

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for expedited review of growth code denials by Number Pooling Administrator for Palm Coast Exchange by BellSouth Telecommunications, Inc.

DOCKET NO. 030118-TL
ORDER NO. PSC-03-0248-PAA-TL
ISSUED: February 20, 2003

NOTICE OF PROPOSED AGENCY ACTION
ORDER DIRECTING NEUSTAR TO PROVIDE
BELLSOUTH TELECOMMUNICATIONS, INC. WITH A GROWTH CODE

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 January 6, 2003, BellSouth Telecommunications, Inc. (BellSouth) submitted an application to NeuStar for additional numbering resources for the Palm Coast switch, PLCSFLMADS0. Specifically, BellSouth requested five (5) 1,000 consecutive number blocks in order to meet a specific customer's request.

On January 6, 2003, NeuStar denied the request for five (5) 1,000 consecutive number blocks for the Palm Coast switch, PLCSFLMADS0, because the company had not met the rate center months-to-exhaust (MTE) criteria currently required to obtain a growth code.

On February 3, 2003, BellSouth filed a petition for expedited review of NeuStar's denial of its application pursuant to the process established by this Commission.¹

¹See *In re: Petition for generic proceedings to establish expedited process for reviewing North American Numbering Plan Administration (NANPA) future denials of applications for use of additional NXX Codes by BellSouth*

DOCUMENT NUMBER-DATE

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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

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 (NPA's), applicants seeking a growth code had to certify that existing NXX codes would exhaust within six months.

Pursuant to Federal Communications Commission (FCC) Order No. FCC 00-104² 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):

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.

We conclude that the code denial also poses a possible barrier to competition. A customer desiring service from one company may have to turn to another carrier simply because BellSouth cannot meet the MTE rate center requirement. Another carrier who may have just one switch in the rate center, would have an advantage and may

Telecommunications, Inc., 01 F.P.S.C. 10:60 (2001) [Docket No. 010782-TL, Order No. PSC-01-1973-PCO-TL, Issue Date: October 4, 2001].

²Report and Order, *In the Matter of Number Resource Optimization*, 15 FCC Rcd 7574 [CC Docket No. 99-200] [FCC 00-104] (March 31, 2000).

be able to obtain a growth code to provide the service. In the matter of FCC Order No. DA 01-386³, 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.

16 FCC Rcd at 3484; 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 FCC Order No. FCC 00-429⁴, 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

³Order, *In the Matter of Numbering Resource Optimization* [CC Docket No. 99-200] & *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996* [CC Docket 96-98], 16 FCC Rcd 3479 [DA 01-386] (February 14, 2001).

⁴Second Report and Order & Order on Reconsideration, *In the Matter of Numbering Resource Optimization*, [CC Docket No. 99-200] & *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* [CC Docket No. 96-98], 16 FCC Rcd 306 [FCC 00-429] (December 29, 2000).

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.

16 FCC Rcd at 321; FCC 00-429 at ¶ 32.

In FCC Order 01-362⁵, the FCC addressed the "safety valve" process to allow carriers that do not meet the utilization criteria to obtain additional numbering resources stating "[w]e agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources."⁶

The Order also addresses specific instances of code denials which apply to this BellSouth petition, stating "[w]e also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances."⁷

In processing the company's petition as contemplated by FCC Order No. 01-362 and Commission Order PSC-01-1973-PCO-TL, we have required the company to provide this Commission with the following:

- 1) The customer's name, address, and telephone number.

⁵Third Report and Order & Second Order on Reconsideration, *In the Matter of Numbering Resource Optimization*, [CC Docket No. 99-200] & *Implementation of the Local Compensation Provisions of the Telecommunications Act of 1996* [CC Docket No. 96-98], 17 FCC Rcd 252 [FCC 01-362] (December 28, 2001).

⁶17 FCC Rcd at 280-81; FCC 01-362 at ¶61.

⁷17 FCC Rcd at 280-81; FCC 01-362 at ¶61.

- 2) The utilization thresholds for every switch in that particular rate center where additional numbering resources are sought.
- 3) The MTEs for every switch in that particular rate center where additional numbering resources are sought.

Upon consideration of the information provided, it has been determined that the company has met the following criteria:

1. BellSouth has demonstrated that it has customers in need of immediate numbering resources;
2. BellSouth has shown that it is unable to provide services to a potential customer because of NANPA's denial of the numbering resources; and
3. A potential customer cannot obtain service from the provider of his/her choice because the carrier does not have the numbers available.

CONCLUSION

Based on the foregoing, we find it appropriate to overturn NeuStar's decision to deny BellSouth the additional numbering resources it sought for the Palm Coast switch, PLCSFLMADS0, and direct NeuStar to provide BellSouth with the five (5) 1,000 consecutive number blocks requested for the Palm Coast switch, PLCSFLMADS0, as soon as possible.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that NeuStar shall provide BellSouth Telecommunications, Inc. with five (5) 1,000 consecutive number blocks for the PLCSFLMADS0 switch in the Palm Coast rate center as soon as possible. It is further

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

ORDER NO. PSC-03-0248-PAA-TL
DOCKET NO. 030118-TL
PAGE 6

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 February, 2003.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

LHD

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.

ORDER NO. PSC-03-0248-PAA-TL

DOCKET NO. 030118-TL

PAGE 7

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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 13, 2003.

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.