

State of Florida



Public Service Commission
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COMMISSION
CLERK

DATE: OCTOBER 9, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ILERI, CASEY)
OFFICE OF GENERAL COUNSEL (CHRISTENSEN) PAC PK

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

AGENDA: 10/21/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001503A1SPRINT.RCM

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FPSC-COMMISSION CLERK

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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 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:

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.

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.

The FPSC has taken an aggressive approach to number conservation policies, in particular number pooling, which is providing great benefits. NeuStar, Inc., the current number pooling administrator is now keeping a record as to how many 10,000 number blocks (NXXs) are saved due to number pooling. Of the total 320 NXXs (or 3,200,000 numbers) saved by number pooling in Florida to date, 261 NXXs (or 2,610,000 numbers) resulted from the state mandated pooling areas, rather than from the federally-mandated number pooling trials. Number pooling has also had a large impact on postponing area code (NPA) relief in a number of these areas. The following table shows the impact on areas where state number pooling has taken place.

Area Code	Number of NXXs (10,000 Number Blocks) Saved by Pooling	Estimated Exhaust Date of Area Code as of June 2, 2003	Number of Quarters that Exhaust Date has moved out
239	19	4 th Quarter 2017	0
305 (Keys)	7	3 rd Quarter 2005	7 Quarters
386	16	1 st Quarter 2025	17 Quarters
561	52	2 nd Quarter 2013	21 Quarters
772	37	4 th Quarter 2026	0
813	29	4 th Quarter 2014	25 Quarters
904	28	4 th Quarter 2018	30 Quarters
941	33	1 st Quarter 2018	27 Quarters
954/754	40	1 st Quarter 2019	0

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

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.

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, In Re: Number Utilization Study: Investigation into Number Conservation Measures, 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 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.

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.

By Order No. PSC-00-1046-PAA-TP, issued May 30, 2000, in Docket No. 981444-TP, In Re: Number Utilization Study: Investigation into Number Conservation Measures, 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 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.

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

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.

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 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

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.

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-TL, In Re: Cost recovery and allocation issues for number pooling trials in Florida,⁶ 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 September 30, 2002, Sprint filed a petition for recovery of its carrier-specific costs (\$1,515,000) associated with state-mandated number pooling trials. This recommendation addresses Sprint's cost recovery petition for state-mandated number pooling trials.

By Order No. PSC-03-1096-PAA-TP, issued October 2, 2003, the FPSC considered BellSouth's August 5, 2002 petition for recovery of its carrier-specific costs for state-mandated number pooling trials. The Commission approved all BellSouth's state-mandated number pooling implementation costs, with the exception of BellSouth's salaried costs. In that order, the Commission also modified the recommended notice to include the caveat that the company was to work with staff on its bill-insert notice to ensure that (1) the language would be adequate for customers' understanding, (2) the notice would fit on the bill so no additional costs would be incurred, and (3) the end-user charge would be stated as "One-Time Area Code Conservation Charge."

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

DISCUSSION OF ISSUES

ISSUE 1: What is the Florida Public Commission's jurisdiction regarding cost recovery of state mandated pooling trials?

RECOMMENDATION: Staff recommends that the Florida Public Service Commission has authority regarding cost recovery of state-mandated pooling trials granted pursuant to Section 251(e) of the Telecommunications Act of 1996, and Sections 364.01, and 364.16(4), Florida Statutes. (CHRISTENSEN)

STAFF ANALYSIS: The Commission has federal and state law authority to act regarding number pooling issues. Section 251 (e) of the Telecommunications Act of 1996 (Act) permits the Federal Communications Commission (FCC) to delegate authority to state commissions to administer telephone numbering. Section 251 (e) states that:

(e) Numbering Administration.--

(1) Commission authority and jurisdiction - The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.

Moreover, Section 251 (e) (2), provides the authority to collect for the cost of number pooling. Section 251 (e) (2) states:

(2) Costs - The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.

By Order No. FCC 99-249, released September 15, 1999, the FCC acknowledged the need to delegate number conservation authority to this Commission. In that Order, the FCC states that:

We recognize that the area code situation in Florida is critical, with nine new area codes having been added since 1995, six of which may already be in jeopardy. In light of this extreme situation and in order to empower the Florida Commission to take steps to make number utilization more efficient, we herein grant significant additional authority to the Florida Commission. (§ 5)

Further, pursuant to Section 251(e), the FCC delegated authority to conduct number pooling trials. In that Order, the FCC states that:

We therefore grant authority to the Florida Commission to conduct mandatory thousands-block number pooling trials in Florida. (§ 13)

Pursuant to Section 251(e)(2), the FCC delegated its obligation to provide for cost recovery for the number pooling trials. Specifically, the FCC states in the Order that:

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. The Commission has tentatively concluded that thousands-block number pooling is a numbering administration function, and that section 251(e)(2) authorizes the Commission to provide the distribution and recovery mechanisms for the interstate and intrastate costs of number pooling. We conclude that inasmuch as we are hereby delegating numbering administration authority to the Florida Commission, the Florida Commission must abide by the same statute applicable to this Commission, and, therefore, ensure that costs of number pooling are recovered in a competitively neutral manner. (§ 17)

Thus, pursuant to the Act and Order No. FCC 99-249, the Commission has been delegated authority to act under federal law regarding administering telephone numbering issues.

The Commission also has state law authority to act regarding numbering issues. Specifically, the state law authority over

numbering policies is granted through Sections 364.01(4)(a), and 364.16(14) Florida Statutes. Section 364.01(4)(a) states:

The commission shall exercise its exclusive jurisdiction in order to:

(a) Protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

Having an adequate supply of numbers available for the provision of telecommunications service is essential to ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

Section 364.16(4), Florida Statutes states:

In order to assure that consumers have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up the consumer's existing local telephone number, all providers of local exchange services must have access to local telephone numbering resources and assignments on equitable terms that include a recognition of the scarcity of such resources and are in accordance with national assignment guidelines.

Section 364.16(4), Florida Statutes, acknowledges the importance of numbering issues. This section provides for local number portability because of the scarcity of numbering resources and the need to protect and make avail to all local providers, access to numbering resources. Thus, it appears clear from this language that the Commission is charged with ensuring the scarce numbering resources in Florida are protected in accordance with the national assignment guidelines. Although, this subsection of the statute specifically relates to local number portability, the principles acknowledged within this section should and can be applied to the Commission's general obligation to ensure the availability of basic local telecommunications service to Florida consumers. Under Florida law, the Commission has the authority and obligation to take reasonable measures to ensure the protection of the scarce

numbering resources within the State of Florida. Thus, working in conjunction with the Federal delegation of authority over number pooling and the cost associated with the number pooling trials, state law also provides authority for the Commission to act consistent with ensuring the protection of the scarce numbering resources within the State of Florida. The U.S. Supreme Court recognized that when federal and state legislative directives are intertwined, state agencies need to act in accordance with, if not at the direction of, Congress. See FERC v. Mississippi, 456 U.S. 742 (1982). Therefore, staff believes that the FCC's specific delegation of authority to the Commission to implement number pooling and address related cost recovery, in conjunction with Florida Legislator's apparent intent that the Commission act in this area, establishes the basis for the Commission's ability to act in this matter.

Staff recommends that the Florida Public Service Commission has authority regarding cost recovery of state-mandated pooling trials granted pursuant to Section 251(e) of the Telecommunications Act of 1996, and Sections 364.01, and 364.16(4), Florida Statutes.

ISSUE 2: Does Sprint'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 Sprint'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 September 30, 2002, Sprint filed a petition for recovery of its carrier-specific costs (\$1,515,000) associated with state-mandated number pooling trials. Upon staff's review and analysis of Sprint's petition, and based on the FPSC's Order No. PSC-02-0466-PAA-TP, staff recommends that Sprint'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.

ISSUE 3: Should Sprint be allowed to recover its requested carrier-specific costs of \$1,515,000 associated with implementing state-mandated pooling trials?

RECOMMENDATION: No. Staff recommends that Sprint should be allowed to recover carrier-specific costs of \$627,734 associated with implementing its state-mandated pooling trials. (ILERI, CHRISTENSEN)

STAFF ANALYSIS: 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 regarding "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.

Sprint's September 30, 2002 petition included the following assertions in calculating the costs associated with state-mandated number pooling trials:

- a) Sprint proposes to recover its carrier-specific costs through a one-time surcharge per access line, excluding Lifeline access lines.
- b) Pooling results in a net cost increase, rather than a cost reduction for Sprint. The costs included in the calculation are "new" costs and are Florida-specific costs not related to national number pooling.
- c) Sprint has utilized the same Local Number Portability cost recovery methodology used in the FCC filing in preparing its cost recovery study for the pooling trials in Florida.
- d) Recovery of investments and expenses within the revenue requirement include prior year expenditures from 1998 through 2001 and cost savings for 2002 through 2006.
- e) The labor costs include activities associated with number pooling began in 1998 to assure successful implementation of all necessary processes and procedures. These costs were not included in Sprint's federal number pooling cost recovery filing which amounts to \$3,441,057.
- f) Sprint's total revenue requirement for number pooling implementation in Florida is \$1,515,000. As of January, 2003, Sprint had approximately 2,115,000 access lines. The revenue requirement per line is \$0.72.

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, Sprint stated that state-mandated pooling trials have postponed area code relief in its pooling areas which saved Sprint approximately \$187,408. Sprint followed FCC guidelines and deducted this amount from the total costs requested for implementing state-mandated pooling trials.

After careful examination of Sprint's cost recovery petition and considering the previous Commission decision in Order No. PSC-03-1096-PAA-TP, staff believes that salaried labor costs should be excluded from consideration when determining state-mandated number pooling cost recovery.

In its petition, Sprint states that it began working on implementing state-mandated number pooling trial processes and procedures in 1998. In response to Staff's Interrogatory #13, Sprint states:

The labor costs listed in Exhibit 2 relate to the state number pooling trials because these activities associated with number pooling began in 1998 in order to assure successful implementation of all necessary processes and procedures.

Sprint's petition includes labor costs of \$440,138 for 1998 and \$447,128 for 1999. Per FCC 01-362, the third part of the three-prong test for recovery of number pooling implementation costs is that the costs must be "new" costs. (¶ 46) The FCC further states:

Costs incurred prior to the implementation of thousands-block number pooling are ineligible for recovery because they are embedded investments already subject to recovery through standard mechanisms. Thus, permitting recovery of these costs again through this extraordinary mechanism would amount to double recovery. Costs are not "new," and thus are ineligible for extraordinary treatment as thousands-block number pooling charges, if they previously were incurred, are already being recovered under ordinary recovery mechanisms, or are already being recovered thorough the number portability end-user charge or query charge.

(footnotes omitted) FCC 01-362, ¶ 46.

Sprint's petition included \$756,190 of salary labor costs that were incurred prior to the Commission obtaining authority from the FCC to order state-mandated number pooling trials in September 1999. The recovery of pooling costs that are not considered "new", as defined by the FCC, are not eligible for recovery. As Sprint

incurred these labor costs prior to Florida obtaining authority to mandate state number pooling trials, these costs should be disallowed for recovery purposes.

Sprint included a total of \$887,266 of salaried labor in its cost recovery petition. While staff believes that \$756,190 should be disallowed for recovery purposes since the costs were incurred prior to Florida obtaining authority to mandate number pooling trials, staff also believes that the entire amount (\$887,266) should be disallowed based on the argument that salaried labor costs are not "incremental" in nature. In staff's opinion, these costs would have been incurred whether these salaried employees were working on number pooling or something else. This proposed disallowance is consistent with the Commission's vote regarding BellSouth's petition for number pooling cost recovery.

Staff believes that Sprint has not demonstrated that it had to create any new positions to implement state-mandated number pooling trials, and has not shown that these salaried employees could have been terminated or laid off had the number pooling function not been imposed.

Staff believes that this Commission is charged with determining whether Sprint's state pooling costs reasonably meet the standards set forth in 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.

Staff believes that the salaried labor costs of Sprint included in its petition are not incremental costs, thus, the FPSC should make an affirmative finding to that effect as was done in the Commission's previous decision regarding BellSouth's state number pooling implementation costs.

Therefore, staff believes that the \$887,266 of salaried labor costs of Sprint employees should be excluded when determining the amount of recoverable number pooling costs subject to recovery because Sprint has not demonstrated that it has met its obligation using the "but for" prong test of the FCC and included costs prior to FCC's delegation of authority to the FPSC. However, Sprint should be allowed to recover the remaining carrier-specific costs of \$627,734 associated with implementing state-mandated pooling trials, which consists of pooling administration costs, SS7 and OSS upgrades, and incremental investment and installation costs.

ISSUE 4: If the FPSC approves cost recovery for Sprint for state-mandated number pooling trials, how should Sprint recover its carrier-specific costs associated with state-mandated number pooling trials?

RECOMMENDATION: If the FPSC approves cost recovery for Sprint for state-mandated number pooling trials, staff recommends that Sprint recover its costs through a one-time charge assessed on all of Sprint'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. Sprint should submit its final calculation of the end-user line charge to staff at least 30 days 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 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, Sprint's carrier-specific costs associated with state-mandated number pooling trials should be borne by all Sprint's Florida end-user lines.

According to Sprint's petition, Sprint had approximately 2,115,000 end-user lines in Florida as of January, 2003, which would result in an approximate \$0.30 ($\$627,734/2,115,000$ end-user lines) one-time end-user charge.

Staff believes that Sprint 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. Furthermore, staff believes that Sprint should submit its final calculation of the end-user line charge to staff at least 30 days prior to putting any assessment on customer bills for staff's review. Staff also believes that the Commission should allow staff to approve the calculation of the final assessment administratively; however, staff should bring any material difference between the estimated one-time charge and the final assessment before the FPSC for approval.

Conclusion: If the FPSC approves cost recovery for state-mandated number pooling trials, staff recommends that Sprint recover its carrier-specific costs associated with state-mandated number pooling trials through a one-time charge assessed on all of Sprint'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. Sprint should submit its final calculation of the end-user line charge to staff at least 30 days 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.

ISSUE 5: If the Commission approves cost recovery for state-mandated pooling trials for Sprint, what type of notice should be given to customers, and what should the charge be called?

RECOMMENDATION: Staff recommends that if the Commission approves cost recovery for state-mandated pooling trials for Sprint, Sprint should work with staff on its bill-insert notice to ensure that the language would be adequate for customers' understanding and fit on the bill so no additional costs would be incurred. Staff recommends that this notice should be finalized 30 days prior to actual bill-insert notices. Staff also recommends that the end-user charge be stated as "One-Time Area Code Conservation Charge." Sprint should also provide a toll-free telephone number for customers who have questions concerning this charge, and have service representatives available who can respond to questions regarding Florida number pooling. (ILERI, CASEY, CHRISTENSEN)

STAFF ANALYSIS: Staff believes that Sprint should work with staff on its bill-insert notice to ensure the notice language is adequate for customers' understanding, and fit on the bill so that no additional charges would be incurred. The state number pooling implementation charge should be referred to as "One-Time Area Code Conservation" charge. Staff also believes that Sprint should provide a toll free phone number for customers who have questions concerning this charge, and have service representatives available who can respond to questions regarding Florida number pooling.

Based on the above analysis, staff recommends that if the Commission approves cost recovery for state-mandated pooling trials for Sprint, Sprint should work with staff on its bill-insert notice to ensure that the language would be adequate for customers' understanding and fit on the bill so no additional costs would be incurred. Staff recommends that this notice should be finalized 30 days prior to actual bill-insert notices. Staff also recommends that the end-user charge be stated as "One-Time Area Code Conservation Charge." Sprint should also provide a toll-free telephone number for customers who have questions concerning this charge, and have service representatives available who can respond to questions regarding Florida number pooling.

DOCKET NO. 001503-TP
DATE: OCTOBER 9, 2003

ISSUE 6: 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.

ISSUE AND RECOMMENDATION SUMMARY

ISSUE 1: What is the Florida Public Commission's jurisdiction regarding cost recovery of state mandated pooling trial?

RECOMMENDATION: Staff recommends that the Florida Public Service Commission has authority regarding cost recovery of state-mandated pooling trials granted to it by Section 251(e) of the Telecommunications Act of 1996, the Federal Communications Commission, and Section 364.01, and 364.16(4), Florida Statutes. (CHRISTENSEN)

ISSUE 2: Does Sprint'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 Sprint'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)

ISSUE 3: Should Sprint be allowed to recover its requested carrier-specific costs of \$1,515,000 associated with implementing state-mandated pooling trials?

RECOMMENDATION: No. Staff recommends that Sprint should be allowed to recover carrier-specific costs of \$627,734 associated with implementing its state-mandated pooling trials. (ILERI, CHRISTENSEN)

ISSUE 4: If the FPSC approves cost recovery for Sprint for state-mandated number pooling trials, how should Sprint recover its carrier-specific costs associated with state-mandated number pooling trials?

RECOMMENDATION: If the FPSC approves cost recovery for Sprint for state-mandated number pooling trials, staff recommends that Sprint recover its costs associated through a one-time charge assessed on all of Sprint'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. Sprint should submit its final calculation of the end-user line charge to staff at least 30 days 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)

ISSUE 5: If the Commission approves cost recovery for state-mandated pooling trials for Sprint, what type of notice should be given to customers, and what should the charge be called?

RECOMMENDATION: Staff recommends that if the Commission approves cost recovery for state-mandated pooling trials for Sprint, Sprint should work with staff on its bill-insert notice to ensure that the language would be adequate for customers' understanding and fit on the bill so no additional costs would be incurred. Staff recommends that this notice should be finalized 30 days prior to actual bill-insert notices. Staff also recommends that the end-user charge be stated as "One-Time Area Code Conservation Charge." Sprint should also provide a toll-free telephone number for customers who have questions concerning this charge, and have service representatives available who can respond to questions regarding Florida number pooling. (ILERI, CASEY, CHRISTENSEN)

ISSUE 6: 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)