

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for expedited review of decision by North American Numbering Plan Administrator (NANPA) to withhold numbering resources for St. Petersburg rate center, by Verizon Florida Inc.

DOCKET NO. 030290-TL
ORDER NO. PSC-03-0471-PAA-TL
ISSUED: April 7, 2003

NOTICE OF PROPOSED AGENCY ACTION
ORDER DIRECTING NANPA TO PROVIDE VERIZON FLORIDA, INC.
WITH A GROWTH CODE

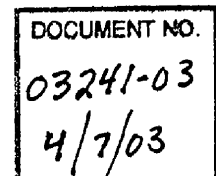
BY THE COMMISSION:

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 March 7, 2003, Verizon Florida, Inc. (Verizon) submitted an application to the North American Numbering Plan Administrator (NANPA) for a central office (NXX) code for the Gandy Switch (GNDYFLXA57H) in the St. Petersburg rate center. The code request was made to fulfill a request made by a specific customer.

On March 10, 2003, NANPA denied the request for a NXX code for the Gandy Switch (GNDYFLXA57H) because the company had not met the rate center months-to-exhaust (MTE) criteria currently required to obtain a growth code.



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On March 10, 2003, NANPA denied the request for a NXX code for the Gandy Switch (GNDYFLXA57H) because the company had not met the rate center months-to-exhaust (MTE) criteria currently required to obtain a growth code.

On March 21, 2003, Verizon filed a petition for expedited review of NANPA's denial of its application pursuant to the process established by this Commission¹.

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

Pursuant to Order No. Federal Communications Commission (FCC) Order No. 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.

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 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).

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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 Verizon 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 be able to obtain a growth code to provide the service. In 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:

³Order, *In the Matter of Number 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).

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.

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 Verizon 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

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.

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.
- 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. Verizon has demonstrated that it has customers in need of immediate numbering resources;
2. Verizon 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 NANPA's decision to deny Verizon the additional numbering resources it sought for the Gandy switch, GNDYFLXA57H, and direct NANPA to provide Verizon with the ten (10) 1,000 consecutive number blocks requested for the Gandy switch, GNDYFLXA57H,, as soon as possible.

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

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CONCLUSION

Based on the foregoing, we find it appropriate to overturn NANPA's decision to deny a growth code, and direct NANPA to provide Verizon with a growth code for the Gandy Switch (GNDYFLXA57H) switch as soon as possible. We also find that if the ten 1,000 number blocks are issued, after the specific customer needs are met, Verizon shall endeavor to keep the remaining number blocks in the new NXX uncontaminated so that they can be used for future number pooling.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the North American Numbering Plan Administrator shall provide Verizon Florida, Inc. with a growth code for the Gandy Switch (GNDYFLXA57H) in the St. Petersburg rate center as soon as possible. It is further

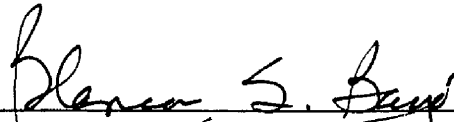
ORDERED that if ten 1,000 number blocks are issued, after the specific customer needs are met, Verizon Florida, Inc. shall endeavor to keep the remaining number blocks in the new NXX uncontaminated so that they can be used for future number pooling. It is further

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 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.

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By ORDER of the Florida Public Service Commission this 7th Day
of April, 2003.



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

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

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the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 28, 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.