

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for expedited review of growth code denials by North American Numbering Administration for West Palm Beach Exchange (Riviera Beach, Royal Palm, Lake Worth, and Green Acres) by BellSouth Telecommunications, Inc.

DOCKET NO. 030590-TL
ORDER NO. PSC-03-0854-PAA-TL
ISSUED: July 22, 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 June 2, 2003, BellSouth Telecommunications, Inc. (BellSouth) submitted an application to NeuStar for central office (NXX) codes in the following switches: Riviera Beach (WPBHFLRB84E), Royal Palm Beach (WPBHFLRPDS0), Lake Worth (WPBHFLLEDS0) and Green Acres (WPBHFLGADS0), all located in the West Palm Beach exchange. Specifically, BellSouth requested a block containing one thousand numbers to provide one hundred consecutive numbers to a customer served by the Riviera Beach switch. Also, a block containing one thousand numbers was requested to provide two hundred consecutive numbers for a customer served by the Lake Worth switch, along with a request for six one-thousand blocks to increase the months to exhaust of the switch to six months. The requests for Green Acres and Royal Palm Beach switches were for a one thousand block and nine one thousand blocks respectively, to increase the months to exhaust of the switches to six months. The code requests were made to fulfill requests made by specific customers and maintain a six-month inventory of numbers.

On June 2, 2003 NeuStar denied the request for the above referenced switches because the company had not met the rate center months-to-exhaust (MTE) criteria currently required to obtain

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growth codes. On July 2, 2003, BellSouth filed a petition for expedited review of NeuStar's denial of its application.

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. FCC 00-104¹ 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

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

be able to obtain a growth code to provide the service. In Order No. DA 01-386², 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.

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 00-429³, 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.

²DA 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)

³Second 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)

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.

In processing the company's petition as contemplated by 47 C.F.R. § 52.15(g)(3)(iv), 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. The carrier has demonstrated that it has customers in need of immediate numbering resources, or has a switch in a non-pooling multi-switch rate center which has a MTE of less than six months;
2. The carrier has shown that it is unable to provide services to a potential customer because of NANPA's denial of the numbering resources, or it will be unable to provide services to customers from a switch in a multi-switch non-pooling rate center because its supply of numbers is less than six months; and
3. A potential customer cannot obtain service from the provider of his/her choice because the carrier does

not have the numbers available, or customers will not be able to have a choice of providers because a provider will run out of numbers for that switch in a multi-switch non-pooling rate center within six months.

CONCLUSION

Based on the foregoing, we find it appropriate to overturn NeuStar's decision to deny the requested growth codes, and direct NeuStar to provide BellSouth with the requested growth codes for the following switches: Riviera Beach (WPBHFLRB84E), Royal Palm Beach (WPBHFLRPDS0), Lake Worth (WPBHFLLEDS0) and Green Acres (WPBHFLGADS0), all located in the West Palm Beach exchange, as soon as possible. We also find that if 10,000 number blocks are issued, after the specific customer needs are met, BellSouth shall endeavor to keep the remaining number blocks in the new NXXs 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 NeuStar shall provide BellSouth Telecommunications, Inc. with the requested growth codes for the following switches: Riviera Beach (WPBHFLRB84E), Royal Palm Beach (WPBHFLRPDS0), Lake Worth (WPBHFLLEDS0) and Green Acres (WPBHFLGADS0), all located in the West Palm Beach exchange, as soon as possible. It is further

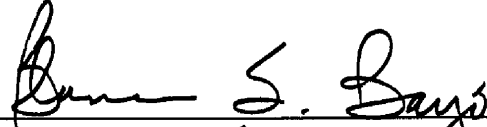
ORDERED that if 10,000 number blocks are issued, after the specific customer needs are met, BellSouth Telecommunications, Inc. shall endeavor to keep the remaining number blocks in the new NXX uncontaminated so that they can be used for future number pooling. It is further

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

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

By ORDER of the Florida Public Service Commission this 22nd Day of July, 2003.



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

(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 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.

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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.

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 August 12, 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.