

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Implementation of 811 NXX code as national abbreviated dialing code to be used by state One Call notification systems for providing advance notice of excavation activities to underground facility operators in compliance with Pipeline Safety Improvement Act of 2002.

DOCKET NO. 060663-TP  
ORDER NO. PSC-06-1047-PAA-TP  
ISSUED: December 20, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION  
ORDER IMPLEMENTING 811

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission 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.

Case Background

In 1998, the United States Department of Transportation (DOT) established the One Call notification program. This program was designed to enhance public safety, protect the environment, minimize risks, and prevent disruption of underground public services by reducing damage to underground facilities during excavation. By establishing a toll-free notification system, the public as well as excavators, contractors and facility owners and operators can "Call before you dig" to learn of any infrastructure that may be impacted during their excavation. One Call notification programs were established nationwide. One Call centers in each state were assigned a different 10-digit toll-free telephone number to administer for excavators and excavations.

In 1993, by adoption of the "Underground Facility Damage Prevention and Safety Act," the state of Florida established its One Call center, Sunshine State One Call of Florida (SSOCOF). SSOCOF is a not-for-profit corporation operating under Chapter 556, Florida

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Statutes. It is responsible for educating homeowners, the general public, excavators, contractors and underground facility owners and operators about the importance of calling before you dig. SSOCOF is also responsible for providing a toll-free telephone number to call for information and notification of excavations.

On December 17, 2002, President George W. Bush, signed the Pipeline Safety Improvement Act of 2002 ("Pipeline Safety Act" or "The Act") into law. The Act reflected the government's support for the One Call program by requiring the DOT, with the help of the Federal Communications Commission (FCC), to provide for the establishment of a 3-digit nationwide toll-free telephone number to be utilized by State One Call notification systems. The DOT supported the North American Numbering Council's<sup>1</sup> recommendation to use an N11 code, specifically 811, for utilization by the state One Call centers.

On March 14, 2005, the FCC released its Sixth Report and Order<sup>2</sup> on the use of N11 codes and other abbreviated dialing arrangements. This order designated the 811 code as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with The Act. Order FCC 05-59 stated:

The 811 abbreviated dialing code shall be deployed ubiquitously by carriers throughout the United States for use by all telecommunications carriers, including wireline, wireless, and payphone service providers that provide access to state One Call Centers. (¶ 4)

The FCC required that 811 be active and operational within two years from publication of its Order in the Federal Register, which is April 13, 2007. In its order, the FCC delegated authority to the states to address the issues associated with implementation, stating:

We recognize that states have unique knowledge that will assist in implementing the transition to the One Call Center access set forth in this Order. We therefore delegate authority to the state commissions, pursuant to section 251(e), to address the technical and operational issues associated with the implementation of 811. In delegating authority to the state commissions to address the technical and operational issues, state commissions should also consider whether a carrier may need additional time to implement 811 due to such technical and/or operational difficulties. We agree with MPSC that state commissions are in the best position to address issues associated with implementing the abbreviated dialing arrangement because many of the One Call Centers were developed by, or under the auspices of, the state commissions. (¶ 35)

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<sup>1</sup> On October 5, 1995, the FCC established the North American Council (NANC) to provide advice and recommendations to the FCC and other governments (including Canada and Caribbean countries) on numbering issues.

<sup>2</sup> In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, FCC 05-59, Released March 14, 2005.

We held a workshop on September 26, 2005 where attendees were requested to submit comments regarding implementation of 811. We specifically requested comments regarding the parties concerns with costs of implementation, any anticipated problems, whether the parties had customers already utilizing the 811 code for a different service, and the effective roll-out date if there was one, prior to the mandatory date of April 13, 2007.<sup>3</sup> The primary issue of the parties is the cost of implementation of 811. After the workshop, our staff suggested the parties attempt negotiation to resolve the issue of the implementation costs.

SSOCOF believes it should not incur any costs to implement the 811 code. Incumbent Local Exchange Companies (ILECs) and Competitive Local Exchange Companies (CLECs) believe that SSOCOF should be responsible for the costs incurred to make the necessary software changes for the 811 code. The following is the only requirement of One Call Centers contained in Order FCC 05-59:

To ensure that calls to One Call Centers are toll-free, we conclude that One Call Centers shall provide to carriers its toll-free number, which can be an 8YY number, or any number that is not an IntraLATA toll call, from the area to be served for use in implementing 811. Thus, when a caller dials 811, the carriers will translate 811 into the appropriate number to reach the One Call Center. This requirement will both simplify call routing and ensure that callers do not incur toll charges, as mandated by the statute. As discussed above, other existing abbreviated dialing sequences shall be discontinued, because the use of other existing abbreviated dialing sequences in addition to 811 does not comply with the statutory mandate that dialing be uniform across the nation. (§ 26)

SSOCOF has provided the toll-free number 1-800-432-4770 as the number that 811 should translate to. This order addresses the technical and operational issues associated with the implementation of 811.

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

In Order FCC 05-59, released March 14, 2005, the FCC delegated authority to the states to mandate that the 811 code be made available and operational within two years from publication of its Order in the Federal Register, which is April 13, 2007. The PSC requested and received comments from SSOCOF and several of the ILECs and CLECs after an 811 workshop was held September 26, 2005. The workshop addressed the technical and operational issues associated with the conversion from a 10-digit telephone number to the use of a 3-digit N11 code. Comments concluded that the main issue between the parties is the cost associated with implementation of 811. The FCC addressed 811 implementation costs in Order FCC 05-59 by stating:

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<sup>3</sup> The following parties submitted post-workshop comments and/or reply comments: SSOCOF, Verizon, BellSouth, Sprint-Nextel, AT&T, NEFCOM, Frontier, ALLTEL-Florida, ALLTEL Communications, Cox Communications, TDS Telecom, Teco Energy, Time Warner Telecom, US LEC, and XO.

While we recognize that there may be some costs associated with implementation of the 811 code, we have not specified parameters for cost recovery in this *Order*. The Pipeline Safety Act did not provide for federal financial support as part of the mandate for a nationwide abbreviated dialing arrangement for access to One Call Centers. Therefore, we find that the Congressional mandate and benefits of a national N11 code assignment, specifically 811, outweigh any concerns regarding cost recovery on the federal level. These issues are most appropriately addressed by the state and local governments. As indicated above, we believe that state commissions are in the best position to address issues associated with implementing 811 because many of the One Call Centers were developed by, or under the auspices of, the state commissions. (Appendix B, ¶ 39)

Unlike other states in which One Call Centers were developed under the auspices of their respective state commissions, SSOCOF was developed under separate statutory authority of Chapter 556, Florida Statutes. We lack specific authority to assess any costs resulting from this federal mandate upon SSOCOF. However, we can require ILECs and CLECs under our jurisdiction to have their software translated to accept 811 calls by March 15, 2007. It would then be up to SSOCOF to make arrangements with the ILECs and CLECs for use of the 811 code.

At our staff's request, the parties have attempted to negotiate the costs of implementing 811 with limited success. SSOCOF made an offer to pay \$250 per switch for the necessary software translations. Some ILECs and CLECs have agreed to that price, some ILECs and CLECs are making the software changes at less than \$250 per switch or at no cost, and some ILECs and CLECs have not replied to SSOCOF's offer. Throughout negotiations, the ILECs, CLECs, and the SSOCOF have been in contact with our staff regarding their progress.

We find that the software translation costs of ILECs and CLECs should be allocated over the people who most benefit from the 811 service, members of SSOCOF. Section 556.103, Florida Statutes, provides that "Each operator of an underground facility in this state shall be a member of the corporation and shall use and participate in the system." Section 556.110, Florida Statutes, states that "Member operators shall proportionately share in the cost of operating the system through monthly assessments made upon each member operator. However, any member that receives fewer than 10 notifications in any month shall not be assessed for such month." Consequently, we find that the method by which the software translations costs are allocated should be determined by SSOCOF.

ILECs and CLECs in Florida which do excavation work are required to be members of SSOCOF. We find that ILECs and CLECs alone should not bear the cost burden of translation costs for 811 when all members of SSOCOF, not just ILECs and CLECs, will benefit. We find that 811 should be made available prior to the April 13, 2007, mandated timeframe to allow for any technical issues to be worked out. Therefore, all ILECs and CLECs shall make their switches available and operational by March 15, 2007, to allow 811 to be used by customers to notify Sunshine State One Call of Florida of excavations. In addition, all ILECs and CLECs

shall to cease using 811 for commercial services by February 14, 2007, and file tariffs or notification reflecting the implementation of 811 with the PSC by March 15, 2007.

Payphone Providers

To comply with FCC Order 05-59, it is necessary that the 811 dialing code function uniformly throughout the state, including pay telephones. The Florida pay telephone providers, however, may currently be using 811 from their pay telephones to offer a service. As noted in past N11 conversions,<sup>4</sup> industry representatives stated that, for most pay telephones, the software can be reprogrammed remotely and downloaded to the pay telephones via modem. There should be minimal costs involved with implementing the 811 dialing code for use by customers to notify SSOCOF of excavations.

Further, the FCC has directed that pay telephone providers be compensated for every call made from their pay telephones, with the exception of 911 calls. Therefore, pay telephone providers can charge for 811 access. We assume that 811 access would be charged at the same level as a local telephone call. Order FCC 05-59 states:

We agree with APCC that Section 276 of the 1996 Act does not exempt payphone calls made to One Call centers from that statute's requirement that payphone service providers be "fairly compensated." See 47 U.S.C. §276(b)(1). Therefore coin calls made from a payphone to a One Call Center should be paid in accordance with the payphone's established coin rate, and coinless calls made from a payphone to a One Call Center should be compensated in accordance with the Commission's payphone compensation rules. (Footnote 44, p. 7)

Therefore, all payphone providers in Florida shall implement 811 access to be used by customers to notify SSOCOF of excavations from all Florida payphones. Payphone providers shall have 811 access available by March 15, 2007, and allow 811 to be forwarded as dialed to the local exchange company to provide 811 access for use by customers to notify SSOCOF.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that all ILECs and CLECs shall make their switches available and operational by March 15, 2007, to allow 811 to be used by customers to notify Sunshine State One Call of Florida of excavations. It is further

ORDERED that all ILECs and CLECs shall cease using 811 for commercial services by February 14, 2007, and file tariffs or notification reflecting the implementation of 811 with the Commission by March 15, 2007. It is further

ORDERED that all payphone providers in Florida shall implement 811 access to be used by customers to notify SSOCOF of excavations from all Florida payphones. It is further

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<sup>4</sup> Docket No. 021068-TC – Implementation of 211 access to comprehensive information and referral services from pay telephones.

ORDERED that payphone providers shall have 811 access available by March 15, 2007, and allow 811 to be forwarded as dialed to the local exchange company to provide 811 access for use by customers to notify SSOCOF.

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of December, 2006.

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

( S E A L )

JKF/AJT

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 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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The action proposed herein is preliminary in nature. 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. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 10, 2007.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.