



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: MARCH 24, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF COMMUNICATIONS (ILERI) *li*
DIVISION OF LEGAL SERVICES (MCKINNEY) *McB Jam*

RE: DOCKET NO. 990373-TP - ESTABLISHMENT OF A STATEWIDE
EMERGENCY AREA CODE RELIEF PLAN.

AGENDA: 3/30/99 - REGULAR AGENDA - FINAL ORDER - ALL INTERESTED
PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\990373.RCM

CASE BACKGROUND

It is with regret that staff brings this emergency area code relief recommendation to the Commission for consideration. The North American Numbering Plan Administration (NANPA) recently informed staff that the 305, 561, 941, and 954 area codes are in extraordinary jeopardy of premature exhaustion.

Advances in telecommunications services, as well as increased competition in local exchange markets have led to an explosion in the demand for numbers, escalating the exhaustion rate of area codes in Florida. As a result, numbering plan area (NPA or area code) exhaustion is problematic. In the 305 Monroe County (Keys area), NANPA has declared jeopardy, which would exhaust the 305 area code 13 years prematurely. Therefore, immediate action is necessary to protect the interests of consumers. Further, this crisis extends beyond the Keys. It touches most of Florida's metropolitan areas.

On January 6, 1998, the Commission issued Order PSC-98-0040-FOF-TL, in which it required that 20 of the remaining NXXs in the 305 area code be reserved for use in Monroe County. The Order stated that these 20 NXXs were calculated at a usage rate of 1.2 NXXs per year to last until the year 2012 for the residents of the Keys. However, NANPA recently

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informed staff that it has already assigned approximately 9 of the 20 NXXs in only 13 months. This accelerated assignment of NXXs, which far exceeds the usage rate contemplated in the order, has forced an extraordinary jeopardy situation in the 305 Keys area.

Staff has also received evidence that NXX codes in Florida are underutilized. This is illustrated below in Table 1.

| NPA (Area code) | % of telephone numbers utilized (utilization rate) |
|-----------------------------|---|
| 305 (Keys) | 39 |
| 305 / 786 (Dade) | 35 |
| 321 (Brevard) | N/A |
| 352 | 41 |
| 407 / 321 (Overlay area) | N/A |
| 561 | 35 |
| 727 | 27 |
| 813 | 29 |
| 850 | 23 |
| 904 | 30 |
| 941 | 37 |
| 954 | 50 |

Table 1: Utilization rate of all area codes in Florida as of December 1998
(Note: This data does not contain wireless carriers)

Although NANPA has declared extraordinary jeopardy in the 305, 561, 941, and 954 area codes, there are differing interpretations as to whether these area codes are truly in jeopardy. It appears that these issues extend beyond the Keys because NANPA has declared extraordinary jeopardy in the 561, 941, and 954 area codes. NANPA's conclusion, however, is based on data which lends itself to multiple interpretations, and creates confusion as to the remaining life of each area code in the state. Staff is experiencing problems in getting accurate and timely information on which to base area code relief decisions. Staff is also concerned that the industry does not seem to give much consideration to how consumers will be affected if there is little advance warning of new area code relief.

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In order to avoid introducing new area codes unnecessarily, we must ensure that all numbering resources are used in an efficient manner. This recommendation addresses measures that will conserve NXX codes in order to extend the lives of area codes within Florida.

ISSUE 1: Should the Commission declare an area code emergency in the State of Florida?

RECOMMENDATION: Yes. Staff recommends that the Commission declare an area code emergency in the State of Florida. **(ILERI)**

STAFF ANALYSIS: The exhaustion dates for area codes are based solely on facts provided by NANPA's analysis from the Central Office Code Utilization Survey (COCUS). COCUS is an annual survey that seeks information on the number of central office (CO or NXX) codes currently assigned to a company, as well as a forecast of the number of additional CO codes the company will need over the next several years. The COCUS has been used by the industry for a number of years and is intended to provide an overall view of both present and projected CO code utilization, information that is critical for area code relief planning. On March 15, 1999, NANPA informed staff that it was declaring extraordinary jeopardy in the 561, 941, and 954 area codes in Florida, based on its analysis of COCUS information. NANPA also informed staff that the 305 area code in Monroe County (Keys) and the 904 area code would be in jeopardy soon. Almost immediately after NANPA informed staff that the 904 area code was in jeopardy, NANPA reversed its statement and declared that the 904 area code was NOT in jeopardy at all. To complicate matters, there are alternative interpretations of the data which suggest that there are no jeopardy situations in the 305, 561, and 954 area codes. This chaotic and contradictory information is confusing to staff. The Commission needs accurate and timely information in order to determine appropriate area code relief mechanisms.

Once staff was aware of the possible jeopardy situations, staff asked NANPA how the NXX codes were being distributed. NANPA responded that NXX codes were being distributed based on the current industry guidelines, which call for codes to be assigned on a first-come, first-served basis, if the carrier is certificated. Staff believes that when the demand for codes exceeds the available supply, the first-come, first-served approach may no longer assure a fair code allocation among competing firms.

There is no more blatant an example of misallocation of NXX codes than in the 305 area code for Monroe County (the Keys). Based on NANPA projections and after hearing, the Commission ordered that 20 of the remaining NXXs in the 305 area code be reserved for use in Monroe County. This should have extended the life of the 305 area code in Monroe County to the year 2012. As stated earlier, this area is now in jeopardy and expected to exhaust by the end of 1999, unless action is taken, all because the Commission's order was ignored.

The three additional projected area code exhaustions this year, coupled with the unreliable, conflicting information provided by the source responsible for number allocations, leads staff to believe that the entire State is in jeopardy of premature area code exhaustion. One source, NANPA, states that four area codes are in extraordinary jeopardy, while other sources disagree. Therefore, due to the unreliable information provided to the Commission, staff recommends that the Commission declare an area code emergency to preserve NXXs in the state of Florida.

ISSUE 2: Should the Commission issue an immediate final order to implement an emergency relief plan to preserve the remaining NXXs in the 305 area code for Monroe County (the Keys area)?

RECOMMENDATION: Yes. Staff recommends that the Commission issue an immediate final order pursuant to Section 120.569 (2) (l), Florida Statutes, to implement an emergency relief plan to preserve the remaining NXXs in the 305 area code for Monroe County (the Keys area) by (1) suspending the distribution of NXXs in the 305 Keys area until January 1, 2000, (2) directing NANPA to only distribute the remaining 11 NXXs at a rate of 1 NXX per year on a lottery basis to extend the area code life until the year 2011, and (3) ordering that all NXX code holders issue telephone numbers consecutively, beginning with the lowest assignable telephone number. Staff will bring a recommendation to the Commission with proposed criteria for the lottery at a later date. **(ILERI)**

STAFF ANALYSIS: As explained in the case background, on January 6, 1998, the Commission ordered that 20 of the remaining NXXs in the 305 area code be reserved for use in Monroe County. The order stated that these 20 NXXs were calculated at a usage of 1.2 NXXs per year to last until the year 2012 for the residents of the Keys. However, NANPA had not informed staff that it had already assigned 9 of the 20 NXXs in only 13 months. This accelerated assignment of NXXs, which exceeds the usage contemplated in the order, has forced a jeopardy situation in the 305 Keys area.

As mentioned above there are other interpretations which are at odds with NANPA's conclusion regarding Monroe County. In fact as illustrated in Table 1, it appears that this area has over 81,617 telephone numbers available for assignment. This amounts to only 39% of the available telephone numbers being utilized.

Mr. Wayne Milby, the NANP Senior Relief Planner, indicated that there is a possibility of expanding the 305/786 overlay to the 305 area code for Monroe County. Staff does not consider expanding the 305/786 overlay to Monroe County a viable option. It is apparent that the misallocation of reserved NXXs in the 305 area code for Monroe County is the cause for the premature exhaustion. The Commission approved an area code relief plan that it believed, based on information provided by NANPA, would not only allow the 305 area code for Monroe County to retain 7-digit local dialing, but also would prevent an area code change for 14 years. NANPA's suggestion that it would simply overlay this area is evidence of NANPA's lack of concern for Florida's unique circumstances.

Staff believes that for competition to develop all carriers must have access to numbering resources. Staff believes the lottery method is appropriate because it is an unbiased selection process which will allow the code administrator to assign NXXs on an equitable, efficient and

timely basis to carriers. Staff also proposes to include a good cause exception clause which will allow code holders to provide a written statement to the Commission demonstrating a genuine and immediate need to obtain numbering resources in advance of the assignment schedule. The lottery criteria will be addressed in a separate docket.

In order to extend the life of the area code in the Keys, staff believes it is necessary to require all NXX code holders to issue telephone numbers consecutively, beginning with the lowest assignable telephone number. This will ensure the efficient use of telephone numbers in the lowest numbering block and enable number pooling in the future.

The conflicting information and differing interpretations of the remaining life of the area code, combined with the inappropriate assignment of NXX codes in the 305 area code for Monroe County, have convinced staff that immediate action is necessary to preserve this area from premature exhaustion. Staff recommends that the Commission issue an immediate final order to implement an emergency relief plan to insure the remaining NXXs in the 305 area code for Monroe County (the Keys area) by (1) suspending the distribution of NXXs in the 305 Keys area until January 1, 2000, (2) directing that NANPA only distribute the remaining 11 NXXs at a rate of 1 NXX per year on a lottery basis to extend the life until the year 2011, and (3) ordering that all NXX code holders issue telephone numbers consecutively, beginning with the lowest assignable telephone number.

ISSUE 3: Should the Commission issue an immediate final order to preserve the distribution of all NXXs in the State of Florida, including number conservation measures?

RECOMMENDATION: Yes. Staff recommends that the Commission issue an immediate final order pursuant to Section 120.569 (2) (1), Florida Statutes, to preserve the distribution of all NXXs in the State of Florida. The Commission should direct the code administrator to seek Commission approval prior to issuing any NXX codes, and the Commission should order NXX code holders to issue telephone numbers consecutively beginning with the lowest assignable telephone number. Staff will address number conservation measures in a separate docket. **(ILERI, MCKINNEY)**

STAFF ANALYSIS: Staff believes that it is imperative that the Commission continue to exercise the oversight of area code relief and numbering issues that it has exercised since 1995. With the rewrite of Chapter 364, Florida Statutes, the Commission was directed to oversee development of competition in the local telecommunications markets. Chapter 364.16(4), Florida Statutes, specifically states:

In order to assure that consumers have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up the consumer's existing local telephone number, all providers of local exchange services must have access to local telephone numbering resources and assignments on equitable terms that include a recognition of the scarcity of such resources and are in accordance with national assignment guidelines.

This section also requires the telecommunication providers (parties), under the direction of the Commission, to set up a number portability standards group by no later than September 1, 1995, for the purpose of investigating and developing appropriate parameters, costs and standards for number portability. The number portability standards group has met monthly since 1996 to develop temporary and permanent number portability solutions. To ensure the establishment of a temporary number portability solution by January 1, 1996, the Commission established an expedited hearing schedule in the event the parties could not negotiate a mechanism by the statutory deadline, and to create a foundation for number planning measures. The Commission ordered temporary number portability by Order No. PSC-95-1604-FOF-TP, in Docket No. 950737-TP, issued December 28, 1995. Thereafter, the Commission, in accord with the FCC's number portability policies, ordered long-term number portability by Order No. PSC-97-0846-FOF-TP, in Docket No. 960100-TP, issued July 14, 1997. Permanent number portability is essential to the implementation of certain number conservation measures, such as number pooling.

The Commission has consistently demonstrated that it believes that the adoption of number conservation measures is in the public interest. On December 10, 1997, the Commission undertook a major utilization study of all area codes in Florida. The Commission requested number utilization data from all central office code holders in Florida to determine whether

numbering resources were being used in an efficient manner. This study involved gathering information at the 1,000 and 100 number block level. Staff also surveyed the code holders regarding issues on number pooling and rate center consolidation.

On December 17, 1998, the Commission actively expressed its concerns with the implementation of number conservation measures by filing comments with the FCC regarding NSD File No. L-98-134-NANC Report Concerning Telephone Number Pooling and Other Optimization Measures. The Commission recommended that numbering resource optimization measures be implemented on a state-by-state basis, rather than nationwide. The Commission also recommended that a portion of the unused telephone numbers within a given provider's NXX code be assigned to other provider(s) operating in the same area. The Commission further stated that audits are important to ensure compliance with numbering guidelines and to prevent premature area code exhaustion. The Commission stated that greater attention should be placed on accurate data collection in order to correctly evaluate number utilization and to better estimate the exhaustion of NPAs. The Commission asserted to the FCC that the process of data collection should be verified through regular audits.

To continue the Commission's number conservation endeavors, staff initiated a new number utilization study in October of 1998, to investigate number conservation measures (Docket No. 981444-TP). Staff conducted an industry workshop to review the current utilization of NXXs by area codes and to discuss alternatives such as rate center consolidation, number pooling and other measures. The purpose of this docket is to identify and evaluate number conservation measures for feasibility and effectiveness. Staff is currently undertaking a major inventory of all area codes in Florida in an attempt to determine whether numbering resources are being used in an efficient manner.

Staff is also investigating area code relief plans in Florida. The objective is to understand the long run impact of area code relief plans on Floridians. Area codes are in finite supply, which places a premium on designing relief plans that use numbers efficiently and minimize the impacts on customers and carriers. With the imminent nationwide exhaustion of area codes currently projected for the year 2007, the Commission is taking proactive steps to conserve its existing area codes. Thus, since 1995 consistent with the state authority and the policies of the FCC, the Commission has actively addressed area codes and number conservation issues in Florida.

Staff believes that limiting the distribution of all NXXs at a minimum level still facilitates entry into the telecommunications marketplace by making number resources available in an equitable, efficient, and timely basis to all carriers. Staff also believes that for competition to continue to develop as indicated in the Act, all carriers must have access to numbering resources. Staff disagrees with the FCC's decision in the Pennsylvania Numbering Order (FCC 98-224) that number conservation measures could negatively affect the routing of calls in the United States. Staff does not believe that number conservation measures would place some carriers at risk or delay area code implementation before or during the jeopardy period. Number conservation measures such as 1000-block pooling, would not unduly disfavor wireless and non-LRN capable

carriers because number conservation measures provide adequate assurances that these carriers would have equal access to all numbering resources. Wireless carriers may not be able to overcome the technical burdens to implement LNP before the FCC's deadline. The FCC initially indicated that this conversion for the wireless carriers was to be completed by June 30, 1999, and later changed to March 31, 2000, and last to November 24, 2002. Staff notes that the FCC's decision making process is delaying vital information necessary for the implementation of number conservation measures. Staff believes that Florida's unique situation creates a need for immediate number conservation measures. It is staff's belief that wireless carriers could overcome the technical burdens around the same time as local number portability (LNP) is implemented throughout the State of Florida.

In its Local Competition Second Report and Order released August 8, 1996, in CC Docket No. 96-98, the FCC delegated the authority to implement new area codes to the state commissions, and retained general authority to set policy for numbering administration. Specifically, the Commission stated:

We retain our authority to set policy with respect to all facets of numbering administration in the United States. By retaining authority to set broad policy on numbering administration matters, we preserve our ability to act flexibly and expeditiously on broad policy issues and to resolve any dispute related to numbering administration pursuant to the 1996 Act...

We authorized the states to resolve matters involving the implementation of new area codes. State commissions are uniquely positioned to understand local conditions and what effects new area codes will have on those conditions. Each state's implementation method is, of course, subject to our guidelines for numbering administration... (FCC Order 96-333 at p. 116)

On September 28, 1998, the FCC issued its opinion in the Matter of 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; Implementing of the Local Competition Provisions of the Telecommunications Act of 1996. CC Docket No. 96-98, FCC 98-224. The FCC denied the specific relief implemented by the Pennsylvania Public Utility Commission, but delegated additional authority to public utility commissions generally to order NXX code rationing in jeopardy situations, and encouraged state commissions to seek further delegations of authority to implement other innovative number conservation methods.

The FCC has clearly recognized a continuing role for state commissions in determining the allocation of NXX codes where NPA relief planning is involved. If the supply of NXX codes

is insufficient to meet the demand during the relief planning interval, jeopardy is declared and special conservation measures become necessary. As discussed in Issue 2, a lottery is one such measure to deal with NXX code shortages. Staff believes that the FCC intends that state commissions should settle disputes regarding NXX code allocations in the context of area code relief planning. As long as the Commission is consistent with the broad policies set forth by the FCC, the Commission is uniquely positioned to understand local conditions that affect, and are affected by, area code relief decisions.

Recently, the FCC granted the State of California's petition requesting additional authority to continue to conduct its conservation measures.¹ California requested authority to continue its monthly lottery and to resolve disputes among industry participants pertaining to the terms and conditions of NXX code rationing. California explained that it had a record of sustained activity in number conservation matters which predated the enactment of the Telecommunications Act of 1996 and continued after its passage. California also revealed that it was faced with a numbering crisis in the state and needed to act immediately to conserve NPAs and NXXs. Therefore, California established number conservation measures. Like California, the Commission has a history of sustained action on numbering issues that predates the enactment of the FCC rules and the 1996 Act, and continues to this day. The adoption of a plan for preserving NXXs codes through a lottery, number pooling such as 1000-block pooling, and other conservation methods are consistent with the Commission's past actions. Like California, Florida faces an imminent number crisis. Since 1995, nine additional area codes have been implemented in Florida. Of these nine new area codes, six are now in jeopardy. The emergency affects most of the metropolitan areas in Florida.

Florida is faced with serious circumstances that require immediate action. Florida has the same extenuating circumstances as California. Without some level of state intervention and control, the area codes in Florida will continue to exhaust at an alarming rate. As illustrated in Table 2 below, every NPA in Florida is extremely underutilized. There is no greater example of this abuse than in the 305 area code for Monroe County, which is currently in alleged jeopardy. Even in jeopardy status, it is estimated that only 39% of the available telephone numbers are utilized. Therefore, like California, Florida must be able to continue, and expand, its number planning measures immediately.

¹Petition of California Public Utilities Commission and the People of State of California for Granting Additional Authority to Conduct NXX Code Rationing on November 3, 1998

| NPA (Area code) | % of telephone numbers utilized (utilization rate) |
|-----------------------------|---|
| 305 (Keys) | 39 |
| 305 / 786 (Dade) | 35 |
| 321 (Brevard) | N/A |
| 352 | 41 |
| 407 / 321 (Overlay area) | N/A |
| 561 | 35 |
| 727 | 27 |
| 813 | 29 |
| 850 | 23 |
| 904 | 30 |
| 941 | 37 |
| 954 | 50 |

Table 2: Utilization rate of all area codes in Florida as of December 1998
(Note: This data does not contain wireless carriers)

The FCC generally requires that the numbering administration: (1) facilitate entry into the telecommunications marketplace by making telecommunications numbering resources available on an efficient, timely basis to the telecommunications carriers; (2) not unduly favor or disfavor any particular industry segment or group of telecommunications consumers; and (3) not unduly favor one telecommunications technology over another. Generally, the FCC believes that "substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes for number conservation and area code relief." Where the state has a history of involvement in numbering issues and shows that extenuating circumstances require immediate state specific action, however, the FCC has supported state conservation activities.

Staff does not believe that code rationing or different state conservation measures would interfere with call routing in the nation. Code rationing is a necessary function of number conservation in any circumstance. The current numbering regime implemented by NANPA is inefficient and obviously ineffective as a conservation method. For example, NANPA recently issued jeopardy letters for the 561 and 954 area codes. This came as a surprise since normally some effort has been made to identify an area that is nearing exhaustion prior to the issuance of a jeopardy situation. The industry meetings, which are scheduled for April 6, 1999, must take place before a plan or recommendation can be filed. Not only has NANPA put the area codes

in jeopardy, but it has also forced accelerated treatment of both of these area codes in order to meet the implementation deadlines.

Florida is now faced with the insurmountable task of solving its area code dilemma without the proper tools. NXX codes in Florida are being depleted at a rapid rate, which forces the state into premature area code exhaustions. There are several number conservation measures that could reduce if not eliminate the premature exhaustions of certain area codes in Florida. If measures such as number pooling (issuing numbers in 1000-blocks), number recall, number rationing, rate center consolidation, and permanent number portability could be instituted, numbers could be saved. Staff also believes that the Commission should review the current practice for determining when interconnection rates apply compared to when access rates apply to ALECs. Staff believes that because ILECs impose their existing local calling areas on the ALECs, this has greatly increased the NXX demand. However, due to the magnitude of this project, staff recommends that a separate docket be opened to address the aforementioned issues.

Staff recommends that the Commission issue an immediate final order preserving the distribution of all NXXs and directing the code administrator to seek Commission approval prior to issuing any NXX codes in Florida. Staff also recommends that the Commission order NXX code holders to issue telephone numbers consecutively, beginning with the lowest assignable telephone number. At upcoming Internal Affairs meeting, the Commission should consider directing staff to seek clarification from the FCC of Florida's delegated authority. Staff will address number conservation measures in a separate docket.

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DATE: MARCH 24, 1999

ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff recommendation in Issues 1-3, this docket should be closed. (MCKINNEY)

STAFF ANALYSIS: Pursuant to Section 120.569 (2) (1), Florida Statutes, if an agency determines that an immediate danger to the public health safety or welfare requires an immediate final order, it shall state with particularity the facts underlying its determination in its order. That order shall be appealable and enjoinable from the date rendered. In Issues 1-3, staff has described in detail its reasons for issuing an immediate final order in this case. If the Commission approves staff's recommendation in Issues 1-3, this docket should be closed.