

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for review of
proposed numbering plan relief
for the 407 area code.

DOCKET NO. 980671-TL
ORDER NO. PSC-99-2335-FOF-TL
ISSUED: December 2, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LECN JACOBS, JR.

ORDER GRANTING LIMITED EXTENSION OF PERMISSIVE
DIALING IN THE 407 AREA CODE

BY THE COMMISSION:

In Order No. PSC-99-0384-FOF-TL, issued February 23, 1999, this Commission approved an overlay plan for Orange, Osceola, and Seminole Counties (the affected counties). In addition, Brevard County was assigned the 321 area code. Permissive dialing of the 407 area code for the affected counties began on April 1, 1999, and will end on December 1, 1999. Mandatory ten-digit dialing of the 407 and 321 area codes for the affected counties will begin on December 1, 1999. Permissive dialing began in Brevard County on November 1, 1999, and will end on September 30, 2000.

On September 10, 1999, ADT Security Services, Inc. (ADT) filed an Emergency Request for Extension of Permissive Dialing in Docket No. 980671-TL. ADT requested an extension of the start of mandatory ten-digit dialing for an additional four months, until April 1, 2000. On September 23, 1999, Sprint-Florida, Incorporated filed a letter with the Division of Records and Reporting to lodge an initial objection to ADT's Emergency Request. ADT's request was denied by Order No. PSC-99-2185-FOF-TL, issued November 8, 1999. On November 10, BellSouth Telecommunications, Inc. (BellSouth) filed a Motion for Reconsideration of that Order. Because of the time-sensitive nature of the issue, we considered the issue before the response time had run.

We denied ADT Security Services, Inc.'s request for extension of the permissive dialing period in Order No. PSC-99-2185-FOF-TL

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for several reasons. First, we were concerned that a large number of NXXs (approximately 280) were affected, requiring permissive dialing to be continued in entire 407 area. Second, industry consensus would be necessary to implement stricter rationing because the current 407 NXXs are expected to exhaust in late December. We were concerned that gaining consensus could be complicated by wireless carriers seeking access to telephone numbers during the month of December due to seasonal sales increases. Finally, we found that ADT had taken reasonable steps to inform its customers of the situation and that the customers who failed to remedy their situation should not be allowed to delay implementation to the detriment of all the citizens in the area.

In its Motion for Reconsideration, BellSouth Telecommunications, Inc. stated that an incorrect statement had been made at the October 20, 1999 agenda conference and relied upon by the Commission in rendering its decision. BellSouth had stated that, if the extension were granted, it would be necessary to provide a permissive dialing extension to the majority of the NXXs in the overlay area. BellSouth stated that this statement was incorrect. To the contrary, BellSouth stated that if the extension is granted, we would need only to grant an extension for the 10-15 NXXs that contain an ADT telephone monitoring number. Therefore, BellSouth believed that the Commission should reconsider its decision.

The proper standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3rd DCA 1959); citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974).

We believe that BellSouth's incorrect statement constitutes a mistake of fact that we considered in rendering our decision and should be corrected. Furthermore, we believe that this mistake of

ORDER NO. PSC-99-2335-FOF-TL
DOCKET NO. 980671-TL
PAGE 3

fact is material. Therefore, upon consideration, BellSouth's Motion for Reconsideration is granted.

In its Motion for Reconsideration, BellSouth stated that it could extend the permissive dialing period for the 10-15 NXXS within its service territory that contain ADT monitoring numbers until April 1, 2000. BellSouth stated that this proposal would provide ADT with the requested relief and still allow other carriers to receive numbering resources because the NXXs not containing ADT numbers would be available for assignment.

Our earlier concerns stated in Order No. PSC-99-2185-FOF-TL regarding extending the permissive dialing period for all of the 407 area code are alleviated by this information. First, since it appears that a large number of NXXs (approximately 280) are not affected, there is no need to continue permissive dialing in the entire 407 area. Moreover, stricter rationing will not have to be implemented (necessitating consensus by the industry to continue rationing) because the NXXs not containing ADT numbers will be available for assignment. Therefore, upon consideration, ADT Security Services Inc.'s September 10, 1999, request for extension of the permissive dialing period until April 1, 2000, for the 10-15 NXXs within BellSouth's service territory that contain ADT monitoring numbers is granted.

It is therefore,

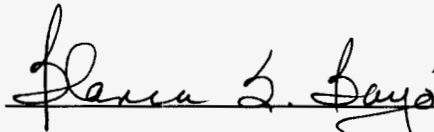
ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc.'s Motion for Reconsideration of Order No. PSC-99-2185-FOF-TL is granted. It is further

ORDERED that the permissive dialing period for the 407 area code is extended until April 1, 2000, for the 10-15 NXXs within BellSouth's service territory that contain ADT Security Services, Inc. monitoring numbers. It is further

ORDERED that this docket shall be closed.

ORDER NO. PSC-99-2335-FOF-TL
DOCKET NO. 980671-TL
PAGE 4

By ORDER of the Florida Public Service Commission this 2nd
day of December, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.