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February 21, 1997

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FILE COPY

BY HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Petition for numbering plan area relief for 904
area code, by BellSouth Telecommunications, Inc.
Docket No. 961153-TL

Dear Ms. Bayo:

Enclosed for filing in the above-referenced is the original and fifteen (15) copies of the following documents:

1. ALLTEL Florida, Inc.'s and Northeast Florida Telephone Company's Request for Oral Argument on Joint Motion for Reconsideration; and
2. ALLTEL Florida, Inc.'s and Northeast Florida Telephone Company's Joint Motion for Reconsideration.

We are also submitting the Joint Motion for Reconsideration on a 3.5" high-density diskette generated on a DOS computer in WordPerfect 5.1 format.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Sincerely,



J. Jeffrey Wahlen

JJW/bjm
Enclosures

cc: All Parties of Record

DOCUMENT NUMBER-DATE

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FISC DIVISION-REPORTING

Joint motion
DOCUMENT NUMBER-DATE

01997 FEB 21 6

FISC DIVISION-REPORTING

ORIGINAL
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for numbering plan area)	DOCKET NO. 961153-TL
relief for 904 area code, by BellSouth)	FILED: 2/21/97
Telecommunications, Inc.)	
)	

**ALLTEL FLORIDA, INC'S AND NORTHEAST
FLORIDA TELEPHONE COMPANY'S JOINT MOTION FOR
RECONSIDERATION**

ALLTEL Florida, Inc. ("ALLTEL") and Northeast Florida Telephone Company, Inc. ("Northeast"), pursuant to Rule 25-22.060, Florida Administrative Code, file this Joint Motion for Reconsideration of Order No. PSC-97-0138-FOF-TL (the "Order"), and state:

I.

Standard of Review

The purpose of a motion for reconsideration or rehearing is to bring to the attention of the administrative agency some point that it overlooked or failed to consider when it rendered its order in the first instance. Diamond Cab Co. of Miami v. King, 146 So.2d 889, 891 (Fla. 1962). The filing of a motion for rehearing allows an agency to reconsider its entire decision. Srybnik v. Ice Tower, Inc., 183 So.2d 224, 225 (Fla. 3d DCA 1966). A motion for rehearing is available for the purpose of asserting newly discovered evidence. McArthur v. McArthur, 95 So.2d 521, 523 (Fla. 1957).

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Here, the Florida Public Service Commission ("Commission" or "FPSC") failed to consider or overlooked these points when it rendered the Order:

1. The interplay between the planned mandatory implementation date of the 904 split (June 30, 1998), which is now contemporaneous with the implementation period for permanent local number portability in the Jacksonville LATA (July 1 to September 30, 1998), which will place a considerable burden on the carriers and could cause confusion to their customers in the Jacksonville LATA.
2. The possibility that the industry would have developed and implemented an NPA relief plan for the Jacksonville area for 2000 or 2002 without the need for action by the FPSC.
3. The overall negative effect that the Commission's decision to ignore one of the industry guidelines could have on the integrity and viability of the national system of number administration.

In addition, recent developments suggest that the Commission's decision to adopt Option 4 has created a numbering plan dispute that might ultimately need to be decided by the Federal Communications Commission ("FCC"). Resolving such a dispute would likely take longer than the current situation allows, and is not in the public interest.

Each of these points is grounds for the Commission to reconsider the Order in favor of Option 1. Together, they compel the conclusion that Option 4 should not have been approved, and that Option 1 is the best solution to the numbering relief problem presented for decision in this case. The Commission should grant this motion for these reasons, which are explained further below.

II.

History

1. This proceeding began on September 20, 1996, when BellSouth Telecommunications, Inc. ("BellSouth") filed a petition with the Commission seeking approval of a plan to provide relief from the expected exhaustion of numbers available for assignment in the 904 Numbering Plan Area (NPA) code. As noted in the Order, code holders within an NPA code are usually able to reach consensus on how to relieve an exhaustion of an NPA code. [Order at 3.] This is only the second time the code holders have asked the Commission for assistance.

2. BellSouth's petition identified three viable options for the Commission's consideration:

Option 1, assigning a new NPA code to the Pensacola, Panama City and Tallahassee LATAs, with the Jacksonville, Daytona Beach, and 904 portion of the Orlando LATAs retaining the 904 code;

Option 1a, assigning a new NPA code to the Jacksonville, Daytona Beach, and 904 portion of the Orlando LATAs, with the Pensacola, Panama City and Tallahassee LATAs retaining the 904 code; and

Option 2, assigning a new NPA code to the Pensacola and Panama City LATAs, with the Tallahassee, Jacksonville, Daytona Beach and 904 portion of the Orlando LATAs retaining the 904 codes.

3. Five of the parties supported Option 1 and filed testimony showing why the Commission should adopt Option 1. The

Department of Management Services ("DMS") filed testimony in support of Option 1a. Quincy and St. Joe filed testimony in support of Option 1a, but later changed their support to Option 4.

4. The Commission held a technical hearing in Tallahassee on December 9, 1996. Most of the testimony and evidence presented at that hearing related to Options 1, 1a and 2. The option identified in the Order as Option 3 was developed during inquiries by Commissioner Kiesling. The option identified as Option 4 received very little attention from the Commission and the parties at the final hearing.

5. The Commission Staff issued its recommendation on January 9, 1997. Therein, the Staff recommended that the Commission adopt Option 1. The Staff recommendation noted that Options 3 and 4 are inconsistent with the industry's NPA Relief Planning Guidelines ("Guidelines"), but did not really discuss the implications and ramifications of ignoring the Guidelines. The staff recommendation did not address the possibility that the industry would be able to agree on a relief plan for the Jacksonville and Daytona LATA's in 2002 without the need for a Commission decision, but did note that a "three-way split at this time may minimize the future options for area code relief." Staff Recommendation at 19.

6. The Commission considered this matter on January 21, 1997. After a lengthy discussion, the Commission adopted Option 4, which is a three-way split following LATA lines, assigning a new NPA code 1 to the Jacksonville LATA; a new NPA code 2 to the

Daytona Beach LATA and the 904 portion of the Orlando LATA; with the Tallahassee, Panama City and Pensacola LATAs retaining the 904 code. Thus, the option that got the least attention at the hearing and in the Staff recommendation was approved by the FPSC. The vote was 3 to 2, with Commissioners Clark and Garcia dissenting.

III.

Argument

The Commission should reconsider the Order, and adopt Option 1, for these reasons:

A. The Order Fails to Consider the Impact Local Number Portability and a Three-Way NPA Split in the Jacksonville LATA Will Have on Carriers and Customers

7. The Order requires Option 4 to be implemented with permissive dialing to begin on June 30, 1997, and mandatory dialing to be implemented by June 30, 1998. Pursuant to the FCC's recent order on permanent local number portability¹ ("PLNP"), the carriers in the Jacksonville LATA will be required to implement PLNP during the period from July 1 to September 30, 1998. Thus, the Commission's decision puts the deadline for mandatory dialing under Option 4 right on top of the implementation period for PLNP in the Jacksonville LATA. Adopting any option requiring an NPA change in the Jacksonville LATA (options 1a, 3 or 4) during the period when

¹In the Matter of Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, 11 F.C.C.Rcd. 8352 (CC Docket No. 95-116)(July 2, 1996) ["First Report and Order"].

PLNP will be implemented will cause a significant burden to the carriers and could result in confusion for customers in the Jacksonville LATA.

8. The testimony of Lynne Brewer made this very point:

In addition to the above information, the Commission should not overlook the fact that Jacksonville is one of the five largest cities in Florida. It has been identified as one of the top 100 MSAs for implementation of local number portability by the FCC. The target date for implementation is the third quarter of 1998. The proposed date for implementation of the 904 NPA split is February 23, 1998. This only provides a period of five to eight months between these major projects. If an area code change is made in the Jacksonville LATA and then local number portability is implemented five months later, those companies operating in the Jacksonville LATA, including Northeast, will be hit doubly hard with NXX changes and the routing of ported local numbers. Both of these projects will require significant effort to complete. It is not fair to impose a change in the area code on those companies, like Northeast, at the same time that they are struggling with the issues associated with the implementation of local number portability. Nor will it serve the best interests of the customers who live and work in the Jacksonville area.

Please note that Northeast does not have to comply directly with local number portability requirements by the third quarter of 1998. However, it cannot be ignored that the Company will be significantly impacted. * * * Jacksonville and its surrounding areas provide a large community of interest to our customers. According to the Baker County Chamber of Commerce, approximately 44% of working adults in Baker County are employed outside Baker County. Ninety percent (90%) of these adults work in the Jacksonville area. These customers will be significantly impacted by a change in the area code and the changes that will be forthcoming with local number portability. Northeast contends that it is unrealistic to expect the average customer to

understand all these changes, if they are happening at about the same time. Therefore, Option 1 would provide the best means of implementing area code relief for the 904 NPA.

Tr. 116 and 117 (emphasis added.).

9. This testimony was filed when the proposed mandatory dialing implementation date was February 23, 1998 [Tr. 119], five months before the beginning of the PLNP implementation period. Now, because the FPSC has adopted Option 4, which will take longer to implement, the mandatory dialing date of June 30, 1998 for the NPA split actually coincides with the PLNP implementation dates.

10. The record shows that making an NPA change in Jacksonville at the same time PLNP is being implemented will cause a burden to the carriers in the Jacksonville LATA. This burden will be proportionately greater for small LECs like ALLTEL and Northeast even if they are allowed to implement some "indirect" method of PLNP.² The burden will be even greater than originally expected because the NPA split date for Option 4 is now 4 months later than the proposed date for Option 1.

11. Rejecting Option 4 and adopting Option 1 will avoid this problem. Option 1 does not involve an NPA change for the Jacksonville LATA. It would not present a similar problem for

²The First Report and Order recognizes that small rural LECs may be exempt from the obligation to provide PLNP as set forth in the First Report and Order; however, whether such exemptions will be requested or granted is not clear. Moreover, even if some form of exemption is granted, it will still be necessary for small LECs to change the way they route their traffic so that calls will terminate to the proper number. Thus, even if the small LECs are relieved from the duty to make expensive switch upgrades, there will still be a considerable amount of network engineering work necessary to implement PLNP.

Quincy and St. Joe, because the timetable for PLNP for the Tallahassee, Panama City and Pensacola LATAs does not coincide with a February 1998 implementation period for an NPA split.

12. The interaction of PLNP and the NPA split was not discussed at the agenda conference and is not discussed in the Order. While it was a problem when the proposed implementation date was February 1998, the problem is greater now that the Commission has moved the date to June 30, 1998 to accommodate Option 4. This is a point the FPSC failed to consider and one which argues strongly in favor of a plan that does not involve an NPA change in the Jacksonville LATA in 1998. When this point is considered, Option 1 is the best available option and should be adopted.

B. The Commission's Order Solves a "Problem" That Was Not Presented for Resolution

13. It would appear that the decision in the Order was primarily driven by concerns over the potential need to address a relief plan for the Jacksonville and Daytona Beach LATAs in the year 2002 (under Options 1 and 1a) or 2000 (under Option 2). The Commission apparently assumed that an overlay would not be possible in 2002, and that the code holders will not be able to agree on a relief plan for those areas without the need for a Commission decision.

14. While those assumptions may prove to be true, the record here does not and cannot adequately address these points because it is too soon to predict what will happen. This case was not

designed, and record was not developed, to deal with an exhaust situation in the Jacksonville and Daytona LATAs that may occur 4 or 5 years in the future. Rather, it was designed to find the best answer to the immediate problem. The only record evidence on the availability of an overlay in the Jacksonville and Daytona Beach LATAs in 2002 is the testimony of Mr. McCabe, who assumed that an overlay would be possible. [Tr. 190] Otherwise, there is no probative record evidence on this point.

15. A year is a long time in the telecommunications industry. Under Option 1, if approved, there will be several years between now and when NPA relief for Jacksonville and Daytona Beach must be addressed. How competition and other industry changes will affect the future need for numbers in the Jacksonville and Daytona Beach LATAs is not clear from the record, but will be more clear as time passes. The Commission should not assume facts about the future that are not in the record and should not take action now to address a problem that may never be brought before the FPSC for a decision. For these reasons, the Commission should reconsider the Order, and adopt Option 1.

C. The Order Fails to Consider the Effect of the Decision on the Overall Process of Number Administration

16. Option 4 results in an exhaust period of over 30 years for the new Daytona Beach NPA. The Order acknowledges that Option 4 is inconsistent with the Guidelines [Order at 11], and states that the Commission has the ultimate authority to approve or reject

a relief plan [Order at 6], but fails to consider the effect the Commission's decision could have on the overall administration of numbering resources. While it may be commendable to "look down the road" to address a potential future problem, the Commission should not solve a future "problem" by violating the Guidelines today.

17. The policy question that was not addressed by the Commission in its deliberations is simple: What will happen to the national system of numbering resource allocation and the overall availability of NPA resources if the FPSC or other state commissions decide to ignore the Guidelines? On this point, ALLTEL and Northeast urge the Commission to take a broad view of the number administration process. The answer to this question shows that the Order should be reconsidered in favor of Option 1.

18. Telephone numbers are scarce national resources that must be conserved whenever possible. The Guidelines attempt to strike a balance between conserving numbering resources and hoarding them. For that reason, the Guidelines do not favor plans that result in unusually long exhaust periods. Disfavoring relief plans that result in unusually long exhaust periods ("severe imbalances") is how the Guidelines discourage code holders from prematurely "capturing" an NPA before it is needed. Without this Guideline, code holders would be free to "capture" an NPA before it is truly needed and use the NPA in an inefficient manner. If all code holders did this, the NPAs available for assignment would rapidly diminish and the system would become unworkable.

19. The numbering resources currently available to the State of Florida and the other states exist because the Guidelines are in place and are followed. In fact, none of the witnesses in the case had ever heard of a state deciding to take action inconsistent with the Guidelines. If Florida and the other states begin to ignore the Guidelines generally, or the prohibition against long exhaust periods, specifically, the numbering resources available to Florida in the future will be diminished. Thus, the need to preserve a rational and workable nationwide system of numbering administration suggests that Option 4 should be rejected in favor of Option 1.

20. The Commission failed to consider how its decision could affect the general administration of numbering resources and should reconsider the Order in favor of one of the options that best complies with the Guidelines. Option 1 is the option that best meets the Guidelines and should be adopted by the Commission on reconsideration.

D. Recent Developments Point to Trouble

21. The problem with Option 4 has not gone unnoticed by the North American Numbering Plan Administrator ("NANPA") or the North American Numbering Council ("NANC"). The NANPA has concerns about the relief plan approved in the Order, and appears to be seeking guidance from the NANC and the FCC. (See Exhibit One) The NANC has sent a letter to Chairman Johnson requesting that the Commission

reconsider its decision due to the precedential effect the Commission's decision could have nationwide. (See Exhibit Two')

22. This correspondence proves that the overall policy concerns highlighted in Subsection C, above, are valid. They also raise a question regarding whether the FPSC really is the ultimate authority to approve or reject a relief plan.⁴ If the Commission insists on Option 4, the NANC and FCC may find it necessary to take action to prevent it. Resolving the dispute over Option 4 that way would likely take longer than the current situation will allow, and is not in the public interest.

23. In light of this recent development, the related policy concerns and the problems that disregarding the Guidelines could cause, the best course of action would be to reconsider the Order and adopt Option 1. Doing so will avoid a needless and time consuming inquiry into the relative authority of the FPSC, NANC and the FCC in this area. This is particularly true since the Guidelines have not been ignored in an attempt to solve an immediate problem, but one in the future that may never come before the Commission for decision.

³These two letters are evidence unavailable at the final hearing that can properly be considered on motion for rehearing. See McArthur, above.

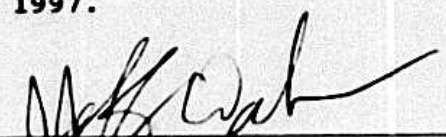
⁴ALLTEL and Northeast note that the NANC appears to be the initial forum for numbering disputes and that the FCC claims to be the final arbiter of numbering disputes within the United States. See In the Matter of Administration of the North American Numbering Plan, Report and Order, 11 F.C.C.R. 2588 (CC Docket 92-237) (July 13, 1995).

IV.

Conclusion

Recent developments suggest that the Commission's decision to adopt Option 4 has created a numbering dispute that will need to be resolved by NANC or the FCC. The Order approving Option 4 does not consider the effect that an NPA split in 1998 will have on the carriers and customers who must endure the implementation of permanent local number portability in the Jacksonville LATA during the same time period. The Order also fails to consider the potential negative impact the Commission's decision could have on the nationwide numbering plan administration system, and appears to resolve a "problem" in the Jacksonville and Daytona Beach LATAs not yet properly before the Commission. Accordingly, ALLTEL and Northeast respectfully request that the Commission reconsider the Order and adopt Option 1 as originally recommended by the Staff.

DATED this 21st day of February, 1997.



LEE L. WILLIS
J. JEFFRY WAHLEN
Ausley E. McMullen
Post Office Box 391
Tallahassee, Florida 32302
(904) 224-9115

ATTORNEYS FOR ALLTEL
FLORIDA, INC. AND NORTHEAST
FLORIDA TELEPHONE COMPANY

CERTIFICATE OF SERVICE
DOCKET NO. 961153-TL

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail or hand delivery (*) this 21st day of February, 1997, to the following:

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Will Cox *
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Florida Public Service Comm.
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ATTORNEY

February 12, 1997

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FEB 13 1997

U.S. MAIL - 005 RELATIONS
TALLAHASSEE, FL

R. Stan Wasber
NPA Code Administration
North WIC1
3535 Colonnade Parkway
Birmingham, AL 35243

Dear Mr. Wasber:

This is in response to your letter of February 10, 1997, in which BellSouth requests that NANPA assign two new NPA codes, 234 and 386, for relief of the exhausting 904 NPA in north Florida.

The relief plan ordered by the Florida Public Service Commission (FPSC) calls for a three-way geographic split of the 904 NPA. The splits will be along LATA boundaries, such that the Pensacola, Panama City, and Tallahassee LATAs will retain the 904 NPA, and the Jacksonville and Daytona LATAs will become the new 234 and 386 NPAs, respectively. The projected lifetimes for the three NPAs established by the relief plan are as follows: Both the 904 and the 234 NPAs will exhaust in 2006. The 386 NPA (Daytona LATA), however, will not exhaust until 2030, 24 years after the exhaust of the other two NPAs. This is contrary to Section 4(h) of the *NPA Relief Planning Guidelines* which states that "severe imbalances, for example, a difference in NPA lifetimes of more than 15 years, shall be avoided." This is one of several criteria established by the Industry Numbering Committee (INC) after review of concerns raised about a previous relief plan for the 904 NPA. At that time NANPA assigned the 352 NPA code to relieve the impending exhaust of the 904 NPA, but expressed serious reservations about the effective use of the new code. At NANPA's suggestion, the INC modified the guidelines to encourage long term NPA planning, incorporating multiple relief activities in a relief plan, if justified.

Faced with a relief plan that contradicts the guidelines, NANPA asked the INC for direction. The INC responded that Section 2.10 of the guidelines specifies that regulatory entities have the ultimate authority to approve or reject NPA relief plans, and that NANPA may make the assignments. On the other hand, the INC participants expressed concerns that such assignments would be in direct conflict with accepted number conservation practices and contrary to the spirit and intent of the guidelines.

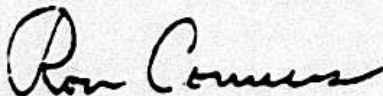
With this direction from the INC, NANPA is required to make the assignments as requested unless directed otherwise by the North American Numbering Council (NANC) or by the FCC. We understand the urgent need to proceed with relief planning in Florida, but we would be remiss in our duties as administrator if we did not allow time for the NANC to review the issue, particularly since the NANC has been charged to address conservation of numbering plan resources. We are therefore prepared to make the assignments as requested ten working days from the date of this letter, unless we are otherwise directed by the NANC or by the FCC.

Assuming that the assignments are made, please be advised that the industry has requested that they be notified at least twelve months before the introduction of a new NPA code. To accomplish this notification, NANPA will issue a Planning Letter (PL) describing the details of the 904/234/386 three-way split, when they are received from BellSouth. The industry has requested that the following information be included in the PL:

- The old and new NPA codes
- A map of area affected
- A list of the communities affected by the NPA split
- A list of the central office codes (NXXs) to be in each NPA
- The exact date and time of new NPA activation
- The exact date and time of the end of the permissive dialing period
- The dialing plan for the new NPA
- A test number to the NPA, and the dates when it will be activated and deactivated
- A trouble reporting number that may be called in the event that calls cannot be completed to the new NPA
- NPA implementation coordinator names and telephone numbers
- Any other information relevant to the implementation of the new NPA

If you have any questions concerning this letter or the contents of the Planning Letter, please feel free to contact me or Jim Deak, who can be reached at 908-699-6612.

Sincerely,



Copy to

Marian Gordon - FCC
Alan Hasselwander - NANC Chairman

By Fax
and US Mail

6140 Clinton St.
Manassas Park, NY 14472-8222

97-0022 FEB 19

February 17, 1997

The Honorable Commissioner Julia Johnson
Chairman, Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32309

Dear Chairman Johnson:

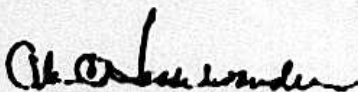
At the February 13 meeting of the North American Numbering Council we discussed Florida's request for two new area codes to accomplish a 3-way split to relieve the 904 area. The issue had been raised by the North American Numbering Administrator in view of the NANC's consideration of conservation issues in response to the Report and Order in C.C. Docket No. 92-237.

It is our understanding that under the proposed relief plan two of the codes are estimated to exhaust in 2008, while the third code would likely exhaust more than 20 years thereafter. Current industry guidelines state that boundaries should be set so that codes exhaust at roughly the same time, but that in no event should there be more than 15 years difference in exhaust dates. We understand further that there are other plans that could provide relief to the present exhaust problem in Northern Florida.

There was significant concern expressed at the meeting about the potential assignment because of the ramifications of such a decision on conservation of number resources. We believe that the assignment could be viewed as precedential and that there are a number of like requests that could potentially be made as a result to the face of a growing scarcity of this resource.

We would request that you delay proceeding with the 3-way split while reconsideration is given to an alternative more consistent with the guidelines. It is not our intention to introduce significant delay in the solution of your exhaust problem, and we would be happy to review this issue with you in more detail and provide whatever assistance we can.

Sincerely,



Alan C. Hesselwander
Chairman, North American Numbering Council

cc: Ronald Conners, NANPA Administrator