

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for expedited review of the North American Numbering Plan Administration's (NANPA) decision to deny BellSouth's request for use of central office code numbering resources or NXX codes in Orlando exchange or rate center, by BellSouth Telecommunications, Inc.

DOCKET NO. 010565-TL  
ORDER NO. PSC-01-1657-FOF-TL  
ISSUED: August 14, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI

ORDER DISMISSING PROTESTS

BY THE COMMISSION:

On March 30, 2001, BellSouth Telecommunications, Inc. (BellSouth) submitted an application to the North American Numbering Plan Administrator (NANPA) for a central office (NXX) code for the ORLFLPCDSO switch in the Orlando rate center. The code request was made to fulfill two requests made by specific customers who are in need of 2,500 and 500 consecutive Direct Inward Dialing (DID) numbers, respectively. On April 10, 2001, NANPA denied BellSouth's request for a NXX code for the ORLFLPCDSO switch because BellSouth had not met the rate center months-to-exhaust (MTE) criteria currently required to obtain a growth code.

On April 20, 2001, BellSouth filed a "Petition for Expedited Review of Growth Code Denials by the North American Numbering Administration." By Order No. PSC-01-1312-PAA-TL, issued June 18, 2001, we directed NANPA to provide BellSouth with a growth code for the ORLDFLPCDSO switch in Orlando as soon as possible.

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On June 22, 2001, a timely protest of Order No. PSC-01-1312-PAA-TL was filed by Emmanuel Arvanitas. On July 5, 2001, BellSouth filed a Motion to Dismiss Mr. Arvanitas' protest, and on July 16, 2001, Emmanuel Arvanitas and Peggy Arvanitas filed a Protest of BellSouth's Protest of NANPA and PA Denials of NXX and NXX-X Codes and State of Florida PSC Overturn of Denials, and FCC Clarification Filing. BellSouth has, thereby, been denied needed numbering resources for its Orlando ORLDFLPCDSO switch by NANPA.

The Notice of Further Proceedings or Judicial Review attached to Order No. PSC-01-1312-PAA-TL provides:

Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding in the form provided by Rule 28-106.201, Florida Administrative Code.

Mr. Arvanitas must show whether his substantial interests have been affected before we can consider his protest. Moreover, Uniform Rule 28-106.201(2)(b), Florida Administrative Code, requires that the Petition contain:

The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, . . . and an explanation of how the petitioner's substantial interests will be affected by the agency determination;  
(emphasis supplied.)

Mr. Arvanitas' Petition did not provide an address or phone number. More importantly, while Mr. Arvanitas notes that he is a consumer of Florida's numbering resources, nowhere in his Protest does he describe how the action of overturning NANPA's denial of numbering resources for the Orlando ORLDFLPCDSO switch affects him.

It is appropriate to apply the two-pronged test for "substantial interest" set forth in Agrico Chemical Co. V Dept. Of Environmental Regulation, 406 So.2d 478, 482 (Fla. 2nd DCA 1981), rev. denied 415 So. 2nd 1359 (Fla. 1982). According to the Agrico test, a party must show (1) that he will suffer injury in fact

which is of sufficient immediacy to entitle him to a Section 120.57, Florida Statutes, hearing, and (2) that his substantial injury is of a type or nature which the proceeding is designed to protect. Id. At 482. Mr. Arvanitas has not alleged facts demonstrating that he has met this test. Moreover, the protested Order directs NANPA to issue numbering resources in the 407 area code, not the 904 area code where Mr. Arvanitas lives. Therefore, we find that Mr. Arvanitas' substantial interests have not been affected.

Accordingly, BellSouth's Motion to Dismiss Mr. Emmanuel Arvanitas' Protest is granted because Mr. Arvanitas has not demonstrated that he has met the criteria for standing. Further, Order No. PSC-01-1312-PAA-TL is final and effective as of the date of our vote on this matter, and the NXX codes issued by NANPA should be released to BellSouth for customer assignment.

The "Protest of BellSouth's Protest of NANPA and PA Denials of NXX and NXX-X Codes and State of Florida PSC Overturn of Denials, and FCC Clarification Filing" filed on July 16, 2001 by Emmanuel Arvanitas and Peggy Arvanitas is deserving of some special discussion. This pleading does not cite any rule of procedure which would provide a basis for its filing. It is so ambiguous and incomprehensible that it is not possible to divine any legitimate relief that it is seeking. It does not comport with any rule of law. This pleading can not in any way be interpreted as being responsive to BellSouth's Motion to Dismiss

Based on an analysis of this pleading, and a review of a long list of similar pleadings from these same individuals, it appears that this document was filed for the purpose of frustrating and impeding the important work of this Commission. The Florida Administrative Procedure Act contemplates that there may be situations where such pleadings are filed, and provides for certain remedies and sanctions against those who would abuse the order of our system. Among the sanctions is the assessment of costs and attorneys fees against nonprevailing parties who file frivolous pleadings. While we are not assessing costs in this matter, these provisions are significant for the purpose of demonstrating how critically our law-makers regard the problem of frivolous pleadings.

Additionally, in similar cases on both state and federal level, courts have exercised the remedy of requiring pleadings from certain individuals to be signed by a licensed attorney. The United States Supreme Court stated in In re McDonald, 489 U.S. 180, 184 (1989):

Every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice.

In 1993, citing the holdings in McDonald, the Court forbade Roy A. Day to file pleadings which were not signed by a licensed attorney. In that case, the Court directed the Clerk not to accept pleadings from Day which did not meet that criteria.

Most recently, in an opinion filed on June 21, 2001, Florida's First District Court of Appeal entered a similar order involving frivolous pleadings by Roy A. Day. In this decision the Court stated:

We conclude that Day's activities have substantially interfered with the orderly process of judicial administration and it is appropriate that he should be prohibited from appearing before this court in proper person as appellant or petitioner in this or any other case. . . . Additionally, the clerk of this court is directed to refuse any document submitted for filing on behalf of Mr. Day as appellant or petitioner unless signed by a member of the Florida Bar, effective upon the issuance of this published order.

ROY A. DAY v. DEPARTMENT OF HEALTH, BOARD OF CHIROPRACTIC, 1st District, 2001 Fla. LEXIS 8406

Though that may be a viable option to explore for the future as a result of our difficulties with the constant inappropriate pleadings from Emmanuel Arvanitas and Peggy Arvanitas, we do not make that finding at this time. However, the July 16, 2001 pleading filed by Emmanuel Arvanitas and Peggy Arvanitas, as it relates to this Docket, is hereby dismissed as not complying with

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any known rule of procedure, and not serving any readily apparent lawful or beneficial purpose.

Based on the foregoing, it is

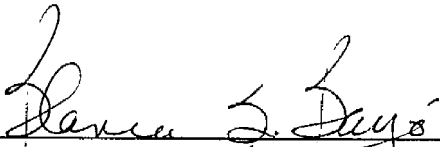
ORDERED by the Florida Public Service Commission that BellSouth's Motion to Dismiss Mr. Emmanuel Arvanitas' Protest filed June 22, 2001, is granted. It is further

ORDERED that the July 16, 2001 pleading filed by Emmanuel Arvanitas and Peggy Arvanitas, as it relates to this Docket, is hereby summarily dismissed as not complying with any known rule of procedure, and not serving any lawful or beneficial purpose. It is further

ORDERED that Order No. PSC-01-1312-PAA-TL is rendered final and effective as of the date of our vote on this matter. It is further

ORDERED that this Docket shall be closed as of the date of issuance of this Order.

By ORDER of the Florida Public Service Commission this 14th Day of August, 2001.

  
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BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

CLF

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 the Commission Clerk and Administrative Services, 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 the Commission Clerk and Administrative Services 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.