

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for review of proposed numbering plan relief for the 407/321 area codes by Neustar, Inc., as North American Numbering Plan Administrator (NANPA), on behalf of Florida telecommunications industry.

DOCKET NO. 010743-TL
ORDER NO. PSC-02-0313-PHO-TL
ISSUED: March 11, 2002

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on March 4, 2002, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

JAMES MEZA III, Esquire and NANCY B. WHITE, Esquire, 150 West Flagler Street, Suite 1910, Miami, Florida 33130
On behalf of BellSouth Telecommunications, Inc.

SUSAN S. MASTERTON, Esquire, Post Office Box 2214, Tallahassee, Florida 32316-2214
On behalf of Sprint-Florida, Incorporated, Sprint Communications Company Limited Partnership, and Sprint PCS.

FRANK GUMMEY, III, Esquire, 123 West Indiana Avenue, DeLand, Florida 32720-4613
On behalf of County of Volusia.

C. LEE FORDHAM, Esquire, and ADAM TEITZMAN, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission.

PREHEARING ORDER

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

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 May 15, 2001, the North American Numbering Plan Administrator, on behalf of the telecommunications industry, filed a petition requesting approval of a relief plan for the 407/321 area code. Service hearings have been held in the affected Counties, and the matter is now set for a technical hearing on March 14, 2002.

This Commission has jurisdiction to address this matter pursuant to Section 364.01, Florida Statutes, and has been specifically authorized to address numbering issues pursuant to 47 U.S.C. §151 et. Seq., 47 C.F.R. §§ 52.3 and 52.19, FCC Order 99-249, FCC Order 00-104, and FCC Order 00-429. In accordance with 47 C.F.R. §§ 52.3:

The Commission (FCC) shall have exclusive authority over those portions of the North American Numbering Plan (NANP) that pertain to the United States. The Commission may delegate to the States or other entities any portion of such jurisdiction.

Furthermore, 47 C.F.R. § 52.19 provides, in part, that:

(a) State commissions may resolve matters involving the introduction of new area codes within their states. Such matters may include, but are not limited to: Directing whether area code relief will take the form of a geographic split, an overlay area code, or a boundary realignment; establishing new area code boundaries; establishing necessary dates for the implementation of area code relief plans; and directing public education and notification efforts regarding area code changes.

(b) State commissions may perform any or all functions related to initiation and development of area code relief plans, so long as they act consistently with the guidelines enumerated in this part, and subject to paragraph (b)(2) of this section. For the purposes of this paragraph, initiation and development of area code relief planning encompasses all functions related to the implementation of new area codes that were performed by central office code administrators prior to February 8, 1996. Such functions may include: declaring that the area code relief planning process should begin; convening and conducting meetings to which the telecommunications industry and the public are invited on area code relief for a particular area code; and developing the details of a proposed area code relief plan or plans.

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.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

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

- a) 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.
- b) 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.
- c) 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.
- d) 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.

- e) 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 the Commission Clerk and Administrative Services'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.

Pursuant to Rule 28-106.215, Florida Administrative Code, 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. Summaries of testimony shall be limited to five minutes. 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>		
Thomas C. Foley	NeuStar	1, 2, and 3
Stan L. Greer	BellSouth	1, 2, 3, 4, 5 and 6
Sandra A. Khazraee	Sprint	1, 2, 3, 4 and 5
Ann McFall	County of Volusia	1, 2, 3, 4, 5 and 6
<u>Rebuttal</u>		
Robert M. Weiss	County of Volusia	1, 2, 3, 4, 5 and 6

VII. BASIC POSITIONS

NEUSTAR:

NANPA's basic position in this proceeding is that, in accordance with industry guidelines, NANPA's role is to facilitate the Florida telecommunications industry to reach consensus to recommend a single relief plan for the 407/321 NPAs to the FPSC. In furtherance of that goal and in accordance with industry guidelines, NANPA compiled and filed

a petition with the FPSC requesting approval of the industry's recommended relief plan for the 407/321 area code. As a neutral third party administrator, NANPA has no independent view regarding the NPA relief plan selected by the FPSC.

BELLSOUTH:

The area code relief plan the Commission should implement in this proceeding is another overlay in the 407/321 area codes and move the remaining 321 NXXs in the 407/321 overlay to Brevard County.

DELTONA:

Adopts position of County of Volusia.

SPRINT:

The Commission should approve the industry's consensus plan for relief for the 407/321 area codes. The all-services distributed overlay supported by the industry is the best alternative because customers within the existing 407/321 overlay have already been educated regarding an overlay and currently dial their local calls as 10-digit. In addition, the industry-supported plan allows Brevard County to maintain only the 321 NPA.

VERIZON:

The Commission should approve the industry consensus relief plan, an all-services distributed overlay for the 407/321 area. Although no solution is without cost or customer impact, the overlay proposal best serves the public interest because it is practical, cost-effective, flexible, fair, and forward-looking. In this instance, where an overlay is already in place, consumers are already familiar with ten-digit dialing. Overlaying another area code is the easiest, quickest and most efficient relief option and will not force customers to change area codes or reprogram their wireless handsets. The Commission should order implementation of an all-services distributed overlay and should adopt the industry's recommendation for preserving the life of the 321 NPA in Brevard County.

VOLUSIA:

There is strong support by the County of Volusia government and the residents and business people of Southwest Volusia for the establishment and implementation of the overlay of 386 NPA in the 407 NPA in southwest Volusia. The government, residents and business people oppose the overlay of another NPA on the 407 NPA in Volusia. Additionally, the greatly fragmented circumstance in Southwest Volusia, which is now divided by municipal, LEC, LATA, and NPA boundaries, all of which are in conflict, needs a measure of relief by the overlaying of 386 NPA which serves the remainder of Volusia County.

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.

VIII. ISSUES AND POSITIONS

ISSUE 1: What method of area code relief plan should the Commission approve for the 407/321 area codes?

POSITIONS

NEUSTAR:

NANPA has no independent view regarding the NPA relief plan selected by the FPSC.

BELLSOUTH:

The Commission should implement the industry recommendation for area code relief for the 407/321 overlay, which was to implement another overlay and to move the remaining 321 NXXs in the 407/321 overlay to Brevard County.

DELTONA:

Adopts position of County of Volusia.

SPRINT:

The Commission should approve the industry's consensus plan for relief for the 407/321 area codes. The industry plan is an all-services distributed overlay that provides for no new 321 codes to be assigned within the overlay. Remaining 321 codes are reserved for future use within the Brevard County 321 area. All new codes within the existing 407/321 overlay would be assigned from the new NPA.

VERIZON:

The Commission should approve the industry's consensus relief plan for another all-services distributed overlay. Verizon Wireless supports an all-services overlay for four key reasons: 1) an additional overlay is the most logical and efficient means of relief for an area such as 407/321 where an overlay already exists; 2) overlays minimize customer disruption caused by frequent area code changes - many customers in an area code are forced to change their telephone numbers during a geographic split; 3) with an overlay, there is no need to draw a boundary line to split the area into two sides, no need to guess at growth projections for each side, and no need to decide which side retains its area code; and 4) overlays work well in conjunction with conservation measures such as thousands-block number pooling and reclamation.

Previously, the Commission ordered the implementation of the 321 NPA as an overlay over the 407 NPA for Orange, Osceola, Seminole, and parts of Volusia and Lake Counties. The Commission also ordered that Brevard County split from 407 NPA and change to the 321 NPA. The combination of the overlay and the split allowed consumers in the new 407/321 overlay NPA to retain their phone numbers, while consumers in Brevard County were forced to change their numbers to retain 7-digit local dialing within the NPA. Now, the addition of another overlay for the 407/321 NPA could provide a benefit to all of the area's consumers through the availability of additional numbering resources to meet their telecommunications needs and with minimal burden to consumers in the 407/321 NPA. The 407/321 consumers are already dialing ten digits for all calls, so the introduction of a new overlay is a relatively

minor occurrence - they simply need to be notified of the new area code.

Brevard County also can benefit from the industry's recommendation. In addition to recommending another overlay for the 407/321 area, the industry supported moving the remaining unassigned 321 central office codes (often referred to as "NXX" codes or "NXXs") from the 407/321 overlay area to Brevard County as soon as possible. By preserving the remaining 321 NXX codes for Brevard County, those consumers who have already undergone a forced number change could enjoy a longer area code life.

VOLUSIA:

No position except as to Volusia as set forth in Issue 4 below.

STAFF:

Staff has no position at this time.

ISSUE 2: What should the dialing pattern be for the method of relief chosen for the following types of calls?

- a. Local
- b. Toll
- c. EAS
- d. ECS

POSITIONS

NEUSTAR:

NANPA has no independent opinion regarding the dialing pattern.

BELLSOUTH:

The Commission should implement the same dialing patterns it required in Order No. PSC-98-1761-FOF-TL, Docket No. 980671-TL, which included:

- a. Local/Extended Area Service within and between area codes
- 10 digits;

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- b. Extended Calling Service without interexchange carrier competition - 10 digits;
- c. Extended Calling Service with interexchange carrier competition - 1 + 10 digits;
- d. Toll - 1 + 10 digits

DELTONA:

Adopts position of County of Volusia.

SPRINT:

The existing dialing plan should be maintained. Within the overlay, all local calls and EAS calls must be dialed with 10 digits. Toll calls must be dialed with one plus ten digits. ECS calls can be dialed with either one plus ten or ten digits, depending on whether the customer wants the call carried and billed by their intraLATA provider as a toll call or by their local service provider as a local call.

VERIZON:

If the Commission approves the industry consensus recommendation for an all-services overlay of the 407/321 area, the following dialing pattern should be used:

- a) Local - 10 digits with 1+10 digits permissive
- b) Toll - 1+10 digits
- c) EAS - 10 digits with 1+10 digits permissive
- d) ECS - 10 digits with 1+10 digits permissive

VOLUSIA:

No position except as to Volusia as set forth in Issue 4 below.

STAFF:

Staff has no position at this time.

ISSUE 3: When should area code relief be implemented for the 407/321 area codes?

POSITIONS

NEUSTAR:

NANPA has no independent opinion regarding implementation dates.

BELLSOUTH:

The Commission should implement the additional overlay as soon as possible and establish an implementation schedule that would provide carriers with at least 90 days after the issuance of final order in this proceeding to implement the new overlay within its operational support systems.

DELTONA:

Adopts position of County of Volusia.

SPRINT:

The time frame for implementing the area code relief will depend on when the Commission issues its final order in this docket.

VERIZON:

Area code relief should be implemented as soon as possible to realize the greatest benefit for Florida consumers. As stated above, the industry's area code relief recommendation proposes: 1) adoption of another overlay for the 407/321 overlay area and 2) extending the life of the 321 NPA in Brevard County. The sooner an all-services overlay is implemented in the 407/321 NPA, the greater the number of 321 NXX codes that will remain and be available for assignment in Brevard County. Although the industry will be able to implement an additional overlay more quickly than the time required for a split or an initial overlay, the Commission should still allow adequate lead time for carriers to implement the new overlay within their operational support systems. Given the imminence of exhaust, the necessary lead time, and the need to preserve the remaining 321 NXXs for Brevard County, the Commission should issue a final Order as quickly as possible.

VOLUSIA:

No position except as to Volusia as set forth in Issue 4 below.

STAFF:

Staff has no position at this time.

ISSUE 4: What type of mechanisms, not previously considered, if any, should the Commission approve to address Volusia County's area code and local dialing issues, and if so, when?

POSITIONS

NEUSTAR:

NANPA has no independent opinion regarding Volusia County's area code and local dialing issues.

BELLSOUTH:

The Commission should not adopt Volusia County's proposal because it creates numerous issues that the Commission will need to address, including but not limited to (1) establishing a dangerous precedent, (2) prohibiting the allocation of certain numbers, (3) competitive concerns, (4) number pooling issues, (5) the lack of any advantage for Osteen customers, (6) the negative impact on BellSouth's ability to receive additional numbering resources for the Sanford exchange, (7) creating an administrative burden on BellSouth, and (8) the fact that the County's proposal may be outside the Commission's authority.

DELTONA:

Adopts position of County of Volusia.

SPRINT:

The NPA relief docket is not the appropriate place to consider Volusia County's area code and local dialing issues. If new alternatives are to be considered, they should be considered in a separate docket.

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VERIZON:

No position stated.

VOLUSIA:

The 386 NPA should be overlaid on the 407 NPA in Southwest Volusia consistent with standard overlay number assignment practices as soon as practicable. No changes in local dialing requirements are requested.

STAFF:

Staff has no position at this time.

ISSUE 5: Pursuant to the Florida Statutes, FCC delegated authority, or both, does the Commission have the authority to require telecommunications carriers to place 386 numbers in their Sanford exchange to allow customers in the Osteen area to get new lines and migrate their existing services to the 386 numbers?

POSITIONS

NEUSTAR:

The FCC has delegated authority to review and approve NPA relief plans to the states. 47 C.F.R. § 52.19. FCC decisions or pending decisions that may preempt or otherwise impact the Commission's ability to resolve any of the issues presented or relief requested in this docket include the following: (1) *Numbering Resource Optimization, Petition for Declaratory Ruling, (CC Docket No. 99-200) and Request For Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717 (CC Docket No. 96-98), Second Report and Order, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, FCC 00-429 (rel. Dec. 29, 2000);* (2) *Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd. 7574 (2000);* (3) *Petition for 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, and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd. 19009 (1998);* and (4) *Florida Public Service Commission' Petition To Federal Communications Commission For*

Expedited Decision For Grant Of Authority To Implement Number Conservation Measures, Order, 14 FCC Rcd. 17,506 (1999).

BELLSOUTH:

It does not appear that the Commission has the authority to require telecommunications companies to place 386 numbers in the Sanford exchange. The FCC has exclusive jurisdiction over numbering issues; however the FCC can delegate this power to state commissions. At this point, the FCC has only delegated limited authority to the Florida Public Service Commission: (1) pursuant to the FCC's Local Competition Report and Order, FCC 98-224, the Commission has the authority to create new area codes through the use of geographic splits, area code boundary realignment, or an overlay; and (2) pursuant to FCC Order 99-249, the Commission has the authority to implement certain numbering conservation measures. The above described scenario does not appear to fit in either category and thus the Commission would lack the authority to order it.

DELTONA:

Adopts position of County of Volusia.

SPRINT:

The NPA relief docket is not the appropriate place to consider Volusia County's area code and local dialing issues. If new alternatives are to be considered, they should be considered in a separate docket.

VERIZON:

No position stated.

VOLUSIA:

The Commission has the power to overlay the 386 NPA in the 407 NPA in Southwest Volusia.

STAFF:

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

ISSUE 6: Should this docket be closed?

POSITIONS

NEUSTAR:

NANPA has no independent opinion regarding the closing of the docket.

BELLSOUTH:

Yes.

DELTONA:

Adopts position of County of Volusia.

SPRINT:

No position at this time.

VERIZON:

No position stated.

VOLUSIA:

No position.

STAFF:

Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
Thomas C. Foley	NeuStar	_____ (TCF-1)	Petition of NANPA on behalf of Florida Telecommunications Industry for approval of Relief Plan for 407/321 Area Code

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

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XIII. DECISIONS THAT MAY IMPACT COMMISSION'S RESOLUTION OF ISSUES

NEUSTAR has stated in its prehearing statement that the following decisions have a potential impact on our decision in this proceeding:

The FCC has delegated authority to review and approve NPA relief plans to the states. 47 C.F.R. § 52.19. FCC decisions or pending decisions that may preempt or otherwise impact the Commission's ability to resolve any of the issues presented or relief requested in this docket include the following: (1) *Numbering Resource Optimization, Petition for Declaratory Ruling, (CC Docket No. 99-200) and Request For Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717 (CC Docket No. 96-98), Second Report and Order, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, FCC 00-429 (rel. Dec. 29, 2000)*; (2) *Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd. 7574 (2000)*; (3) *Petition for 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, and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd. 19009 (1998)*; and (4) *Florida Public Service Commission*

Petition To Federal Communications Commission For Expedited Decision For Grant Of Authority To Implement Number Conservation Measures, Order, 14 FCC Rcd. 17,506 (1999).

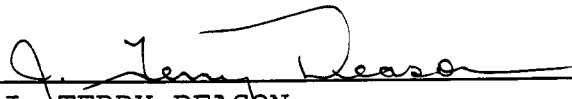
XIV. RULINGS

All parties agree to waive opening statements.

It is therefore,

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

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 11th Day of March, 2002.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

CLF

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.

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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.

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 25-22.0376, 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 the Commission Clerk and Administrative Services, 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.