

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In Re: Establishment of a
Statewide Emergency Area Code
Relief plan.

Docket No. 990373-TL
Filed: June 9, 1999

**BELLSOUTH MOBILITY'S
PREHEARING STATEMENT**

Florida Cellular Service, Inc. d/b/a BellSouth Mobility Inc ("BellSouth Mobility"), by and through its undersigned counsel and pursuant to Rule 25-22.038(3), Florida Administrative Code, and Orders No. PSC-99-0761-PCO-TP and PSC-99-1012-PCO-TP, hereby submits its Prehearing Statement in this proceeding.

A. Witnesses

BellSouth Mobility intends to call as its witness, William H. Brown, Manager of State Regulatory for BellSouth Cellular Corp. BellSouth Mobility reserves the right to call or substitute additional witnesses to respond to Commission inquiries not addressed in direct or rebuttal testimony, and witnesses to address future issues that may be designated later by the Prehearing Officer.

B. Exhibits Identified At This Time

The prefiled direct and rebuttal testimonies of William H. Brown and the Stipulation and Voluntary Number Management Measures (the "Stipulation") are the only exhibits that BellSouth Mobility intends to introduce at this time. BellSouth Mobility, however, reserves the right to file exhibits to any testimony that may be filed under the circumstances identified in Section "A" above. BellSouth Mobility also reserves the right to introduce exhibits for cross-

examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Evidence and the Commission's Rules.

C. Basic Position

BellSouth Mobility does not support a requirement that all NXX code holders assign telephone numbers ("TNs") consecutively, beginning with the lowest available number. First, BellSouth Mobility respectfully submits that the FCC has not delegated to the Commission the authority to order NXX Code holders to assign TNs consecutively.¹ Second, assuming for sake of argument that the FCC has delegated to the Commission the authority to prescribe consecutive TN assignment, the Commission cannot lawfully impose that requirement on CMRS providers, which by definition are expressly exempt from the Commission's regulatory jurisdiction. See Sections 364.02(3) and (12), Florida Statutes. Finally, BellSouth Mobility submits that mandatory consecutive number assignment will not advance the Commission's goal of number conservation and is not cost-effective for wireless providers. Moreover, consecutive number assignment will unnecessarily frustrate customers and, when adopted on a state-by-state basis, will result in the application of a patchwork of inconsistent number conservation measures and number assignment policies. BellSouth Mobility, therefore, respectfully requests that the Commission not adopt a consecutive number assignment requirement. Instead, BellSouth Mobility requests that the Commission approve the Stipulation and close the docket.

D. Questions of Fact

There are no purely factual issues to be addressed by BellSouth Mobility in this matter, at this time.

¹ 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, *Memorandum Opinion and Order on Reconsideration*, CC Docket No. 96-98, 13 FCC Rcd. 19009, 19024, (September 28, 1998) ("Pennsylvania Order").

E. Questions of Law

The following are questions of law that will be addressed by counsel for BellSouth Mobility in this proceeding:

Question: Does the Commission have jurisdiction to impose a consecutive number distribution requirement on BellSouth Mobility?

BellSouth Mobility's Position: No. BellSouth Mobility is a CMRS provider and, as such, is specifically excluded from the Commission's jurisdiction pursuant to Section 364.02(12)(c), Florida Statutes. Furthermore, the FCC has not delegated to the Commission the requisite authority to require consecutive number assignment. See Pennsylvania Order.

Question: Is the Commission authorized to impose consecutive number assignment requirements on all NXX code holders in Florida without adopting that requirement through formal rule making pursuant to Chapter 120, Florida Statutes?

BellSouth Mobility's Position: No. Chapter 120, Florida Statutes, imposes an affirmative duty on the Commission to codify such industry-wide requirements in rules adopted pursuant to formal rulemaking procedures. The Commission has failed to follow the required rulemaking process in this docket.

F. Mixed Questions of Fact, Law, and Policy

The following are mixed questions of fact, law and policy to be addressed by BellSouth Mobility:

Question: Should the Commission adopt requirements that all NXX code holders distribute telephone numbers consecutively, beginning with the lowest available telephone number?

BellSouth Mobility's Position: No. Consecutive number assignment is beyond the Commission's jurisdiction, will not advance the Commission's goal of number conservation, and is not cost-effective for wireless providers. Furthermore, state mandated consecutive TN assignment will result in the application of inconsistent number conservation measures and number assignment policies.

Question: Are there more feasible and effective alternatives to consecutive number assignment requirements?

BellSouth Mobility's Position: Yes. The Commission should approve the Stipulation and Voluntary Number Management Measures.

G. Stipulations

On May 27, 1999, BellSouth Mobility and various NXX code holders filed the Stipulation with the Commission.

H. Pending Motions or Matters on Which Action is Sought

BellSouth Mobility seeks action upon: (i) its petition for leave to intervene filed with the Commission on June 9, 1999, and (ii) the joint motion to accept the Stipulation submitted by BellSouth Mobility and other providers on May 27, 1999.

I. Requirements With Which BellSouth Mobility Cannot Comply

At this time, BellSouth Mobility can comply with all of the requirements set forth in Order Nos. PSC-99-0761-PCO-TP and PSC-99-1012-PCO-TP.

Respectfully submitted,




D. Bruce May
Florida Bar No. 354473
HOLLAND & KNIGHT LLP
P.O. Drawer 810
Tallahassee, FL 32302
(904) 224-7000

**Attorneys for Florida Cellular Service, Inc.
d/b/a BellSouth Mobility Inc**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by hand-delivery to: Levent Ileri, Florida Public Service Commission Division of Communications, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399; Diana Caldwell, Florida Public Service Commission Division of Legal Services, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399; Catherine Bedell, Florida Public Service Commission Division of Communications, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399; Floyd R. Self, Messer Caparello & Self PA, 215 S. Monroe Street, Suite 710, Tallahassee, FL 32301; Tracy Hatch, AT&T Communications of the Southern States, Inc., 101 North Monroe Street, Suite 700, Tallahassee, FL 32301-1549; Nancy B. White c/o Nancy H. Sims, BellSouth Telecommunications, Inc., 150 South Monroe Street, Suite 400, Tallahassee, FL 32301-1556; Angela Green, Florida Public Telecommunications Association, 125 S. Gadsden St., #200, Tallahassee, FL 32301-1525; Peter M. Dunbar, Pennington Moore Wilkinson Bell & Dunbar PA, 215 South Monroe Street, Second Floor, Tallahassee, FL 32301; Kenneth Hoffman, Rutledge, Ecenia, Underwood, Purnell & Hoffman PA, 215 South Monroe Street, Tallahassee, FL 32301; Michael A. Gross, 310 N. Monroe St., Tallahassee, FL 32301; Carolyn Mason 4050 Esplanade Way Bldg. 4030, Rm. 180L, Tallahassee, FL 32301; and by United States Mail to Peggy Arvanitas, c/o Remax First Class Realty, 620 ByPass Drive, Clearwater, FL 33764; Network Plus, Inc., 234 Copeland Street, Quincy, MA 02169; Omnipoint Communications, 600 Ansin Blvd., Hallandale, FL 33009; Richard Rindler, Swidler & Berlin, 30000 K St. NW, #300, Washington, DC 20007-5116; Carolyn Marek, Time Warner AxS of

Florida, L.P., 233 Bramerton Court, Franklin, TN 37069; and Francis J. Heaton, Wireless One Network L.P., 2100 Electronics Lane, Fort Myers, FL 33912 all on this 9th day of June, 1999.



D. Bruce May

TAL-153597.doc