

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
telephone exchange boundary
issues in South Polk County
(Fort Meade area).

DOCKET NO. 981941-TL

In re: Investigation into
boundary issues in South
Sarasota and North Charlotte
Counties (Englewood area).

DOCKET NO. 990184-TL

In re: Request for review of
proposed numbering plan relief
for the 941 area code.

DOCKET NO. 990223-TL
ORDER NO. PSC-99-0633-PHO-TL
ISSUED: April 5, 1999

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on Thursday, April 1, 1999, in Tallahassee, Florida, before Commissioner Julia L. Johnson, as Prehearing Officer.

APPEARANCES:

Kimberly D. Wheeler, Esquire, Morrison & Foerster LLP,
Attorneys at Law, 2000 Pennsylvania Avenue, N.W.,
Washington, D.C. 20006-1888. (Via Telephone)
On behalf of LOCKHEED MARTIN IMS NORTH AMERICAN NUMBERING
PLAN ADMINISTRATOR.

Charles J. Beck, Esquire, Office of Public Counsel, The
Florida Legislature, 111 West Madison Street, Room 812,
Tallahassee, FL 32399-1400.
On behalf of the CITIZENS OF THE STATE OF FLORIDA.

Charles J. Rehwinkel, Esquire, Post Office Box 2214,
Tallahassee, FL 32316-2214.
On behalf of SPRINT-FLORIDA, INCORPORATED.

Kimberly Caswell, Esquire, Post Office Box 110, Tampa, FL
33601-0110.
On behalf of GTE FLORIDA INCORPORATED.

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ORDER NO. PSC-99-0633-PHO-TL
DOCKETS NOS. 990223-TL, 990184-TL, 981941-TL
PAGE 2

Martha Young Burton, Esquire, 18500 Murdock Circle, Port
Charlotte, FL 33948-1094.
On behalf of CHARLOTTE COUNTY, FLORIDA.

Kathleen F. Schneider, Esquire, 1660 Ringling Boulevard,
2nd Floor, Sarasota, FL 34236.
On behalf of SARASOTA COUNTY, FLORIDA.

James A. Minix, Esquire, Post Office Box 1000, Bradenton,
FL 34206.
On behalf of MANATEE COUNTY, FLORIDA.

Mark F. Carpanini, Esquire, Post Office Box 9005, Drawer
AT01, Bartow, FL 33831. (Via Telephone)
On behalf of POLK COUNTY, FLORIDA.

Mr. Frank Heaton, Cellular One, 2100 Electronics Lane,
Fort Myers, FL 33912.
On behalf of WIRELESS ONE NETWORK L.L.P. d/b/a CELLULAR
ONE.

D. Bruce May, Esquire, and Sam Morley, Esquire,
Holland & Knight LLP, Post Office Drawer 810,
Tallahassee, FL 32310; and C. Claiborne Barksdale,
Esquire, BellSouth Cellular Corp., 1100 Peachtree Street,
N.E., Suite 910, Atlanta, GA 30309-4599.
On behalf of FLORIDA CELLULAR SERVICE, INC. d/b/a
BELLSOUTH MOBILITY.

June McKinney, Esquire, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee,
Florida 32399-0850.
On behalf of the Commission Staff.

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this
Order is issued to prevent delay and to promote the just, speedy,
and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

On August 17, 1998, Lockheed Martin IMS notified the Commission that the 941 area code would exhaust its remaining available numbers in the last quarter of 1999. The North American Numbering Plan Administration (NANPA) proposed a geographic split for the 941 area code relief. The Commission has received several objections to the proposed plan from members of the public, asking that the Commission review it. Accordingly, this matter is set for an administrative hearing.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The

notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the

prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Pamela Kenworthy	Lockheed Martin IMS	All
Thomas C. Foley	Sprint	All
Charles M. Scobie	GTEFL	All

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Mac V. Horton	Charlotte County	All
Wayne Sallade	Charlotte County	All
Cheryl Lauzon	Charlotte County	All
Bill Wishard	Charlotte County	All
Shannon Staub	Sarasota County	All
Gregg D. Feagans	Sarasota County	All
William W. Couch	Sarasota County	All
James R. Ewing	Sarasota County	All
Ronald W. Burleson	BellSouth Mobility	All
<u>Rebuttal</u>		
Ronald W. Burleson	BellSouth Mobility	All

VII. BASIC POSITIONS

NANPA: NANPA's statement of its basic position in the proceeding is that, in accordance with the Guidelines, NANPA's role is to facilitate the Florida telecommunications industry to reach consensus to recommend a single relief plan for the 941 NPA to the Florida PSC. In furtherance of that goal and in accordance with the Guidelines, NANPA compiled and filed documents with the PSC on August 17, 1998 that provided the status of the industry's efforts and a description of the plan recommended by the industry. As a neutral third party administrator, NANPA has no independent view regarding the selected NPA relief plan.

SPRINT: Sprint agrees with the consensus Industry Recommendation resulting from the Industry Meeting held July 8, 1998, to implement 941 NPA relief utilizing a Geographic Split plan.

GTEFL: GTEFL believes the Commission should approve the 941 area code relief plan that best meets the needs of the

majority of affected subscribers. GTEFL urges the Commission to act swiftly and uniformly in this and the two other, related dockets concerning Ft. Meade and Englewood, particularly now that the North American Numbering Plan Administrator (NANPA) has placed the 941 NPA in extreme jeopardy status.

**CHAR-
LOTTE:**

Charlotte County strongly opposes the proposed geographic split plan for the 941 area code relief and believes that the Commission should reconfigure any necessary geographic split plan to more closely follow the demographics of local growth and development in Southwest Florida. The proposed geographic split plan divides Englewood, located in both Charlotte and Sarasota Counties, and would unfairly burden the local community, which uses services from both counties. The Commission should consider the local community's unique characteristics, its calling patterns and needs, as required by NANPA Guidelines, and keep Charlotte, Sarasota and Manatee Counties in the same area code.

SARASOTA: Frequent changes to the area code have a significant impact on the governmental emergency services as well as on the continued economic development of the County. Sarasota County's current area code was implemented only three (3) years ago. The projected exhaust period for the proposed split is 5.2 years. This limited exhaust period is contrary to the NPA Code Relief Planning & Notification Guidelines, which recommends that relief activity be implemented that prevents customers from having to undergo number changes for 8 to 10 years.

The Board of County Commissioners recommends that the area code service areas be reconfigured as smaller geographic areas so as to lengthen the exhaust period. The overlay alternative is not viable as it creates confusion for the County's significant senior population as well as the tourist industry and effectively undermines the concept of a unified, interactive business community. Further, in light of the daily interaction of the governments and residents of Sarasota County, Charlotte County and Manatee County, these three counties should have the same area code.

MANATEE: Manatee County strongly believes that population and usage statistics justify it to retain the 941 area code either as currently recommended by NANPA, or in conjunction with Sarasota and Charlotte Counties. Manatee County opposes the use of an overlay system that would require ten-digit dialing. Manatee County would optimally desire to continue the 941 service area together with Sarasota and Charlotte Counties.

CELLULAR

ONE: Absent explicit information demonstrating a plan that provides the greatest good for the greatest number, the Commission should make a decision that allows customers an equal opportunity to avoid a number change.

BELLSOUTH

MOBILITY: There is a pressing need for immediate numbering relief to prevent the exhaust of numbering resources in the 941 area code. To address this problem, the Commission should immediately approve an all-services overlay area code relief plan. The overlay relief plan can be implemented in a matter of several months and provide immediate area code relief with far less confusion and disruption to customers than would be the case with the previously proposed geographic code split.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions. Staff has no position at this time.

VIII. ISSUES AND POSITIONS

ISSUE 1: Should the Commission approve the proposed geographic split plan for the 941 area code relief, and if not, what relief plan should the Commission approve?

POSITIONS

NANPA: No position.

SPRINT: Yes, as modified to incorporate the inclusion of the Ft. Meade exchange with the same NPA utilized for the exchanges served by GTEFL. Material modifications to the industry consensus geographic split plan could introduce uncertainty, unanticipated technical and operational difficulties and associated cost. In such an event, the Commission should consider an overlay that could be implemented quickly in light of the recently declared extraordinary jeopardy in the 941 NPA. Assignment of the 941 area code should follow NANPA guidelines and minimize customer confusion.

GTEFL: The Commission should approve the relief plan that best meets the needs of the majority of affected subscribers, whether it is the proposed geographic split approved by the industry or another option.

**CHAR-
LOTTE:** No. The proposed split of the 941 area code will be extremely detrimental to the citizens, businesses, and government of Charlotte County, especially the Englewood community. A preferred alternative is to split the 941 area code into more than two sectors, thereby delaying further area code splits for a longer period of time. Instead of using additional area codes for overlays, use them to create smaller sectors for each area code. For example, combine Charlotte, Sarasota, and DeSoto (or Manatee) Counties into one three-county sector. If Charlotte County must be split, then move the southern dividing line for the new 941 sector to the southern area of Charlotte County (south of Punta Gorda), where there is less growth and development.

SARASOTA: Alternatives exist for the current 941 area code service area which would address Sarasota County's concerns and be in compliance with the NPA Code Relief Planning Notification Guidelines. A split of the current 941 area code service area into more than one additional geographic area code service area, while maintaining a single area code for all of Sarasota County, would alleviate the adverse impacts of frequent area code changes on businesses, citizens, government and the tourism industry.

MANATEE: Yes. The Board of County Commissioners recommends that the Commissioner either approve the current plan or reconfigure the area code service areas into smaller geographic areas which will lengthen the exhaust period. Manatee County believes that it should retain its 941 area code in any reconfigured service area. The residents and governments of Manatee County, Sarasota County and Charlotte County should all be assigned the same area code and it should be 941.

CELLULAR

ONE: Absent a reliable demonstration that this plan provides the greatest good for the greatest number, the Commission's decision should allow customers an equal opportunity to avoid a number change.

BELLSOUTH

MOBILITY: The Commission should not approve the proposed geographic split plan for 941 area code relief. In order to provide expeditious area code relief and minimize customer confusion and disruption, the Commission should adopt an all-services overlay area code relief plan.

STAFF: No position at this time.

ISSUE 2: **What implementation issues, if any, should be addressed by the Commission?**

NANPA: No position.

SPRINT: Adopt GTEFL's position.

GTEFL: The Commission should consider the changes in dialing patterns associated with the various options and it should avoid designating a new area code that is confusingly similar to the existing one. The 241 code, for instance, would lead to an unusually high number of misdialed calls and customer confusion.

CHAR-

LOTTE: The Commission should consider the affected counties' current population centers as well as those counties' state-mandated comprehensive plans, the existence of

available infrastructure to serve any planned development, state and local preservation areas, and the demographics and calling patterns of the residents and businesses in the affected areas. These factors affect usage and demand for numbers at least as much as (and perhaps more than) the locations of central offices or the availability of lines and equipment. The Commission should also address how large groups of numbers are assigned to the various service providers and whether there may be large quantities of unassigned numbers that could be brought back into the available pool of numbers for reassignment, thereby lengthening exhaust periods. NPA Guidelines state that all affected parties should be included in the planning effort, and that the choice of relief methods is a local decision.

SARASOTA: The Commission should consider (1) any impact area code relief will have on the established EAS in Sarasota County; (2) immediate implementation of number pooling to extend the 941 exhaust period and to eliminate the jeopardy status; (3) issuing future NXX numbers in blocks of 1000 rather than 10,000; (4) maintaining the current area code in the geographic area with the greatest number of affected customers and (5) assigning area codes dissimilar to the existing one.

MANATEE: Manatee County opposes the use of an overlay system that would require ten-digit dialing as it is not in the best interests of the county's citizens and would cause significant confusion for county residents.

CELLULAR

ONE: Any customers affected by a decision should have as lengthy notice, and permissive dialing interval as possible.

BELLSOUTH

MOBILITY: Any area code relief plan approved by the Commission should be implemented pursuant to a schedule that (i) provides for rapid implementation to address the extraordinary jeopardy declared by NANPA, and (ii) allows BellSouth Mobility and its customers to transition to the new numbering plan with minimal disruption and confusion. In addition, the schedule should provide for an adequate

permissive dialing period and allow BellSouth Mobility to educate its customers and reprogram its network features to accommodate any number changes.

STAFF: No position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
	<u>Direct</u>		
Pamela Kenworthy	NANPA	_____ (PK-1)	NPA Code Relief Planning & Notification Guidelines (INC 97-0404-016) ("Guidelines")
		_____ (PK-2)	Letter to Walter D'Haeseleer, Director, Division of Communications of the PSC from Stan Washer, Senior NPA Relief Planner, NANPA, dated August 14, 1998, and the attachments thereto.
Thomas C. Foley	Sprint	_____ (TCF-1)	Letter to Walter D'Haeseleer, Director, Division of Communications of the PSC from Stan Washer, Senior NPA Relief Planner, NANPA, dated August 14, 1998, and the attachments thereto.

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
Thomas C. Foley	Sprint	_____ (TCF-2)	Recommended dialing patterns associated with relief alternatives
Charles M. Scobie	GTEFL	_____ (CMS-1)	Dialing patterns associated with relief alternatives

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. STIPULATIONS

The parties stipulated that the witness for Lockheed Martin, Pamela Kenworthy, could participate as a witness without an attorney present, since Lockheed Martin is a neutral party.

XI. RULINGS

Motions to Consolidate

Sprint and GTEFL filed a Joint Motion to Consolidate on March 10, 1999. Charlotte County and Sarasota County filed a Joint Motion Joining Sprint and GTEFL's Joint Motion to Consolidate on March 24, 1999. The motions requested consolidation of two related dockets, Docket No. 981941-TL and Docket No. 990184-TL, into this docket.

As to Docket No. 990184-TL, the motion to consolidate is granted. As to Docket No. 981941-TL, the motion to consolidate is granted contingent upon the City of Fort Meade and Polk County stipulating to consolidation and waiving 14-day written notice of the hearing in this docket. If Fort Meade and Polk County agree to consolidation, the issue raised in Docket No. 981941-TL -- whether the industry boundary line should be modified to include the southern boundary line of the Fort Meade exchange if the 941 area code change is a split -- will be included as a stipulated resolved issue at hearing.

Additionally, the Joint Motions to Consolidate are granted with the understanding that the transcripts from Sarasota, Bartow, Englewood, and Fort Meade workshops be inserted in the record and treated as sworn testimony.

Motions to Intervene

The Motion to Intervene filed by Manatee County on April 1, 1999, is granted. Pursuant to Rule 25-22.039, Florida Administrative Code, Manatee County takes the case as it finds it. The Motion to Intervene filed by Polk County on March 29, 1999, was withdrawn. The Motion to Intervene filed by Cellular One on March 29, 1999, does not need to be ruled on in light of the fact that Cellular One is an official party in Docket No. 990223-TL.

Motions for Extension of Time and Motion to Strike

The Motion for Extension of Time filed by Manatee County on April 1, 1999, is denied. The Motion for Extension of Time to Pre-File Testimony filed by Cellular One on March 29, 1999, is denied. The Preliminary Objection and Motion to Strike filed by Sprint on March 31, 1999, is moot. The Motion for Extension of Time for Rebuttal Testimony filed by Cellular One on March 31, 1999, is denied.

Qualified Representative

Mr. Francis J. Heaton, Director-External Affairs, Cellular One, is granted temporary qualified representative status for the purpose of participating in the prehearing conference. He will need to file for Qualified Representative status pursuant to Rule 28-106.106, Florida Administrative Code, prior to the hearing.

It is therefore,

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

ORDER NO. PSC-99-0633-PHO-TL
DOCKETS NOS. 990223-TL, 990184-TL, 981941-TL
PAGE 15

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 5th day of March, 1999.



JULIA L. JOHNSON
Commissioner and Prehearing Officer

(S E A L)

JCM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.