



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

APR 19 11:00 AM '01

DATE: APRIL 19, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (CASEY) *mdj*
DIVISION OF LEGAL SERVICES (CHRISTENSEN) *bc*

RE: DOCKET NO. 010309-TL - PETITION BY BELLSOUTH TELECOMMUNICATIONS, INC. FOR AN EXPEDITED REVIEW OF THE NORTH AMERICAN NUMBERING PLAN ADMINISTRATION DENIAL OF A CENTRAL OFFICE CODE FOR THE ORLANDO MAGNOLIA SWITCH

AGENDA: 05/01/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010309.RCM

CASE BACKGROUND

On January 24, 2001, BellSouth Telecommunications, Inc. (BellSouth) submitted an application to the North American Numbering Plan Administrator (NANPA) for a central office (NXX) code for the ORLFLMADS1 switch in the Orlando rate center. The code request was made to fulfill a request made by a specific customer who is in need of 2,500 consecutive Direct Inward Dialing (DID) numbers in an NXX with a four as the last digit (NX4).

The Orlando rate center consists of six central offices and seven switches [Azalea Park (ORLDFLAPDS0), Colonial (ORLDFLCLDS0), Magnolia (ORLDFLMADS1 and ORLDFLMA42E), Pinecastle (ORLDFLPCDS0), Pinehills (ORLDFLMADS0), and Sand Lake (ORLDFLSADS0)]. On February 6, 2001, NANPA denied BellSouth's request for a NXX code for the ORLFLMADS1 switch because BellSouth had not met the rate center months-to-exhaust (MTE) criteria currently required to obtain a growth code.

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On March 9, 2001, BellSouth filed a "Petition for Expedited Review of Growth Code Denials by the North American Numbering Administration." This recommendation addresses BellSouth's request that the Commission overturn NANPA's decision to deny a growth code for the ORLFLMADS1 switch.

The Commission is vested with jurisdiction pursuant to Sections 364.01 and 364.16(4), Florida Statutes, and 47 U.S.C. §151, and 47 F.C.R. §52.15(g)(3)(iv).

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission overturn NANPA's decision to deny a growth code for the ORLDFLMADS1 switch?

RECOMMENDATION: Yes, the Commission should overturn NANPA's decision to deny a growth code, and direct NANPA to provide BellSouth with a growth code for the ORLDFLMADS1 switch as soon as possible. Staff also recommends that once the specific customer needs are met, BellSouth should keep as many of the remaining blocks as possible in the new NXX uncontaminated for future number pooling. This is the first time this matter has been raised before the Commission. (CASEY)

STAFF ANALYSIS: As mentioned in the case background, BellSouth submitted an application to the NANPA for a NXX code for the ORLDFLMADS1 switch in the Orlando rate center and was denied because BellSouth had not met the rate center MTE criteria currently required to obtain a growth code.

Prior to March 31, 2000, carriers submitting an application for a growth code had to certify that existing codes associated with that switch, Point of Interface (POI), or rate center would exhaust within 12 months. In jeopardy Numbering Plan Areas (NPA's), applicants seeking a growth code had to certify that existing NXX codes would exhaust within six months.

Pursuant to Order No. FCC 00-104¹ applicants must now show the MTE criteria by rate center instead of by switch, and have no more than a six-month inventory of telephone numbers. Pursuant to 47 C.F.R. § 52.15(g)(3)(iii):

All service providers shall maintain no more than a six-month inventory of telephone numbers in each rate center or service area in which it provides telecommunications service.

The new MTE criteria creates a disadvantage for carriers with multiple switch rate centers because it is now based on rate centers, rather than switches. One switch in a multiple-switch rate center may be near exhaust while the average MTE for the rate center is above six months, thus preventing a carrier from

¹Report and Order, cc Docket No. 99-200, In the Matter of Number Resource Optimization, Order No. FCC 00-104 (March 31, 2000)

obtaining a growth code for the switch near exhaust. For example, at the time of the NANPA denial of BellSouth's code request, the Orlando rate center MTE was 14.74 months with a 76.7% utilization level, while the MTE for the Magnolia-ORLDFLMADS1 switch was four months. BellSouth has stated that "Months-to-Exhaust criteria on a per rate center basis establishes a requirement that is difficult, and in some cases, impossible to meet."

The code denial also poses a possible barrier to competition. A customer desiring service from BellSouth may have to turn to another carrier simply because BellSouth cannot meet the MTE rate center requirement. Another carrier who may have just one switch in the rate center, would have an advantage and may be able to obtain a growth code to provide the service. In Order No. DA 01-386², the FCC stated:

Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources.

FCC No. DA 01-386 at ¶11.

Another dilemma created with the new MTE rate center criteria is rate center consolidation. The FCC promotes rate center consolidation as a number conservation measure, and encourages states to consolidate rate centers wherever possible. The problem arises when you attempt to consolidate small rate centers which may have one switch and end up with one rate center with multiple switches. In Order No. FCC 00-429³, the FCC states:

Some ILECs suggest, however, that the utilization threshold should be calculated on a per-switch basis in rate centers that have multiple switches, particularly where they have not deployed LNP capability. According to BellSouth, in the absence of thousands-block number pooling, numbers cannot be shared easily among multiple switches in the same rate center. They assert that there are technical constraints on their ability to share

²DA 01-386, CC Docket No. 99-200, CC Docket No. 96-98, In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (February 14, 2001)

³Second Report and Order, Order on Reconsideration, CC Docket No. 99-200 and CC Docket No. 96-98, In the Matter of Numbering Resource Optimization, et. al., Order No. FCC 00-429 (December 29, 2000)

numbering resources among multiple switches within the same rate center and that a low utilization rate in one or more switches could prevent it from meeting the rate center utilization threshold. SBC argues in its comments that the utilization threshold should be calculated at the "lowest code assignment point" - the rate center, where there is only one switch, or the switch, where there is more than one in a rate center.

Order No. FCC 00-429 at ¶ 32.

Number pooling may assist in obtaining growth codes in a multiple switch rate center, however, BellSouth cannot support intra-service provider porting between switches until thousands-block pooling is implemented in the Orlando Metropolitan Statistical Area. The 407 NPA currently does not have a pooling trial, but new area code relief for this NPA has already begun with the initial industry planning meeting which took place April 3, 2001. Number pooling for this area, along with other number conservation measures for the 407 NPA, will be examined in that docket.

BellSouth's petition included Attachment "A" which is an order issued by the State of North Carolina Utilities Commission.⁴ The Order addresses NANPA's denial of two growth codes because BellSouth did not meet the new MTE rate center requirements. BellSouth had two large customers, in need of NXX codes. One customer requested 10,000 sequential numbers, and the other customer needed to utilize approximately 6,000 numbers immediately for the establishment of a call center. The North Carolina Commission overturned NANPA's denial of the two NXX codes, and directed NANPA to provide numbers to meet the specific requests of Microsoft and Duke Energy.

The Public Service Commission of Wisconsin addressed a similar issue in its Docket 5-TK-101, Ameritech's Challenge of Neustar's Denial of a Request for a Central Office Growth Code at the Appleton Exchange, mailed December 22, 2000. In that case, Ameritech was denied a growth code because its MTE estimate was 7.4 months based on the rate center criteria, which is above the six month maximum MTE required by 47 C.F.R. § 52.15(g)(3)(iii).

⁴ State of North Carolina Utilities Commission, Order Granting Reserved Numbers, issued January 16, 2001, in Docket No. P-55, Sub 1250, In the Matter of Petition of BellSouth Telecommunications, Inc. for Review of NANPA Denial of Application for Numbering Resources.

Ameritech requested the growth code to fulfill a request by two large customers who each wanted five-digit dialing for internal calls and specifically requested to have an eight as the third digit of the NXX code. In its Order, the Wisconsin PSC overturned NANPA's decision to deny a growth code, and directed NANPA to provide Ameritech with a growth code.

A procedure is available to carriers who are denied growth codes because of the rate center MTE requirement. Addressing NXX growth code denials, 47 C.F.R. § 52.15(g)(3)(iv), states, in part:

The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state regulatory commission may affirm or overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination of compliance with the reporting and numbering resource application requirements herein.

BellSouth has provided staff with the name of the customer requesting the 2,500 codes, copies of its NANPA application for a new growth code, copies of its MTE worksheet for the Orlando rate center, and copies of the Part 3 form from NANPA denying the code. Staff contacted BellSouth's proposed customer via telephone and verified that the customer wants BellSouth as its provider of service. We also verified with NANPA that there would be minimal impact on the 407 NPA by releasing a new growth code for this switch. We also reviewed the BellSouth utilization data for the ORLDFLMADS1 switch in the Orlando rate center to verify that BellSouth has no available codes to meet this specific customer's needs.

In evaluating BellSouth's petition, staff has utilized the following factors and concluded that:

- 1) BellSouth has demonstrated that it has a customer in need of numbering resources;
- 2) BellSouth has shown that it is unable to provide services to a potential customer because of NANPA's denial of the NXX code;
- 3) There are potential competitive concerns because of the NANPA code denial since the potential customer cannot choose the provider of his choice; and,

- 4) There would be minimal impact to the 407 NPA by releasing a new growth code.

Based on the foregoing, staff recommends the Commission overturn NANPA's decision to deny a growth code, and direct NANPA to provide BellSouth with a growth code for the ORLDFLMADS1 switch as soon as possible. Staff also recommends that once the specific customer needs are met, BellSouth keep as many of the remaining blocks as possible in the new NXX uncontaminated for future number pooling. This is the first time this matter has been raised before the Commission.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (CHRISTENSEN)

STAFF ANALYSIS: This docket should be closed upon the issuance of a consummating order if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order. In the event that a protest is filed, this docket should remain open pending the resolution of the protest.