

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for expedited review of growth code denial by North American Numbering Administrator for Gainesville (Northwest) Exchange by BellSouth Telecommunications, Inc.

DOCKET NO. 041203-TP  
ORDER NO. PSC-04-1051-PAA-TP  
ISSUED: October 27, 2004

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DIRECTING NANPA TO PROVIDE BELL SOUTH 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 September 28, 2004, BellSouth Telecommunications, Inc. (BellSouth) submitted an application to the North American Numbering Plan Administrator (NANPA) for a central office (NXX) code for the GSVLFLNW33E switch in the Gainesville rate center. The code request was made to fulfill a request made by a specific customer.

On September 29, 2004, NANPA denied the request for a NXX code for the GSVLFLNW33E switch because the company had not met the rate center months-to-exhaust (MTE) criteria currently required to obtain a growth code. On October 12, 2004, BellSouth filed a petition for expedited review of NANPA's denial of its application. In its Petition, BellSouth states that in order for its customer to meet its dialing needs, the customer needs 500 consecutive numbers in the format 352-XX6, 352-XX7, or 352-XX8.

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

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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):

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 be able to obtain a growth code to provide the service. 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.

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

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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)

<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)

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 NANPA's decision to deny a growth code, and direct NANPA to provide BellSouth with a growth code for the GSVLFLNW33E switch as soon as possible. We also find that if a 10,000 number block is issued, after the specific customer needs are met, BellSouth shall endeavor to keep the remaining 1,000 number blocks in the new NXX uncontaminated so that they can be used for future number pooling.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the North American Numbering Plan Administrator shall provide BellSouth Telecommunications, Inc. with a growth code for the GSVLFLNW33E switch in the Gainesville rate center as soon as possible, and that of the numbers issued, 500 of them be consecutive numbers in the format 352-XX6, 352-XX7, or 352-XX8. It is further

ORDERED that if a 10,000 number block is issued, after the specific customer needs are met, BellSouth Telecommunications, Inc. shall endeavor to keep the remaining 1,000 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.

By ORDER of the Florida Public Service Commission this 27th day of October, 2004.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

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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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 17, 2004.

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