



Public Service Commission

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DATE: MAY 8, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ILERI, CASEY, BULECZA-BANKS)^{PROB} *fac* OFFICE OF GENERAL COUNSEL (CHRISTENSEN, FORDHAM) *C.F.F.*

RE: DOCKET NO. 001503-TP - COST RECOVERY AND ALLOCATION ISSUES FOR NUMBER POOLING TRIALS IN FLORIDA.

AGENDA: 5/20/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001503XY.RCM

CASE BACKGROUND

Thousands-block number pooling is the process by which telephone companies share a pool of telephone numbers that have the same central office code. Historically, telephone numbers have been assigned to service providers in blocks of 10,000 numbers. Thousands-block number pooling allows phone numbers to be allocated to service providers in blocks of 1,000, instead of the historical 10,000 number blocks, which conserves numbers and provides for more efficient number utilization.

By Federal Communications Commission (FCC) Order No. 99-249¹, released September 15, 1999, the FCC granted the Florida Public

¹ Order, CC Docket No. 96-98, Order No. FCC 99-249, released September 15, 1999, In the Matter of the Florida Public Service Commission Petition to the Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation.

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Service Commission (FPSC) authority to conduct mandatory thousands-block number pooling trials in Florida. The Order also addressed number pooling cost recovery by stating:

We further require that the Florida Commission determine the method to recover the costs of the pooling trials. The Florida Commission must also determine how carrier-specific costs directly related to pooling administration should be recovered.

FCC 99-249, ¶ 17. Since receiving authority to implement state number pooling trials, the FPSC has taken a pro-active stance regarding number conservation and ordered implementation of the following number pooling trials:

Metropolitan Statistical Area	Area Code	Implementation Date of Number Pooling	Incumbent Local Exchange Company
Ft. Lauderdale	954 and 754	January 22, 2001	BellSouth
West Palm Beach	561	February 5, 2001	BellSouth
Jacksonville	904	April 2, 2001	BellSouth and ALLTEL
Keys Region*	305	May 28, 2001	BellSouth
Daytona Beach	386 (used to be 904)	July 16, 2001	BellSouth
Ft. Pierce-Port St. Lucie	772 (used to be 561)	September 17, 2001	BellSouth and Indiantown
Tampa	813	January 14, 2002	Verizon
Sarasota-Bradenton	941 and 239	February 11, 2002	Verizon and Sprint

* The Keys area is not a Metropolitan Statistical Area.

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In Order No. FCC 00-104², released March 31, 2000, the FCC stated:

States implementing pooling must also ensure that they provide carriers with an adequate transition time to implement pooling in their switches and administrative systems. In addition, because our national cost recovery plan cannot become effective until national pooling implementation occurs, states conducting their own pooling trials must develop their own cost recovery scheme for the joint and carrier-specific costs of implementing and administering pooling in the NPA in question.

FCC 00-104, ¶ 171. The Order further states:

Costs incurred by carriers to implement state-mandated thousands-block number pooling are intrastate costs and should be attributed solely to the state jurisdiction.

FCC 00-104, ¶ 197.

By FPSC Order No. PSC-00-0543-PAA-TP, issued May 30, 2000, in Docket No. 981444-TP, the FPSC found it appropriate to order the mandatory implementation of thousand-block number pooling for all Local Number Portability-capable carriers in the 954, 561, and 904 area codes. The Order was subsequently protested by a number of parties³ (Joint Petitioners). Specifically, the Joint Petitioners protested and sought a hearing regarding only the portions of the PAA order that related to: (1) mandatory implementation of thousand-block pooling; (2) thousand-block pooling software release and implementation dates; and (3) designation of a pooling

² Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 99-200, Order No. FCC 00-104, released March 31, 2000, In the Matter of Numbering Resource Optimization.

³ ALLTEL Communications, Inc., AT&T Communications of the Southern States, Inc., BellSouth Mobility, Inc., BellSouth Telecommunications, Inc., Florida Cable Telecommunications Association, Inc., Global Naps, Inc., GTE Service Corporation, Intermedia Communications, Inc., MCI WorldCom, Inc., Media One Florida Telecommunications, Inc., Sprint Spectrum L.P., Sprint Communications Company Limited Partnership, Sprint-Florida Incorporated.

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administrator. The Joint Petitioners filed an Offer of Settlement with the FPSC on April 11, 2000 which included verbiage addressing number pooling cost recovery which stated:

In view of the potential ultimate impact of number pooling cost recovery on Florida customers, the Commission should address cost recovery. Accordingly, the Revised Plan requires that the Commission open a docket in accordance with the FCC mandate for the purpose of determining the amount of the costs of number pooling and the method by which they will be recovered. However, in the spirit of moving forward, the Joint Petitioners are willing to proceed now with all aspects of the implementation of number pooling pursuant to the Revised Plan with cost recovery being determined just so long as the Commission has acknowledged the need for cost recovery and has committed to starting the cost recovery process.

By Order No. PSC-00-1046-PAA-TP, issued May 30, 2000, in Docket No. 981444-TP, the FPSC approved the Joint Petitioners' Offer of Settlement and thereby acknowledged the need for cost recovery and agreed to open a docket to address the cost recovery process. Staff subsequently opened Docket No. 001503-TP on September 29, 2000 to address number pooling cost recovery.

On December 12, 2000, staff conducted a workshop to solicit input from the industry regarding cost recovery and allocation mechanisms for number pooling trials in Florida. The post-workshop comments were focused mainly on whether cost recovery should be delayed until the FCC makes a determination as to whether state-mandated pooling costs should be rolled into the federal cost recovery mechanism, or whether the FPSC should proceed with the cost recovery. However, the Office of Public Counsel comments contended that price cap regulation in Florida already provides cost recovery for the local exchange companies, and there is no need for a local rate surcharge, as the local exchange industry argues, nor is a surcharge on local rates authorized by the Florida Statutes.

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In Order No. FCC 00-429⁴, released December 29, 2000, the FCC concluded that the amount and detail of the cost data that had been provided in response to Order No. FCC 00-104 was insufficient for it to determine the amount or magnitude of the costs associated with thousands-block number pooling, and sought additional comments and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. (¶ 180)

On February 13, 2001, the FPSC submitted comments to the FCC regarding Order No. FCC 00-104, stating that the FCC should give state commissions the option to defer state-mandated thousands-block number pooling cost recovery until national thousands-block number pooling is implemented and a federal cost recovery mechanism is put in place. At that time, the costs of the state-mandated thousands-block number pooling could be rolled into one recovery mechanism. This would result in having only one number pooling charge on a customer's bill, which would cause less confusion for the customers.

On December 28, 2001, the FCC released Order No. 01-362⁵ which addressed federal cost recovery for national thousands-block number pooling, and re-affirmed that states that have conducted pooling trials should establish cost recovery mechanisms for costs incurred by carriers participating in such trials. Specifically, Order No. FCC 01-362 stated:

In this Third Report and Order, we direct states implementing thousands-block number pooling under delegated authority to commence cost recovery actions for state-mandated thousands-block number pooling trials. We applaud the efforts that state

⁴ Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Dockets Nos. 96-98 and 99-200, Order No. FCC 00-429, released December 29, 2000, In the Matter of Numbering Resource Optimization; Petition of Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, 717.

⁵ Third Report and Order and Second Order on Reconsideration, CC Dockets Nos. 96-98 and 99-200, Order No. FCC 01-362, released December 28, 2001, In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability.

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commissions have made in implementing pooling trials within their respective jurisdictions, and we believe that the costs should be recovered within those jurisdictions that have enjoyed the benefits of such trials.

FCC 01-362, ¶ 25.

The FCC also acknowledged the argument proffered by some commenters, including the FPSC, that state costs should be combined with national costs, and all thousands-block number pooling costs should be recovered in the federal jurisdiction. (¶ 26) The FCC expressly rejected this proposal, stating that ". . . [w]e believe that the entire nation should not be required to bear the costs incurred for the benefit of a particular state." (¶ 27) Order No FCC 01-362 further stated:

We now direct states that have exercised delegated authority and implemented thousands-block number pooling to likewise commence cost recovery procedures for these state-specific costs. We agree with BellSouth that any state that has ordered implementation of pooling in advance of the national rollout is required to implement a cost recovery scheme.

FCC 01-362, ¶ 28.

By FPSC Order No. PSC-02-0466-PAA-TP, issued April 5, 2002, in Docket No. 001503-TL⁶, the FPSC ordered that carriers shall be allowed the opportunity to seek recovery of their costs associated with state-mandated pooling trials. The FPSC further ordered that regulated carriers seeking recovery shall file a petition with the FPSC for a cost recovery mechanism that meets federal and state law, including all supporting documents related to their cost analysis.

On August 5, 2002, BellSouth filed a petition for recovery of its carrier-specific costs (\$3,506,844) associated with state-mandated number pooling trials.

⁶ Consummating Order PSC-02-0590-CO-TP, issued April 30, 2002.

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On March 5, 2003, staff sent an inquiry to the State Coordination Group (SCG)⁷ to determine whether their respective commission had implemented any cost recovery mechanism for state-mandated number pooling trials. Based on the responses staff received, most state commissions have not taken any action because either a cost recovery petition has not been filed by the incumbent carrier, or a petition was filed but the incumbent carrier withdrew its petition.

Prior to the issuance of Order FCC 01-362, two state commissions had addressed cost recovery for state-mandated pooling trials. In Order No. U-13086, issued November 20, 2001, the Michigan Public Service Commission stated that a special cost recovery mechanism shall not be approved for recovery of carrier-specific costs associated with number pooling because these are costs of doing business. In Docket No. T-00000A-01-0076, issued August 29, 2001, the Arizona Corporation Commission stated that carrier-specific costs are not recoverable by a special cost recovery mechanism since they are merely costs of doing business. In Arizona and Michigan there were only two state-mandated pooling trials in each state. Some other states, including New Hampshire and Maine, are still working on the merits of the cost recovery issues.

After deferral of the previous recommendation, staff took the opportunity to meet with representatives of the Office of Public Counsel and BellSouth on March 25, 2003, to attempt to find common ground. Although no agreements were reached, both parties agreed that the meeting was beneficial. This recommendation addresses BellSouth's petition for cost recovery.

⁷ A group composed of staff from 33 state Commissions who work on numbering issues (AR, AZ, CA, CO, CT, FL, IA, ID, IL, IN, KS, MA, MD, ME, MI, MO, MT, NC, NE, NH, NJ, NY, OH, OK, PA, RI, TN, TX, UT, VA, VT, WA, and WI).

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DISCUSSION OF ISSUES

ISSUE 1: Does BellSouth's cost recovery petition for state-mandated number pooling trials comply with the filing requirements established pursuant to FPSC Order No. PSC-02-0466-PAA-TP?

RECOMMENDATION: Yes. Staff recommends that BellSouth's cost recovery petition for state-mandated number pooling trials complies with the filing requirements established pursuant to FPSC Order No. PSC-02-0466-PAA-TP. (ILERI)

STAFF ANALYSIS: As stated in the Case Background, by Order No. PSC-02-0466-PAA-TP, the FPSC allowed carriers the opportunity to seek recovery of costs associated with state-mandated number pooling trials. Specifically, the Order stated:

Carriers seeking recovery of carrier-specific costs shall make a filing with this Commission detailing the means by which they propose to recover their costs consistent with FCC guidelines and in accordance with federal and state statutes.

On August 5, 2002, BellSouth filed a petition for recovery of its carrier-specific costs (\$3,506,844) associated with state-mandated number pooling trials. Upon staff's review and analysis of BellSouth's petition, and based on the FPSC's Order No. PSC-02-0466-PAA-TP, staff recommends that BellSouth's cost recovery petition for state-mandated number pooling trials complies with the filing requirements established pursuant to FPSC Order No. PSC-02-0466-PAA-TP.

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ISSUE 2: Should BellSouth be allowed to recover its requested carrier-specific costs of \$3,506,844 associated with implementing state-mandated pooling trials?

PRIMARY RECOMMENDATION: No. Staff recommends that BellSouth should be allowed to recover carrier-specific costs of \$2,970,762 associated with implementing state-mandated pooling trials. (ILERI, CHRISTENSEN)

ALTERNATIVE RECOMMENDATION: Yes. Staff recommends that BellSouth should be allowed to recover its requested carrier-specific costs of \$3,506,844 associated with implementing state-mandated pooling trials. (CASEY, FORDHAM)

GENERAL STAFF ANALYSIS: By Order FCC 00-104, the FCC adopted three cost categories for thousands-block number pooling: (1) shared industry costs [costs incurred by the industry as a whole, such as the North American Numbering Plan (NANP) administration costs]; (2) carrier-specific costs directly related to thousands-block number pooling [such as enhancements to carriers' Service Control Point (SCP), Local Service Management System (LSMS), Service Order Activation (SOA), and Operation Support Systems (OSS)]; and (3) carrier-specific costs not directly related to thousands-block number pooling. (FCC 00-104, ¶ 201, ¶ 208, and ¶ 211)

Order No. FCC 00-104 concluded that incremental shared industry costs become carrier-specific costs once they are allocated among carriers. (¶ 204) The FCC also stated that ". . . each carrier should bear its carrier-specific costs not directly related to thousands-block number pooling implementation as network upgrades." (¶ 211)

When determining if, or how much, of the carrier-specific costs of state-mandated pooling trials should be recovered, staff first considered whether these costs should just be treated as an ordinary cost of business. One can theorize that since the state-mandated pooling trials started in 2000, the carriers have already capitalized and expensed the costs, and recouped them through their price cap increases. However, the FPSC has previously acknowledged the need for state-mandated number pooling cost recovery by approving the Offer of Settlement mentioned in the Case Background.

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The FCC, in FCC Order 01-362, detailed a three-prong test to determine whether number pooling costs are extraordinary. Specifically, the Order stated:

...to be eligible for the extraordinary recovery we establish above, thousands-block number pooling costs must satisfy each of three criteria identified in the LNP proceedings. First, only costs that would not have been incurred "but for" thousands-block number pooling are eligible for recovery. Second, only costs incurred "for the provision of" thousands-block number pooling are eligible for recovery. Finally, only "new" costs are eligible for recovery. To be eligible for extraordinary recovery, carriers' thousands-block number pooling shared industry and carrier-specific costs directly related to thousands-block number pooling must satisfy all three of these criteria.

FCC Order No. 01-362, ¶43. The FCC interpreted the first two criteria, the "but for" test and the "for the provision of" test to mean that only the demonstrably incremental costs of thousands-block number pooling may be recovered. (FCC 01-362, ¶44) The third criteria of being "new" costs was interpreted to mean that costs incurred prior to the implementation of thousands-block pooling are ineligible for recovery because they are embedded investments already subject to recovery through standard mechanisms. (FCC 01-362, ¶46)

By Order No. PSC-02-0466-PAA-TP, the FPSC ordered that carriers seeking recovery of carrier-specific costs shall show that:

- 1) pooling results in a net cost increase rather than a cost reduction;
- 2) the costs would not have been incurred "but for" and "for the provision of" thousands-block number pooling;
- 3) the costs are "new" costs;
- 4) the costs for which recovery is requested are Florida-specific costs not related to national number pooling; and
- 5) the costs will be recovered on a competitively neutral basis in accordance with Section 251(e)(2) of the Telecommunications Act of 1996. Order No. PSC-02-0466-PAA-TP at p. 10.

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BellSouth's August 5, 2002, petition included the following assertions in calculating the costs associated with state-mandated number pooling trials:

- a) Costs are associated with the following state-ordered area code number pooling trials: 305⁸, 561, 904, and 954;
- b) Costs included in its petition were not included in the regional study⁹;
- c) Cost categories included consist of: Network Capital and Expenses (switch generic advancement and switch pooling feature software), Employee Related (switch translations, Network contract salaries & Block Administration Center salaries) and Number Portability Administration Center (NeuStar) Expenses;
- d) The cost methodology used in its petition is the total direct long-run incremental costs plus a reasonable allocation of shared and common costs. The study recovers the costs incurred during the years 2000, 2001, and 2002; and
- e) The Present Value (PV) calculations are based on an 11.25% after-tax return rate, which has been used in FCC filings¹⁰, such as BellSouth's Telephone Number Portability revised tariff filing dated June 11, 1999.

The FCC also required each carrier seeking number pooling cost recovery to estimate the cost savings experienced by postponing area code relief because of the implementation of number pooling. (FCC 00-104, ¶226) In its petition, BellSouth stated that state-mandated pooling trials have postponed area code relief in its pooling areas and has saved BellSouth approximately \$416,990. BellSouth followed FCC guidelines and deducted this amount from the total costs requested for implementing state-mandated pooling trials.

⁸ The 305 area code only considers the Keys region.

⁹ The regional study considers all of BellSouth's territory in the United States for FCC-mandated national number pooling cost recovery.

¹⁰ FCC Order No. 01-362 states " . . . an ILEC's unrecovered capital investment will be subject to an 11.25% percent after-tax return, however, a longer recovery period greatly increases the total cost, while a shorter recovery period would decrease total cost by decreasing the interest expense." (FCC 01-362, ¶ 41)

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After examination of the BellSouth cost analyses submitted with its petition, some staff believe that, based on previous Commission decisions, certain costs should be excluded from consideration when determining state-mandated number pooling cost recovery. In order to provide Commissioners with both options, staff is presenting a primary and an alternative recommendation on the amount of cost which should be approved for recovery.

PRIMARY STAFF ANALYSIS: Primary staff believes that \$536,082 of salaried labor costs of BellSouth employees should be excluded from consideration when determining the amount of number pooling costs which should be recovered. Primary staff believes that these BellSouth salaried costs are not "incremental" costs, and would have been incurred whether these salaried employees were working on number pooling or something else. Based on BellSouth's filings and subsequent discussions, primary staff believes that BellSouth has not demonstrated that it had to create any new positions to implement state-mandated number pooling trials. Furthermore, BellSouth has not shown that these salaried employees would have been terminated or laid off had the number pooling function not been imposed.

Primary staff believes that this Commission is charged with determining if these costs reasonably meet the standards set forth in Order No. PSC-02-0466-PAA-TP, and Order No. FCC 01-362. In ¶ 28 of Order FCC 01-362, the FCC states:

If, after reviewing carrier cost submissions, states determine in accordance with Section 251(e)(2) and the Commission's analysis here and in the First Report and Order that carriers have incurred little or no recoverable carrier-specific costs directly related to state thousands-block number pooling trials (i.e., incremental costs directly attributable to thousands-block number pooling), they should make affirmative findings to that effect.

Primary staff believes that the salaried labor costs of BellSouth included in its petition are not incremental costs, and just as the FCC Order states, the FPSC should make a finding to that effect.

Primary staff believes that BellSouth's salaried labor costs, have failed to meet the "but for" prong of the "three prong" test set out in Order No. FCC 01-362 and incorporated in Order No. PSC-

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02-0466-PAA-TP. BellSouth has failed to meet the "but for" prong, because the labor costs would have been incurred whether or not there was a Florida specific trial. BellSouth would have had the employees and treated the associate cost as a cost of doing business. As previously noted the number pooling costs have been depreciated and expensed for financial purposes. Primary staff's belief is that BellSouth has not provided justification that all of its labor costs meet the standards for recovery.

BellSouth is a price-regulated company whose earnings are not dictated by the Commission. However, if a company has and should have recovered an expense through the normal course of business, then it is recovered through a surcharge, it could be considered tantamount to "double-recovery."

Primary staff notes that the FPSC has not previously made a "double cost recovery" determination in the context of a telecommunications scenario. However, the FPSC has established a "double cost recovery" position in electric and water rate-base regulation proceedings. While the FPSC is not mandated to apply this "double cost recovery" standard in telecommunications cases, nevertheless primary staff believes that this "double cost recovery" standard is persuasive in this case.

The "double cost recovery" standard is set forth in a number of FPSC orders. For example, on page 10 of Order No. PSC-97-1047-FOF-EI, issued September 5, 1997, in Docket No. 970007-EI, the FPSC states the following with regard to the Environmental Cost Recovery Clause (ECRC):

The Company stated that no new positions were created for this project. Allowing these payroll charges to be included in the ECRC constitutes double recovery. Therefore, TECO should remove these payroll charges, including any applicable interest. . .

Another example is Order No. PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, in which the FPSC states that:

. . . we find that the utility has already recovered the costs of the items expensed prior to the test year and that it would result in double

recovery if these items were allowed to be capitalized. This position is supported by Westwood Lake, Inc. v. Metropolitan Dade County Water and Sewer Board, 203 So. 2d 363, 367 (Fla. 3d DCA 1967), in which the court noted that:

Ordinarily, a utility may not capitalize and include in its rate base items which have been accounted for and charged off as operating expenses. This is true because expensed items have been paid for and their costs recovered and the utilities are estopped therefore to capitalize those items which they have already expensed. (Citations omitted)

Based on the FPSC's standards regarding double recovery set forth in the above cases and analysis of BellSouth's petition for cost recovery, primary staff believes that (1) BellSouth has failed to meet its burden of proof that "but for" number pooling these labor costs would have been incurred, and (2) BellSouth has failed to demonstrate that these salaried employee costs are "new" costs specifically related to number pooling.

BellSouth, however, has shown that it incurred \$66,817 of contracted labor which primary staff believes is justified and should be recovered. Based on this analysis, primary staff believes that \$536,082 of salaried labor costs of BellSouth employees should be excluded when determining the amount of recoverable number pooling costs subject to recovery. However, BellSouth should be allowed to recover the remaining carrier-specific costs of \$2,970,762 associated with implementing state-mandated pooling trials.

ALTERNATIVE STAFF ANALYSIS: Alternative staff believes that BellSouth should be allowed to recover its requested carrier-specific costs of \$3,506,844, including BellSouth salaried costs, associated with implementing state-mandated pooling trials. Alternative staff believes that although there are BellSouth salaried costs included in the petition, they are not ordinary costs of doing business, and should be considered extraordinary costs as defined by Order FCC 01-362.

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Alternative staff believes that BellSouth has shown that the costs are "new" costs and would not have been incurred "but for" and "for the provision of" thousands-block number pooling, and are therefore, incremental costs, and recoverable. As mentioned in the General Staff Analysis, the FCC interpreted the first two criteria, the "but for" test, and the "for the provision of" test, to mean that only the demonstrably incremental costs of thousands-block number pooling may be recovered. BellSouth's petition included a labor breakdown showing the amount of hours and corresponding labor rates of employees who worked on the implementation of state-mandated pooling trials over a two year period, and asserts that these costs would not have been incurred "but for" and "for the provision of" state mandated number pooling.

The third criteria of being "new" costs was interpreted to mean that costs incurred prior to the implementation of thousands-block pooling are ineligible for recovery. BellSouth's petition includes labor costs incurred in the years 2000 and 2001. The FPSC received authority for state-mandated pooling trials in September 1999, and therefore, the costs should be considered "new" by the FCC's definition.

BellSouth has followed the number pooling cost recovery guidelines set forth in numerous FCC Orders, and met the five FPSC requirements of Order No. PSC-02-0466-PAA-TP. In BellSouth's "Introduction and Overview" included in its petition, BellSouth states:

As stated earlier, this study contains the direct costs of implementing TNP (thousand number pooling). Thus, these costs would not have been incurred except for the implementation of TNP.

BellSouth petition at page 1. When providing a "Description of Cost Categories" on page 2 of the "Introduction and Overview," BellSouth states:

BellSouth utilized the same "but for" criteria specified in the Telephone Number Portability proceedings as referenced in the NRO First Report and Order (Paragraph 218), and as referenced in the NRO Third Report and Order (FCC 01-362, Paragraph 43), in order to identify the carrier specific costs directly related to Thousands Block Number

Pooling. Under this "but for" test, costs are eligible for recovery only if they satisfy the following two requirements: 1) the costs would not have been incurred by the carrier "but for" the implementation of Thousands Block Number Pooling; and 2) the costs were incurred "for the provision of" Thousands Block Number Pooling. Further, the NRO First Report and Order (Paragraph 219) and the NRO Third Report and Order (Paragraph 43), require that in addition to the "but for" test, only new costs should be identified in the cost study as carrier-specific costs directly related to Thousands Block Number Pooling. BellSouth followed this third requirement in identifying Number Pooling costs.

Alternative staff believes that reducing the labor costs included in BellSouth's petition by \$536,082 (or \$.09 per end user line) simply because BellSouth used its own employees to accomplish the initial implementation tasks of state-mandated number pooling is not appropriate.

Alternative staff believes that the costs included in BellSouth's petition, including salaried employees, are reasonable, and BellSouth should be allowed to recover its requested carrier-specific costs of \$3,506,844 associated with implementing state-mandated pooling trials.

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ISSUE 3: If the FPSC approves Issue 1, and staff's primary or alternative recommendation in Issue 2, how should BellSouth recover its carrier-specific costs associated with state-mandated number pooling trials?

RECOMMENDATION: If the FPSC approves Issue 1, and staff's primary or alternative recommendation in Issue 2, staff recommends that BellSouth recover its carrier-specific costs associated with state-mandated number pooling trials through a one-time charge assessed on all of BellSouth's Florida end-user lines in service as of June 30, 2003. Equivalency factors regarding end-user lines should be the same as those used for local number portability cost recovery. BellSouth should submit its final calculation of the end-user line charge to staff prior to putting any assessment on customer bills. Staff should be allowed to approve the calculation of the final assessment administratively; however, any material difference between the estimated one-time charge and the final assessment should be brought before the FPSC for approval. (ILERI)

STAFF ANALYSIS: Staff examined a number of alternatives when determining how the number pooling carrier specific costs of BellSouth should be recovered. The FCC has authorized carriers seeking recovery of national federally-mandated number pooling trials to use network access charges as a cost recovery mechanism. However, staff believes that the FPSC should approve a recovery mechanism which is consistent and can be applied to all carriers filing for state-mandated number pooling cost recovery in Florida because many of carriers will not meet the parity standards.

Staff agrees with the FCC position that all subscribers will benefit from number pooling. Order FCC 01-362 states:

. . . all carriers and subscribers will benefit from national thousands-block number pooling to the extent that it postpones or avoids area code relief and ultimately the replacement of the existing NANP. (¶ 34)

For this reason, costs of federally-mandated number pooling would be shared and borne by all end-user lines in the United States. To avoid disproportionate impacts from combination of federal and state cost recovery, BellSouth's carrier-specific costs associated with state-mandated number pooling trials should be borne by all BellSouth's Florida end-user lines.

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An argument could be made that some end-users may benefit more than others. The FCC, in Order 01-362, rejected the idea that state costs should be combined with national costs, and all thousands-block number pooling trial costs should be recovered in the federal jurisdiction. (¶ 26) However, the FCC allows federally-mandated number pooling trial costs to be recovered by all customers of the ILEC regardless of the state in which the pooling trial took place.

Subscribers located in area codes with state-mandated pooling may benefit more since area code relief for their area code may be postponed further because of number pooling. This Commission¹¹ has consistently ruled that the "cost causers," not the general body of ratepayers should bear the costs.

However, staff believes that the Commission's previous decisions do not apply here because all customers benefit from extending the life of area codes, and the NANP. This is consistent with the FCC's conclusion that there is no "cost causer" in the traditional sense. (FCC Order No. 01-362, ¶ 36) Therefore, staff believes that BellSouth's carrier-specific costs associated with state-mandated number pooling trials should be borne by all BellSouth's Florida end-user lines. Thus, all customers should share in the costs of number pooling.

Staff estimates that BellSouth will have approximately 6,200,176 end-user lines in Florida as of June 30, 2003. When addressing the length of time over which to allow number pooling cost recovery, the FCC stated:

We are thus required to establish some reasonable period of time, shorter than five years, over which these costs may be recovered. Given that an ILEC's unrecovered capital investment will be subject to an 11.25 percent after-tax return, however, a

¹¹ By Order No. PSC-99-1399-PAA-WU, issued July 21, 1999, in Docket No. 981663-WU, the Commission stated "These charges are designed to more accurately reflect the costs associated with each service and to place the burden of payment on the person who causes the cost to be incurred (the 'cost causer,') rather than on the entire ratepaying as a whole. By Order No. PSC-99-0924-PAA-EI, issued May 10, 1999, in Docket No. 990179-EI, the Commission stated "In our order approving the late payment charge for Southern Bell, we stated that 'this Commission has consistently taken action to place costs on the cost-causer rather than the general body of ratepayers.'"

longer recovery period greatly increases the total cost, while a shorter recovery period would decrease total cost by decreasing the interest expense. Accordingly, we conclude that recovery should be spread over a two-year period.

FCC 01-362, ¶ 41. Using a two-year recovery period, staff estimates that each access line would have an approximate additive of \$0.02 per month for the primary recommendation in Issue 2, and an approximate additive of \$0.0236 per month for the alternative recommendation in Issue 2. However, since the total costs recovered from BellSouth's Florida end users associated with state-mandated number pooling trials would be approximately \$0.48 (\$2,970,762/6,200,176 end-user lines) for the primary recommendation and \$0.57 (\$3,506,844/6,200,176 end-user lines) for the alternative recommendation, staff believes that in the interest of administrative efficiency, and regardless of whether the primary or alternative recommendation is approved in Issue 2, a one-time charge would be appropriate, and would not present a hardship to consumers. BellSouth should use its Florida end-user lines of customers of record as of June 30, 2003, to calculate the exact charge. Staff believes that equivalency factors regarding end-user lines should be the same as those used for local number portability cost recovery.

Conclusion: Staff recommends that BellSouth recover its carrier-specific costs associated with state-mandated number pooling trials through a one-time charge assessed on all of BellSouth's Florida end-user lines in service as of June 30, 2003. Equivalency factors regarding end-user lines should be the same as those used for the local number portability cost recovery. BellSouth should submit its final calculation of the end-user line charge to staff prior to putting any assessment on customer bills. Staff should be allowed to approve the final calculation of the assessment administratively; however, any material difference between the estimated one-time charge and the final assessment should be brought before the FPSC for approval.

DOCKET NO. 001503-TP

DATE: May 8, 2003

ISSUE 4: Should this docket be closed?

RECOMMENDATION: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this order will become final upon issuance of a consummating order. Staff recommends that this docket should remain open pending review of cost recovery petitions from other carriers. (CHRISTENSEN)

STAFF ANALYSIS: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this order will become final upon issuance of a consummating order. Staff recommends that this docket should remain open pending review of cost recovery petitions from other carriers.