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From: Nadeau, Joanne [Joanne.Nadeau@BellSouth.COM]
Sent: Tuesday, July 03, 2001 1:36 PM
To: 'filings@psc.state.fl.us'
Subject: filing in Docket No. 010782-TL

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The attached document is from:

Jo Anne Nadeau for James Meza
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Docket No. 010782-TL - Generic Proceeding to Establish Expedited Process for NANPA Future Denials of Applications

Total No. of pages: 7 (including cover letter, certificate and pleading)

Pleading entitled: BellSouth Telecommunications, Inc.'s Opposition to Emanuel Arvanitas' Protest and Statement of Clarification

A paper copy will be filed with the Division of the Commission Clerk and Administrative Services today.

By filing electronically, BellSouth accepts that the official copy is the version printed by the Public Service Commission's Division of the Commission Clerk and Administrative Services filed in the official docket file.

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James Meza III
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ORIGINAL

July 3, 2001

Mrs. Blanca S. Bayó
Director, Division of the Commission
Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: **Docket No. 010782-TL**
Generic Proceeding to Establish Expedited Process for
NANPA Future Denials of Applications

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Opposition to Emanuel Arvanitas' Protest and Statement of Clarification, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,


James Meza III

Enclosures

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

DOCUMENT NUMBER-DATE

08203 JUL-30

FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 010782-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

U.S. Mail this 3rd day of July, 2001 to the following:

Beth Keating
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

**Attempted to serve previously at this
address; Returned from Post Office
as "No such street"**
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James Meza III *jm*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for expedited review)
Of North American Plan Administration's) Docket No. 010782-TL
(NANPA) decision to deny request for)
use of central office code numbering)
resources or NXX codes in Orlando)
exchange or rate center, by)
BellSouth Telecommunications, Inc.) Filed: July 3, 2001

**BELLSSOUTH TELECOMMUNICATIONS, INC.'S
OPPOSITION TO EMANUEL ARVANITAS' PROTEST
AND STATEMENT OF CLARIFICATION**

BellSouth Telecommunications, Inc. ("BellSouth") submits this Opposition to Emanuel Arvanitas' Protest of Proposed Agency Action ("PAA") Order No. PSC-01-1312-PAA-TL. The Florida Public Service Commission ("Commission") should deny Emanuel Arvanitas' request for a Protest of the PAA for the reasons described in full below. In addition, BellSouth also submits a Statement of Clarification to update the Commission on events that have transpired since BellSouth filed its Petition for Review.

MOTION TO DISMISS

1. On March 30, 2001, BellSouth filed a Petition for expedited review of North American Numbering Plan Administrator's ("NANPA") denial of its application for additional central office codes ("NXX") for the Orlando-Pinecastle switch. In its Petition, BellSouth requested that, pursuant to 47 C.F.R. § 52.15(g)(3)(iv), the Commission reverse NANPA's denial of BellSouth's request for additional numbering resources to serve two customers that were in need of consecutive Direct Inward Dialing ("DID") numbers.

2. On June 18, 2001, the Florida Public Service Commission ("Commission") issued Order No. PSC-01-1146-PAA-TL, wherein in granted BellSouth's Petition and ordered NANPA to provide BellSouth with a growth code for the Orlando-Pinecastle switch as soon as possible.

3. On June 22, 2001, Mr. Arvanitas filed the Protest. Upon information and belief, BellSouth has not been served with the pleading. Mr. Arvanitas' Protest should be dismissed because he lacks standing. Under Rule 25-22.029(4), Florida Administrative Code, a person may file a petition for formal hearing if that **person's substantial interest** may or will be affected by the Commission's proposed action. Rule 25-22.029(4), Florida Administrative Code. A person's substantial interest is affected by a proceeding when the person will suffer actual and immediate injury as a result of the proceeding, and when the injury is of a type or nature that the proceeding is designed to protect." *See In re: InternetU, Inc.*, Docket No. 991989-TX, Order No. PSC-01-0670-FOF-TX, Mar. 19, 2001 (citing *Agrico Chem. Co. v. Dep't of Environmental Protection*, 405 So. 2d 478, 482 (Fla. 2d DCA 1981)). Importantly, "remote, speculative abstract or indirect injuries are not sufficient to meet the 'injury in fact' standing requirement." *In re: Tampa Elec. Co.*, Docket No. 941173-EG, Order No. PSC-95-1346-S-EG, Nov. 1, 1995, 1995 WL 670147 at 2.

4. Mr. Arvanitas has not set forth any evidence to establish how requiring NANPA to give BellSouth additional NXX codes to serve the needs of BellSouth customers in the Orlando area would subject him, as a consumer, to "actual and immediate injury." Mr. Arvanitas' erroneous argument appears to be

that a reversal would be discriminatory against other carriers, despite the fact that no other carrier has asked the Commission to reverse NANPA's denial of a request for numbering resources. Besides violating federal law as mandated by the Federal Communications Commission ("FCC"), such an argument is meritless and sets forth no evidence to suggest that he has standing in this proceeding.

Indeed, BellSouth submits that the reversal of NANPA's denial for additional NXX codes would not subject any person or entity in the State of Florida to "actual or immediate injury" because the reversal only applies to BellSouth and the customers BellSouth is trying to service. Such a reversal would especially have no actual or immediate injury on a sole consumer who does not even reside in the area where the additional numbering resources are needed. Any argument to the contrary would result in "remote, speculative abstract or indirect injuries," which is insufficient to establish standing.

5. For these reasons, BellSouth requests that the Commission dismiss Mr. Arvanitas' Protest.

STATEMENT OF CLARIFICATION

6. To date, the entire process to seeks the reversal of NANPA's decision to deny BellSouth's request for additional numbering resources to serve its customers has taken over three months and the process is still ongoing. To avoid losing the two customers identified in BellSouth's March 30, 2001 Petition who needed the DID numbers during this process and because the decision to reverse NANPA is within the sole discretion of the Commission, BellSouth

continued to investigate all possible avenues in which to obtain the requested numbers.

7. One such avenue, was to ask another customer who was in possession of the necessary amount of aged numbers to release the numbers prior to the time they would normally be released. In a stroke of good luck, BellSouth found such a customer and BellSouth was able to provide the necessary DID numbers to the two customers identified in BellSouth's Petition.

8. However, BellSouth is still in need of the growth code to serve another customer that was identified after BellSouth filed the Petition. This customer, which is an educational institution, needs 7,000 DID numbers by August 15, 2001 to begin the school year. BellSouth intended to use the remaining numbers from the 10,000 block to serve this customer after it providing the necessary numbers to the two customers identified in the Petition.

9. BellSouth brings this information to the Commission solely to update the Commission on certain facts that have transpired after BellSouth filed its Petition and to illustrate how an expedited review process is necessary BellSouth submits that the above-described events do not in anyway effect the Commission's Order because the end-result is the same – BellSouth needs the growth code to serve a customer. As made clear by the FCC, "under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources." Report and Order, CC Docket No. 99-200, *In the*

Matter of Number Resource Optimization, Order No. FCC 00-104 (March 31, 2000).

Respectfully submitted this 3rd day of July, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.



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