

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Number Utilization Study:  
Investigation into Number  
Conservation Measures.

DOCKET NO. 981444-TL

In re: Request for review of  
proposed numbering plan relief  
for the 305/786 area code-Dade  
County and Monroe County/Keys  
Region.

DOCKET NO. 990455-TL

In re: Request for review of  
proposed numbering plan relief  
for the 561 area code.

DOCKET NO. 990456-TL

In re: Request for review of  
proposed numbering plan relief  
for the 954 area code.

DOCKET NO. 990457-TL

In re: Request for review of  
proposed numbering plan relief  
for the 904 area code.

DOCKET NO. 990517-TL

DATED: April 17, 2000

STAFF'S OBJECTIONS TO BELLSOUTH TELECOMMUNICATIONS, INC.'S  
NOTICE OF DEPOSITION OF LEVENT ILERI,  
OBJECTIONS TO BELLSOUTH'S FIRST SET OF INTERROGATORIES AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO STAFF,  
AND MOTION FOR PROTECTIVE ORDER

The Staff of the Florida Public Service Commission (Staff),  
pursuant to Rule 28-106.206, Florida Administrative Code, and Rules  
1.280(c), 1.340(a), and 1.350(b), Florida Rules of Civil Procedure,

by and through its undersigned counsel, hereby objects to BellSouth  
Telecommunications, Inc.'s (BellSouth) Notice of Deposition of  
Levent Ileri, BellSouth's First Set of Interrogatories to Staff

FA \_\_\_\_\_  
DP \_\_\_\_\_  
AF \_\_\_\_\_  
MU \_\_\_\_\_  
TR \_\_\_\_\_  
AG \_\_\_\_\_  
EG \_\_\_\_\_  
AS \_\_\_\_\_  
PC \_\_\_\_\_  
RR \_\_\_\_\_  
EC \_\_\_\_\_  
/AW \_\_\_\_\_  
TH \_\_\_\_\_

DOCUMENT NUMBER-DATE

04683 APR 17 8

FPSC-RECORDS/REPORTING

STAFF'S OBJECTION AND MOTION FOR PROTECTIVE ORDER  
DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

(Nos. 1-5), and BellSouth's First Request for Production of Documents (Nos. 1-5). Staff requests that the Prehearing Officer issue a protective order relieving Mr. Ileri from the undue burden, oppression, and annoyance of appearing for the noticed deposition. As grounds therefor, Staff states:

1. In March 1999, the North American Numbering Plan Administration (NANPA) notified the Commission that the remaining NXX codes for the Monroe County/Keys region of the 305 area code (numbering plan area (NPA)) (305 Keys region) were exhausted and declared an extraordinary jeopardy situation. Docket No. 990455-TL was opened to address this matter. Thereafter, on April 23, 1999, under the direction of NANPA, the telecommunications industry NXX code holders in the 305 Keys region returned some NXX codes to NANPA and reached a consensus to institute a freeze on the distribution of the remaining NXX codes in the 305 Keys region until either further extraordinary jeopardy measures could be put in place, or the Florida Public Service Commission could approve an NPA relief plan for the 305 Keys region. Subsequently, further jeopardy measures were implemented to preserve the remaining NXX codes. A lottery system was instituted for this region, which includes the rationing of one NXX code per month. Since NPA relief for this area may include or affect the portion of the 305 area

STAFF'S OBJECTION AND MOTION FOR PROTECTIVE ORDER  
DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

code overlaid by the 786 area code (the Dade County area), this Commission will address NPA relief for the entire 305 area code, including both the Dade County and Keys regions in this proceeding.

2. In March 1999, this Commission was informed that the 561 and 954 area codes were in extraordinary jeopardy. Thereafter, in April 1999, we were notified that the 904 area code was also in extraordinary jeopardy. Therefore, the Commission opened Dockets Nos. 990456-TL, 990457-TL, and 990517-TL to investigate the proposed numbering relief plans. Under the direction of NANPA, the telecommunications industry NXX code holders in the 561, 954, and 904 NPAs adopted Final Jeopardy Procedures and reached a consensus to institute rationing of the distribution of the remaining NXX codes in these NPAs to six codes per month, beginning May 1999 for 561 and 954, and July 1999 for the 904 area code. These rationing procedures will continue until NPA relief plans for each of these NPAs are approved.

3. In view of the related subject matter of these dockets and in the interest of administrative efficiency, Dockets Nos. 990455-TL, 990456-TL, 990457-TL and 990517-TL have been consolidated for hearing purposes only. A hearing is currently scheduled for May 18-19, 2000.

4. Pursuant to the Joint Petition on Mandatory Number Pooling

STAFF'S OBJECTION AND MOTION FOR PROTECTIVE ORDER  
DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

filed on April 6, 2000, in response to the Notice of Proposed Agency Action Order No. PSC-00-0543-PAA-TP, issued March 16, 2000, (Order) Docket No. 981444-TL has also been set for hearing on May 18-19, 2000. In the Order, the Commission required all carriers to return all unused NXX codes, mandated thousand block number pooling and management requirements, and established criteria to obtain initial numbering resources. The Joint Petitioners protested the portions of the Order that relate to number pooling which are expressed in Sections III (Mandatory Implementation of Thousand Block Pooling), VI (Thousand-Block Pooling Software Release and Implementation Dates), and VII (Designation of A Code Administrator) of the Order and in the corresponding ordering paragraphs.

5. On April 11, 2000, BellSouth filed its Notice of Deposition of Levent Ileri, as well as its First Set of Interrogatories to Staff (Nos. 1-5) and First Request for Production of Documents (Nos. 1-5).

6. In its Notice of Deposition, BellSouth asks that Mr. Ileri be present on April 24, 2000, for deposition and that he bring "copies of all the work papers or other materials used by you in the preparation of any testimony filed or exhibits submitted in any of these dockets."

STAFF'S OBJECTION AND MOTION FOR PROTECTIVE ORDER  
DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

7. In the first four Interrogatories, BellSouth requests that Commission Staff provide an explanation of the assumptions used to determine the exhaust dates for all area code plans not submitted by the industry, as well as an explanation of how the exhaust dates were developed and any documents that relate to the plans or the exhaust dates. The fifth Interrogatory asks that the Staff provide all information, assumptions, and documents used to derive or support the numbers in columns B-H of a document reference by Staff at the February 29, 2000, agenda conference, which proposed to show the impact of waiting until January, 2001, to do number pooling.

8. Pursuant to Rule 28-106.206, Florida Administrative Code, parties may obtain discovery through the means and in the manner provided in the Florida Rules of Civil Procedure. Rule 1.280(b), Fla.R.Civ.P., provides that parties may obtain discovery regarding any relevant matter, as long as the information sought appears to be "reasonably calculated to lead to the discovery of admissible evidence." However, Rule 1.280(c), Fla.R.Civ.P., allows persons from whom discovery is sought to move for a protective order to protect them "from annoyance, embarrassment, oppression, or undue burden or expense. . . ."

9. As set forth in detail below, Staff objects to each of BellSouth's discovery requests and its Notice of Deposition of Mr.

STAFF'S OBJECTION AND MOTION FOR PROTECTIVE ORDER  
DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

Ileri, and asks that the Prehearing Officer issue a protective order relieving Staff from the responsibility of responding to the Interrogatories<sup>1</sup> on the grounds that they cause an undue burden on Staff by impinging upon Staff's role as an advisor to the Commission, improperly seek analysis and conclusions from non-testifying Staff on a pending matter, and seek protected work product.

10. Pursuant to the Commission's Statement of Agency Organization and Operations (1999), Staff's primary duty is to "represent the public interest and see that all relevant facts and issues are clearly brought before the Commission for its consideration." (See p. 11, Parties). However, Staff is not a real party in interest in any proceeding before the Commission. South Florida Natural Gas Co. v. Public Service Commission, 534 So. 2d 695 (Fla. 1988). One of Staff's primary functions is to provide legal and technical advice on matters pending before the

---

<sup>1</sup>Staff will treat BellSouth's First Request for Production of Documents as a public records request made pursuant to Section 119.07, Florida Statutes. All of the Commission's public records and other public information responsive to BellSouth's formal document request will be made available for review and copying by BellSouth. Although these documents will be provided, Staff seeks a ruling by the Prehearing Officer, consistent with past Commission orders, that Staff is not required to respond to formal discovery requests directed at non-testifying staff members.

STAFF'S OBJECTION AND MOTION FOR PROTECTIVE ORDER  
DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

Commission. The Commission uses its staff to "test the validity, credibility, and competence of the evidence presented." South Florida Natural Gas, at 698.

11. Rule 25-22.033(5), Florida Administrative Code, prohibits a staff member who testifies in a case from discussing the merits of that case with any Commissioner during the pendency of that case. This prohibition extends to participating in the preparation of recommendations and at the agenda conference. Further, Section 120.66(1), Florida Statutes, permits only advisory staff members who do not testify on behalf of the Commission in a formal proceeding to communicate with the Commissioners.

12. If Staff is required to respond to these discovery requests and Staff's responses are introduced as evidence, those Staff members responding could not perform their advisory function because they would be excluded from further participation in analysis of the case and preparation of Staff's recommendation. In addition, subjecting Staff to these discovery requests could have a chilling effect in that Staff members might become hesitant to form any kind of opinion or conduct fact-finding in future cases if their opinions or fact-finding efforts would subject them to compelled discovery or testimony.

13. BellSouth's requests for information that Staff has

STAFF'S OBJECTION AND MOTION FOR PROTECTIVE ORDER  
DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

gathered in its review, specifically that evidence which Staff intends to use at hearing in these dockets, is, by its own terms, a request for work product. BellSouth cannot demonstrate that it is unable to obtain this information through other means without undue hardship, so it should not be permitted to compel Staff to provide this information for them.<sup>2</sup>

14. Staff's mental impressions concerning the appropriate means to derive exhaust dates from available information is protected from discovery, without exception, under the provisions of Rule 1.280(b)(3), Fla.R.Civ.P.

15. Staff has not filed testimony in this proceeding. Staff is, however, concerned that the parties' prefiled testimony does not provide an adequate record basis for comprehensive

---

<sup>2</sup> Staff is unaware of any independent efforts made by BellSouth to utilize alternative means of obtaining the information sought or of testing the basis and validity of the documents, dates, and plans referred to in its requests for information. Staff notes that at an April 6, 2000, public workshop attended by the parties, including BellSouth, Staff volunteered to make all pertinent documentation obtained by Staff available to the parties and also stated that the underlying information used by Staff has been the information filed in this proceeding by the parties. Thus, BellSouth should face no difficulty in obtaining and analyzing the information sought without the need to request Staff work product. Regardless, all documents related to the information requested in BellSouth's First Set of Interrogatories to Staff will be made available in response to BellSouth's document request, which is being treated as a Public Records Request, with the exception of any strategy notes and draft testimony.



STAFF'S OBJECTION AND MOTION FOR PROTECTIVE ORDER  
DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

consideration of the matters at issue, and, therefore, Staff does plan to request to file appropriate testimony to assure an adequate record. By separate Motion filed concurrently with this request, Staff asks leave to file such Staff direct testimony by April 21, 2000. If leave is granted to file such Staff testimony, the Staff witness will be made available for deposition at the earliest possible date and discovery requests may be properly served upon that individual who files the Staff testimony.

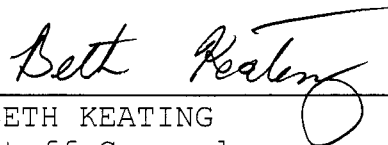
16. The Commission has consistently recognized the concerns raised in this pleading by Staff in past orders protecting non-testifying members of Staff from discovery, including interrogatories, depositions, and requests for admissions. See Order No. PSC-97-1372-PHO-EQ, issued October 29, 1997, in Docket No. 961184-EQ; Order No. PSC-94-1562-PCO-WS, issued December 14, 1994, in Docket No. 930945-WS; Order No. PSC-95-0137-PCO-SU, issued January 27, 1995, in Docket No. 940963-SU; Order NO. PSC-94-0425-PCO-WS, issued April 11, 1994, in Docket No. 930880-WS; and Order NO. 17910, issued July 27, 1987, in Docket No. 860960-WS.

WHEREFORE, the Staff of the Florida Public Service Commission requests that the Prehearing Officer issue a protective order relieving Staff from the undue burden of responding to BellSouth Telecommunications, Inc.'s First Set of Interrogatories to Staff

STAFF'S OBJECTION AND MOTION FOR PROTECTIVE ORDER  
DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

(Nos. 1-5), First Request for Production of Documents (Nos. 1-5)  
and the Notice of Deposition of Levent Ileri.

Respectfully submitted this 17th day of April, 2000.



---

BETH KEATING  
Staff Counsel  
Florida Public Service Commission  
Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850)413-6199

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Number Utilization Study: Investigation into Number Conservation Measures.	DOCKET NO. 981444-TL
In re: Request for review of proposed numbering plan relief for the 305/786 area code-Dade County and Monroe County/Keys Region.	DOCKET NO. 990455-TL
In re: Request for review of proposed numbering plan relief for the 561 area code.	DOCKET NO. 990456-TL
In re: Request for review of proposed numbering plan relief for the 954 area code.	DOCKET NO. 990457-TL
In re: Request for review of proposed numbering plan relief for the 904 area code.	DOCKET NO. 990517-TL DATED: April 17, 2000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that one true and correct copy of STAFF'S OBJECTIONS TO BELLSOUTH TELECOMMUNICATIONS, INC.'S NOTICE OF DEPOSITION OF LEVENT ILERI, OBJECTIONS TO BELLSOUTH'S FIRST SET OF INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO STAFF, AND MOTION FOR PROTECTIVE ORDER by hand delivery to Nancy White, Esquire, and Michael P. Goggin, Esquire, c/o Nancy Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida, 32301, and that a true and correct copy thereof have been furnished by U.S. Mail and by hand delivery \*, this 17th day of April, 2000, to the following:

CERTIFICATE OF SERVICE  
DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

Richard H. Brashear  
ALLTEL Florida, Inc.  
206 White Avenue, S.E.  
Live Oak, FL 32060-3357

Deborah L. Nobles  
Northeast Fla. Tel. Co., Inc.  
P.O. Box 485  
Macclenny, FL 32063-0485

F.B. (Ben) Poag  
Sprint-Florida, Inc.  
P.O. Box 2214 (MC FLTLHO0107)  
Tallahassee, FL 32316-2214

Robert M. Weiss  
Volusia County  
123 West Indiana Ave., Room 205  
DeLand, FL 32720

Carole Joy Barice, Esq.  
James A. Fowler, Esq.  
Fowler, Barice, Feeney  
& O'Quinn, P.A.  
28 West Central Blvd.  
Orlando, FL 32801

Thomas Foley  
Lockheed Martin IMS/Neustar  
820 Riverband, Blvd.  
Longwood, FL 32779

\* Nancy B. White, Esq.  
c/o Ms. Nancy H. Sims  
BellSouth Telecommunications,  
Inc.  
150 S. Monroe Street  
Tallahassee, FL 32301-1556

Laura Gallagher, Esq.  
101 E. College Ave., Ste., 302  
Tallahassee, FL 32301

Fritz Behring, City Manager  
City of Deltona  
P.O. Box 5550  
800 Deltona, Blvd.  
Deltona, FL 32728

Peter M. Dunbar, Esq.  
Karen M. Camechis, Esq.  
Pennington, Moore, Wilkinson,  
Bell & Dunbar, P.A.  
P.O. Box 10095  
Tallahassee, FL 32302

\*Charles J. Rehwinkel  
Susan Masterton  
Sprint-Florida, Inc.  
P.O. Box 2214  
Tallahassee, FL 32399-2214

Carolyn Marek  
Vice President of Regulatory  
Affairs, S.E. Region  
Time Warner Communications  
233 Bramerton Court  
Franklin, TN 37069

Joe Assenzo  
Sprint PCS  
Legal Department  
49000 Main Street, 11th Floor  
Kansas City, MO 64112

\*Floyd R. Self, Esq.  
Messer, Caparello & Self, P.A.  
215 S. Monroe Street  
Suite 701  
Tallahassee, FL 32301-1876

CERTIFICATE OF SERVICE

DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

Cheryl A. Tritt  
Kimberly D. Wheeler  
2000 Pennsylvania Avenue, N.W.  
Suite 5500  
Washington, D.C. 20006

\*Tracy Hatch, Esq.  
Marsha Rule, Esq.  
AT&T Communications of the  
Southern States, Inc.  
101 N. Monroe Street, Ste. 700  
Tallahassee, FL 32301

Harriet Eudy  
ALLTEL Florida, Inc.  
P.O. Box 550  
Live Oak, FL 32060

\*J. Jeffrey Wahlen  
Ausley & McMullen  
P.O. Box 391  
Tallahassee, FL 32302

Gloria Johnson, Esquire  
BellSouth Mobility, Inc.  
1100 Peachtree Street N.E.  
Suite 910  
Atlanta, GA 30309-4599

Kimberly Caswell, Esquire  
GTE Florida Incorporated  
P.O. Box 110, FLTC0007  
Tampa, FL 33601-0110

\*D. Wayne Milby, Esquire  
Donna C. McNulty, Esquire  
MCI WorldCom  
325 John Knox Road  
Suite 105  
Tallahassee, FL 32303-4131

Bruce May, Esquire  
Holland Law Firm  
P.O. Drawer 810  
Tallahassee, FL 32302-0810

\*Kenneth Hoffman, Esquire  
Rutledge Law Firm  
P.O. Box 551  
Tallahassee, FL 32302

Omnipoint Communications  
600 Ansin Blvd.  
Hallandale, FL 33009

William Rooney, Esquire  
Global Naps, Inc.  
10 Merrymount Rd.  
Quincy, MA 02169

Michael A. Gross, Esquire  
Florida Cable  
Telecommunications, Assoc.  
310 N. Monroe Street  
Tallahassee, FL 32301

GTE Wireless Incorporated  
245 Perimeter Center Parkway  
Atlanta, GA 30346

CERTIFICATE OF SERVICE

DOCKETS NOS. 981444-TL, 990455-TL, 990456-TL, 990457-TL AND  
990517-TL

\*Richard D. Melson, Esquire  
Hopping Law Firm  
P.O. 6526  
Tallahassee, FL 32314

Scott Saperstein, Esquire  
Intermedia Communications  
3625 Queen Palm Drive  
Tampa, FL 33619-1309


Regulatory Affairs Manager  
ITC^DeltaCom  
700 Boulevard South, Suite 101  
Huntsville, AL 35802

Richard Karre/MediaOne  
188 Inverness Drive West  
Englewood, CO 80112

Lynwood Evans  
MediaOne Florida  
Telecommunications, Inc.  
1919 Pennsylvania Ave., NW 20006

\*Charles J. Beck  
Office of Public Counsel  
The Florida Legislature  
111 W. Madison St., #812  
Tallahassee, FL 32399-  
1400

Peggy Arvanitas  
Re/Max First Class, Inc.  
620 Bypass Dr.  
Clearwater, FL 33764

  
\_\_\_\_\_

BETH KEATING  
Staff Counsel

FLORIDA PUBLIC SERVICE COMMISSION  
Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
(850) 413-6199