC does not grant any more code request to BellSouth and any other carrier UNTIL the FPSC has finalized its formal hearing proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Respectfully submitted this 1st day of June, 2001.

On behalf of The Alternative Local Exchange Companies,



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