

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for expedited review of the North American Numbering Plan Administration's (NANPA) decision to deny BellSouth's request for use of central office code numbering resources or NXX codes in Orlando exchange or rate center, by BellSouth Telecommunications, Inc.

DOCKET NO. 010565-TL  
ORDER NO. PSC-01-1312-PAA-TL  
ISSUED: June 18, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DIRECTING THE NANPA TO PROVIDE BELL SOUTH  
WITH A GROWTH CODE FOR THE ORLDFLPCDSO SWITCH

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.

BACKGROUND

On March 30, 2001, BellSouth Telecommunications, Inc. (BellSouth) submitted an application to the North American Numbering Plan Administrator (NANPA) for a central office (NXX) code for the ORLFLPCDSO switch in the Orlando rate center. The code request was made to fulfill two requests made by specific

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customers who are in need of 2,500 and 500 consecutive Direct Inward Dialing (DID) numbers, respectively.

The Orlando rate center consists of six central offices and seven switches [Azalea Park (ORLDFLAPDS0), Colonial (ORLDFLCLDS0), Magnolia (ORLDFLMADS1 and ORLDFLMA42E), Pinecastle (ORLDFLPCDS0), Pinehills (ORLDFLMADS0), and Sand Lake (ORLDFLSADS0)]. On April 10, 2001, NANPA denied BellSouth's request for a NXX code for the ORLDFLPCDS0 switch because BellSouth had not met the rate center months-to-exhaust (MTE) criteria currently required to obtain a growth code. On April 20, 2001, BellSouth filed a "Petition for Expedited Review of Growth Code Denials by the North American Numbering Administration."

We are vested with jurisdiction pursuant to Sections 364.01 and 364.16(4), Florida Statutes, and 47 U.S.C. §151, and 47 C.F.R. §52.15(g)(3)(iv).

#### ANALYSIS

As mentioned above, BellSouth submitted an application to the NANPA for a NXX code for the ORLDFLPCDS0 switch in the Orlando rate center and was denied because BellSouth had not met the rate center MTE criteria currently required to obtain a growth code.

Prior to March 31, 2000, carriers submitting an application for a growth code had to certify that existing codes associated with that switch, Point of Interface (POI), or rate center would exhaust within 12 months. In jeopardy Numbering Plan Areas (NPAs), applicants seeking a growth code had to certify that existing NXX codes would exhaust within six months.

Pursuant to Order No. FCC 00-104<sup>1</sup> applicants must now show the MTE criteria by rate center instead of by switch, and have no more than a six-month inventory of telephone numbers. Pursuant to 47 C.F.R. § 52.15(g)(3)(iii):

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<sup>1</sup>Report and Order, CC Docket No. 99-200, In the Matter of Number Resource Optimization, Order No. FCC 00-104 (March 31, 2000)

All service providers shall maintain no more than a six-month inventory of telephone numbers in each rate center or service area in which it provides telecommunications service.

We believe that the new MTE criteria creates a disadvantage for carriers with multiple switch rate centers because it is now based on rate centers, rather than switches. One switch in a multiple-switch rate center may be near exhaust while the average MTE for the rate center is above six months, thus preventing a carrier from obtaining a growth code for the switch near exhaust. Another carrier who may have just one switch in the rate center, would have an advantage and may be able to obtain a growth code to provide the service.

We conclude that the code denial also poses a possible barrier to competition. A customer desiring service from BellSouth may have to turn to another carrier simply because BellSouth cannot meet the MTE rate center requirement. At the time of BellSouth's code denial, the Orlando rate center MTE was 14.4 months with a 97.4% utilization level, while the MTE for the Pinycastle-ORLDFLPCDSO switch was 29 months. In its application, BellSouth states "under earlier MTE procedures used by NANPA, waivers or exceptions were granted when customer hardship could be demonstrated or when the service provider's inventory did not have a block of sequential numbers large enough to meet the customer's specific request. Under existing procedures, NANPA looks at the number of MTE for the entire rate center without any exception." BellSouth asserts that its request was denied even though the company doesn't have the numbering resources necessary to satisfy its customers' demand in the switch. In Order No. DA 01-386<sup>2</sup>, the FCC stated:

Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources.

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<sup>2</sup>DA 01-386, CC Docket No. 99-200, CC Docket No. 96-98, In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (February 14, 2001)

FCC No. DA 01-386 at ¶11.

We find that another dilemma created with the new MTE rate center criteria is rate center consolidation. The FCC promotes rate center consolidation as a number conservation measure, and encourages states to consolidate rate centers wherever possible. The problem arises when you attempt to consolidate small rate centers which may have one switch and end up with one rate center with multiple switches. In Order No. FCC 00-429<sup>3</sup>, the FCC states:

Some ILECs suggest, however, that the utilization threshold should be calculated on a per-switch basis in rate centers that have multiple switches, particularly where they have not deployed LNP capability. According to BellSouth, in the absence of thousands-block number pooling, numbers cannot be shared easily among multiple switches in the same rate center. They assert that there are technical constraints on their ability to share numbering resources among multiple switches within the same rate center and that a low utilization rate in one or more switches could prevent it from meeting the rate center utilization threshold. SBC argues in its comments that the utilization threshold should be calculated at the "lowest code assignment point" - the rate center, where there is only one switch, or the switch, where there is more than one in a rate center.

Order No. FCC 00-429 at ¶ 32.

We believe that number pooling may assist in obtaining growth codes in a multiple switch rate center, however, BellSouth cannot support intra-service provider porting between switches until thousands-block pooling is implemented in the Orlando Metropolitan Statistical Area. The 407 NPA currently does not have a pooling trial, but new area code relief for this NPA has already begun. An initial industry planning meeting took place April 3, 2001. Number pooling for this area, along with other number conservation

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<sup>3</sup>Second Report and Order, Order on Reconsideration, CC Docket No. 99-200 and CC Docket No. 96-98, In the Matter of Numbering Resource Optimization, et. al., Order No. FCC 00-429 (December 29, 2000)

measures for the 407 NPA, will be examined as part of the area code relief process.

The North Carolina Utilities Commission addressed a BellSouth denial of a growth code in an order issued January 16, 2001.<sup>4</sup> The Order addresses NANPA's denial of two growth codes because BellSouth did not meet the new MTE rate center requirements. BellSouth had two large customers in need of NXX codes. One customer requested 10,000 sequential numbers, and the other customer needed approximately 6,000 numbers immediately for the establishment of a call center. The North Carolina Commission overturned NANPA's denial of the two NXX codes, and directed NANPA to provide numbers to meet the specific requests of Microsoft and Duke Energy.

The Public Service Commission of Wisconsin also addressed a similar issue in its Docket 5-TK-101, Ameritech's Challenge of Neustar's Denial of a Request for a Central Office Growth Code at the Appleton Exchange, mailed December 22, 2000. In that case, Ameritech was denied a growth code because its MTE estimate was 7.4 months based on the rate center criteria, which is above the six month maximum MTE required by 47 C.F.R. § 52.15(g)(3)(iii). Ameritech requested the growth code to fulfill a request by two large customers who each wanted five-digit dialing for internal calls and specifically requested to have an eight as the third digit of the NXX code. In its Order, the Wisconsin PSC overturned NANPA's decision to deny a growth code, and directed NANPA to provide Ameritech with a growth code.

We addressed a similar issue in Order No. PSC-01-1146-PAA-TL, issued May 21, 2001, in Docket No. 010309-TL. In that docket, BellSouth was denied a growth code for its Orlando Magnolia switch (ORLFLMADSI), and could not provide numbering resources to a specific customer requesting 2,500 consecutive DID numbers. On March 9, 2001, BellSouth challenged NANPA's decision by filing a petition with us. By Order No. PSC-01-1146-PAA-TL, we decided to

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<sup>4</sup> State of North Carolina Utilities Commission, Order Granting Reserved Numbers, issued January 16, 2001, in Docket No. P-55, Sub 1250, In the Matter of Petition of BellSouth Telecommunications, Inc. for Review of NANPA Denial of Application for Numbering Resources.

overturn NANPA's decision and direct NANPA to issue a new growth code to BellSouth for its Orlando Magnolia switch.

A procedure is available to carriers who are denied growth codes because of the rate center MTE requirement. Addressing NXX growth code denials, 47 C.F.R. § 52.15(g)(3)(iv), states, in part:

The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state regulatory commission may affirm or overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination of compliance with the reporting and numbering resource application requirements herein.

BellSouth has provided us with the name of the two customers requesting the 2,500 and 500 numbers, copies of its NANPA application for a new growth code, copies of its MTE worksheet for the Orlando rate center, and copies of the Part 3 form from NANPA denying the code. We contacted BellSouth's proposed customers via telephone and verified that they want BellSouth as their provider of service. We also verified with NANPA that there would be minimal impact on the 407 NPA by releasing a new growth code for this switch. We also reviewed the BellSouth utilization data for the ORLDFLPCDSO switch in the Orlando rate center to verify that BellSouth has no available codes to meet this specific customer's needs.

In evaluating BellSouth's petition, we have analyzed and concluded that:

- 1) BellSouth has demonstrated that it has customers in need of numbering resources;
- 2) BellSouth has shown that it is unable to provide services to the potential customers because of NANPA's denial of the NXX code;
- 3) There are potential competitive concerns because of the NANPA code denial since these potential customers cannot choose the provider of their choice because BellSouth does not have the numbers available; and,

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4) There would be minimal impact to the 407 NPA by releasing a new growth code.

CONCLUSION

Based on the foregoing, we find it appropriate to overturn NANPA's decision to deny a growth code, and direct NANPA to provide BellSouth with a growth code for the ORLDFLPCDSO switch as soon as possible. We also find that once the specific customers needs are met, BellSouth shall keep as many of the remaining blocks as possible in the new NXX uncontaminated for future number pooling.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that North American Numbering Plan Administrator shall provide BellSouth Telecommunications, Inc. with a growth code for the ORLDFLPCDSO switch as soon as possible. It is further

ORDERED that BellSouth Telecommunications, Inc. shall maintain as many of the remaining blocks as possible in the new NXX uncontaminated for future number pooling. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

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

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By ORDER of the Florida Public Service Commission this 18th  
day of June, 2001.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

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.

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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 9, 2001.



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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 docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.