

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for review of  
proposed numbering plan relief  
for 305 area code.

DOCKET NO. 971058-TL  
ORDER NO. PSC-97-1226-PHO-TL  
ISSUED: October 10, 1997

Pursuant to Notice, a Prehearing Conference was held on October 8, 1997, in Tallahassee, Florida, before Commissioner Joe Garcia, as Prehearing Officer.

APPEARANCES:

Nancy B. White, Esquire, c/o Nancy Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301  
On behalf of BellSouth Telecommunications, Inc.

Marsha Rule, Esquire, 101 North Monroe Street, Suite 700, Tallahassee, Florida 32301; and  
Mark K. Logan, Esquire, Bryant, Miller & Olive, 201 South Monroe Street, Suite 500, Tallahassee, Florida 32301  
On behalf of AT&T Communications of the Southern States, Inc.

Mark Herron, Esquire, and E. Gary Early, Esquire, Akerman, Senterfitt & Eidson, P.A., Post Office Box 10555, Tallahassee, Florida 32302-2555  
On behalf of BellSouth Mobility Inc.

Richard D. Melson, Esquire, Hopping Green Sams & Smith, Post Office Box 6526, Tallahassee, Florida 32314; and  
Thomas K. Bond, Esquire, 780 Johnson Ferry Road, Suite 700, Atlanta, Georgia 30342  
On behalf of MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc..

Kenneth A. Hoffman, Esquire, and William B. Willingham, Esquire, Rutledge, Ecenia, Underwood, Purnell & Hoffman, P.A., Post Office Box 551, Tallahassee, Florida 32302;  
and

Michael Mcrae, Esquire, 2 Lafayette Center, Suite 400, 1133 Twenty First Street, NW, Washington, DC 20036  
On behalf of Teleport Communications Group Inc.

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Martha C. Brown, Esquire, and John R. Bowman, Esquire,  
Florida Public Service Commission, 2540 Shumard Oak  
Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Commission Staff.

**PREHEARING ORDER**

**I. CASE BACKGROUND**

On July 15, 1997, BellSouth Telecommunications, Inc. (BellSouth), the numbering administrator of the North American Numbering Plan (NANP) for the 305 area code, notified the Commission that the 305 area code would exhaust its remaining available numbers sooner than expected. BellSouth reported that representatives of South Florida's telecommunications service providers had agreed that relief from the imminent exhaustion should be accomplished through an overlay relief plan. The overlay relief plan would encompass the same geographic area as the current 305 area code. All new numbers issued after July 1, 1998, would receive the new area code. Old numbers would retain 305. Under the overlay plan, current customers would not be required to change their area code, but all customers would be required to dial all local calls as ten digits, within and between area codes.

Usually, the Commission does not formally review area code relief plans unless a specific dispute over what plan should be implemented arises between affected members of the industry. The Commission will defer to the industry consensus. In this case, however, the Commission has received several objections to the proposed plan from members of the public, asking that the Commission review it. Because the overlay will require ten digit dialing of all local calls for the first time, which may be confusing to customers, it is in the public interest for the Commission to review this particular plan. Accordingly, this matter is currently set for an administrative hearing.

The scope of this proceeding shall be based upon the issues raised by the parties and Commission staff (staff) up to and during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and the rules of this Commission.

**II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION**

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section

119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided

to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting confidential files.

#### Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUE NO.</u>
<u>DIRECT</u>		
Daniel M. Baeza	BellSouth	All
James M. Mertz	AT&T	All
Elizabeth G. Kistner	MCI	All
<u>REBUTTAL</u>		
Daniel M. Baeza	BellSouth	All

V. BASIC POSITIONS

BELLSOUTH:

BellSouth in its current capacity as the administrator of the North American Numbering Plan in Florida, has determined that the 305 area code will exhaust in or around September of 1998. Upon identifying the exhaust of the 305 NPA, BellSouth notified all known and potential code holders of an industry meeting that was held on Jun 30, 1997. Several relief options were discussed and the consensus of the industry was to choose the overlay option. The 305 NPA overlay relief option should allow for ten digit permissive dialing to begin January 1, 1998, with mandatory ten digit dialing to begin on July 1, 1998.

AT&T:

The Commission, after hearing the parties' positions, testimony from the affected customers within the 305 area code, and applying a public interest standard, should choose a method of NPA relief that it deems in the best interest of the people living and working in the 305 area code.

BMI:

BMI's basic position in this proceeding is that it favors an overlay versus a geographic split in dealing with the exhaust of Area Code 305 in South Florida.

MCI:

In general, geographic splits are preferable to overlays as a means of providing area code relief. Geographic splits tend to have fewer end-user impacts and fewer negative impacts on emerging competition. If the Commission nevertheless determines, due to unique circumstances in the 305 area code, that an overlay plan is in the public interest, it should impose several conditions to mitigate the adverse impacts on competition. These conditions include: 1) no slippage in the current BellSouth implementation plan for local number portability should be allowed; 2) 10-digit dialing should be required within and between the old and new area codes; 3) BellSouth should be required to analyze and report on the feasibility of a revenue-neutral rate center consolidation plan for the 305 area; and 4) a workshop or other process should be established to consider a number pooling mechanism for the Miami area.

**TCG:** TCG's interest in this proceeding stems from its status as a facilities-based certificated Alternative Local Exchange Carrier ("ALEC") that presently provides service in the 305 area code on a competitive basis with BellSouth Telecommunications, Inc. ("BST") and others. TCG supports the implementation of a geographic split to address the pending code exhaust in the 305 Numbering Plan Area ("NPA"). Geographic splits minimize the negative impacts upon end-users that are inherent to any type of code relief. The geographic split also is a competitively neutral solution to the pending code exhaust in the 305 NPA.

If the Commission determines that an overlay is the relief option that would best serve the end-users in the 305 NPA, the relief plan must minimize the discriminatory and anticompetitive aspects that are inherent to an overlay. The overlay plan proposed by BST would place competing wire-based local exchange service providers at a significant competitive disadvantage. However, the anti-competitive and discriminatory aspects of BST's proposed overlay can be minimized by imposing the following conditions on the plan:

1. All remaining NXXs in the 305 area code shall be allocated pursuant to a Commission-approved plan, consistent with FCC Guidelines, giving priority to facilities-based carriers requesting codes in rate centers where the carrier currently does not have a code; and
2. The Commission must initiate a proceeding to determine whether a number pooling mechanism can be implemented in the Local Number Portability area that includes Miami.

**STAFF:** No position at this time.

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.



VI. ISSUES AND POSITIONS

**ISSUE 1:** Should the Commission approve the overlay plan for 305 area code relief, and if not, what relief plan should the Commission approve?

**POSITIONS:**

**BELLSOUTH:**

Yes. The overlay relief plan for 305 area code relief is the most appropriate option.

**AT&T:**

Due to the competitive concerns implicit in an overlay, a geographic split is the most appropriate means to provide number relief for 305 area code. However, an overlay may be appropriate if certain conditions are implemented in conjunction with the overlay.

**BMI:**

The primary question at issue in this docket is whether an overlay is preferable to a geographic split in dealing with the 305 area code exhaust. BMI considers the overlay approach clearly preferable for a number of reasons. An overlay is the most cost-effective and least confusing manner to obtain area code relief in that customer number changes are not required. The attendant cost of number changes, such as stationery and business card changes and changes in customer premises equipment such as PBXs, alarm systems and fax machines, are avoided. Also, from BMI's perspective as a cellular service provider, an overlay avoids BMI's having to reprogram hundreds of thousands of cellular telephones for its subscribers. The cost to BMI for the reprogramming of the phones of its subscribers could easily run into millions of dollars. Presumably, this would also be the case for other cellular, PCS and wireless service providers.

Furthermore,, BMI anticipates that with a geographic split many customers would not bring their phones in to be reprogrammed. Following the end of the permissive dialing period, regardless of the length of that period, it is likely that thousands of subscribers would suddenly find themselves with cellular telephones that no longer

work. BMI is therefore very concerned about customer dissatisfaction and, ultimately, loss of business.

BMI also believes that significant confusion will result from the required change of numbers for existing customers for the affected area. With an overlay, no one would be required to change telephone numbers.

Although customers will have to become accustomed to ten-digit dialing, BMI does not believe that this adjustment will be difficult or confusing.

**MCI:**

The Commission should not approve the overlay plan for 305 area code relief unless it also imposes the following conditions to mitigate the potential adverse impacts that such a plan can have on competition: 1) no slippage in the current BellSouth implementation plan for local number portability should be allowed; 2) 10-digit dialing should be required both within and between the old and new area codes; 3) BellSouth should be required to analyze and report on the feasibility of a revenue-neutral rate center consolidation plan for the 305 area; and 4) a workshop or other process should be established to consider a number pooling mechanism for the Miami area.

**TCG:**

The Commission should implement a geographic split or, alternatively, the Commission should implement an overlay plan with the following conditions:

1. All remaining NXXs in the 305 area code shall be allocated pursuant to a Commission-approved plan, consistent with FCC guidelines, giving priority to facilities-based carriers requesting codes in rate centers where the carrier currently does not have a code; and
2. The Commission must initiate a proceeding to determine whether a number pooling mechanism can be implemented in the Local Number Portability area that includes Miami.

**STAFF:**

No position at this time.

**ISSUE 2:** If the Commission approves an overlay, when and to what extent should the Commission require 10 digit dialing?

**AT&T:** If the Commission orders an overlay, it should order permissive 10 digit dialing effective immediately, with mandatory 10 digit dialing to begin upon deployment of the first NXX in the new area code. If, however, the Commission approves a concentrated growth overlay such that Monroe County is assigned a single area code, the Commission should exempt from the 10 digit dialing requirement all calls made within Monroe County.

**BELLSOUTH:**

With an overlay, 10-digit dialing would be required for all local calling within the overlay area. During the permissive period of implementation of the overlay, both 7-digit and 10-digit dialing would be allowed. Once the permissive dialing period is concluded, 10-digit dialing would be mandatory for all local calling within the overlay area.

**BMI:** If an overlay is approved for all or part of the NPA, 10-digit permissive dialing should begin on January 1, 1998, with mandatory 10-digit dialing to begin on July 1, 1998 in the overlay area.

**MCI:** In an overlay, permissive 10-digit dialing should be implemented as soon as possible. Mandatory 10-digit dialing should be effective by July 1, 1998.

**TCG:** No position.

**STAFF:** No position at this time.

VII. EXHIBIT LIST

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NUMBER</u>	<u>DESCRIPTION</u>
Baeza	BellSouth	DMB-1	NPA Code Relief Planning and Notification Guidelines

WITNESS	PROFFERED BY	I.D. NUMBER	DESCRIPTION
Baeza	BellSouth	DMB-2	NPA 305 Forecast
		DMB-3	List of Invitees
		DMB-4	List of Attendees.

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.


IX. PENDING MOTIONS

There are no pending motions at this time.

It is therefore,

ORDERED by Commissioner Joe A. Garcia, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Joe A. Garcia, as Prehearing Officer, this 10th day of October, 1997.

  
ASST. TO  
JOE A. GARCIA  
Commissioner and Prehearing Officer

( S E A L )

MCB

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.