



Public Service Commission

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REPORTING
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V. B. 1050

DATE: MAY 3, 2001

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

FROM: DIVISION OF COMPETITIVE SERVICES (CASEY, BULECZA-BANKS)
DIVISION OF LEGAL SERVICES (FORDHAM) c J.F. BIC

RE: DOCKET NO. 990455-TL - REQUEST FOR REVIEW OF PROPOSED NUMBERING PLAN RELIEF FOR THE 305/786 AREA CODE

DOCKET NO. 990456-TL - REQUEST FOR REVIEW OF PROPOSED NUMBERING PLAN RELIEF FOR THE 561 AREA CODE

DOCKET NO. 990457-TL - REQUEST FOR REVIEW OF PROPOSED NUMBERING PLAN RELIEF FOR THE 954 AREA CODE

DOCKET NO. 990517-TL - REQUEST FOR REVIEW OF PROPOSED NUMBERING PLAN RELIEF FOR THE 904 AREA CODE

AGENDA: 05/15/01 - REGULAR AGENDA - MOTION FOR RECONSIDERATION - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\990455R2.RCM

CASE BACKGROUND

By Order No. PSC-00-1937-PAA-TL, issued October 20, 2000, the Commission ordered area code relief for the 305/786, 954, 561, and 904 area codes. On November 7, 2000, the Florida Code Holders Group (FCHG)¹ filed a joint motion for reconsideration and request for hearing on the PAA portion of the Order concerning code

¹ AllTel Florida, Inc., AT&T Communications for the Southern States, Inc., AT&T Wireless Services, Inc., BellSouth Telecommunications, Inc., Cingular Wireless LLC, MCI WorldCom, Inc., and Sprint

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RECORDS AND REPORTING

sharing. The request for hearing on the PAA portion of the Order concerning code sharing was filed timely within the 21 day protest period, and the matter was set for hearing.

Portions of the Order were appealed to the Florida Supreme Court, but on December 12, 2000, the Commission filed a petition with the Florida Supreme Court requesting that the Court relinquish jurisdiction back to the Commission to review and reconsider the Order on its own motion.

On February 2, 2001, the Joint Parties² (Parties) filed an Offer of Settlement to Resolve the Code Sharing Protest, Reconsideration Requests, and Appeals of Order No. PSC-00-1937-PAA-TL, and on February 19, 2001, they filed a letter amending the offer of settlement. On March 27, 2001, Order No. PSC-01-0808-AS-TL issued, accepting the Settlement Offer.

On April 9, 2001, Emmanuel Arvanitas filed his Motion for Reconsideration of Order Approving Offer of Settlement. A joint Response in opposition to the Motion was filed on April 17, 2001, by the Parties. This recommendation addresses Petitioners Motion.

We have authority to address this Motion pursuant to 47 C.F.R. §§ 52.3 and 52.19, and FCC Order No. FCC 99-249.

DISCUSSION OF ISSUES

ISSUE 1: Should Emmanuel Arvanitas' Motion for Reconsideration of Order Approving Offer of Settlement be granted?

RECOMMENDATION: No. Emmanuel Arvanitas' Motion for Reconsideration of Order Approving Offer of Settlement should not be granted.
(FORDHAM)

² AllTel Florida, AT&T Communications for the Southern States, Inc., AT&T Wireless Services, Inc., BellSouth Telecommunications, Inc., Cingular Wireless LLC, Florida Cable Telecommunications Association, Inc., VoiceStream Wireless, Sprint-Florida, Inc., Sprint Communications Company Limited Partnership, Sprint PCS, Volusia County, and WorldCom, Inc.

STAFF ANALYSIS: Rule 25-22.060(1)(a), Florida Administrative Code, governs Motions for Reconsideration and states, in pertinent part: "Any party to a proceeding who is adversely affected by an order of the Commission may file a motion for reconsideration of that order." (emphasis supplied) Mr. Arvanitas is not a party of record in this docket. Therefore, staff does not believe that it is appropriate to consider his Motion for Reconsideration, and it should be denied.

If it were proper to consider Mr. Arvanitas' Motion for Reconsideration, the standard of review for a Motion for Reconsideration would be whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3d DCA 1959); citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." Stewart Bonded Warehouse, Inc., at 317.

Mr. Arvanitas' Motion fails to identify a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. Moreover, Mr. Arvanitas' comments generally constitute reargument of matters that have already been considered and disposed of by the Commission. Therefore, even if it were proper to consider Mr. Arvanitas' Motion for Reconsideration, it should be denied.

DOCKETS NOS. 990455-TL, 990456-TL, 990457-TL, 990517-TL
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ISSUE 2: Should these dockets be closed?

RECOMMENDATION: No. Staff recommends that these dockets remain open to address implementation dates for the 305/786, 561, and 954 NPAs, and issue a final Order concerning the Osteen area balloting results. (FORDHAM)

STAFF ANALYSIS: Staff recommends that these dockets remain open to address implementation dates for the 305/786, 561, and 954 NPAs, and issue a final Order concerning the Osteen area balloting results.