



Public Service Commission

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DATE: SEPTEMBER 6, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (ILERI, CASEY)
DIVISION OF LEGAL SERVICES (B. KEATING)

RE: DOCKET NO. 010782-TL - BELLSOUTH'S PETITION FOR GENERIC
PROCEEDINGS TO ESTABLISH EXPEDITED PROCESS FOR REVIEWING
NANPA'S DENIAL OF APPLICATIONS FOR USE OF ADDITIONAL NXX
CODES

AGENDA: 09/18/01 - REGULAR AGENDA - PROCEDURAL - INTERESTED
PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010782C.RCM

CASE BACKGROUND

On May 25, 2001, BellSouth Telecommunications, Inc. (BellSouth) filed a petition requesting that the Commission establish an expedited process for reviewing future North American Numbering Plan Administration's (NANPA) central office code denials.

Since March 9, 2001, the Commission has received petitions from BellSouth seeking review of NANPA's denial of central office codes. The four petitions are summarized below:

- On March 9, 2001, BellSouth filed a "Petition for Expedited Review of Growth Code Denials by the North American Numbering Administration." By Order No. PSC-01-1146-PAA-TL, issued May 21, 2001, in Docket No. 010309-TL, the Commission overturned

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NANPA's decision to deny a growth code, and directed NANPA to provide BellSouth with a growth code for the ORLDFLMADS1 switch as soon as possible.

- On April 20, 2001, BellSouth filed a "Petition for Expedited Review of Growth Code Denials by the North American Numbering Administration." By Order No. PSC-01-1312-PAA-TL, issued June 18, 2001, in Docket No. 010565-TL, the Commission overturned NANPA's decision to deny a growth code for the ORLFLPCDSO switch, and directed NANPA to provide BellSouth with a growth code for the ORLFLPCDSO switch as soon as possible.
- On May 25, 2001, BellSouth filed "BellSouth's Petition for review of Pooling Administrator's Denial of Request for Additional Numbering Resources." On July 3, 2001, BellSouth filed an amended petition to withdraw its request to overturn NANPA's denial of 1,000 numbers, for the Sawgrass (FTLDFLSGDS0) switch in the Ft. Lauderdale rate center because its customer obtained service from an ALEC solely because BellSouth was unable to fulfill the customer's numbering requests. By Order No. PSC-01-1663-PAA-TL, issued August 14, 2001, in Docket No. 010783-TL, the Commission overturned NeuStar's decision to deny the requested numbers, and directed NeuStar to provide BellSouth with 2,000 numbers for the Cypress (FTLDFLCYDS0) switch in the Ft. Lauderdale rate center, and 1,200 numbers for the Clay Street (JCVLFLCLDS0) switch in the Jacksonville rate center as soon as possible.
- On July 18, 2001, BellSouth filed a "Petition for Expedited Review of Growth Code Denials by the North American Numbering Administration." Docket No. 010983-TL was opened to address this petition. A recommendation addressing this BellSouth petition is scheduled to be filed August 23, 2001 for the September 4, 2001 agenda conference.

BellSouth believes that it will be forced to bring numerous petitions for review of NANPA code denials to the Commission in the future, and has therefore requested an expedited process for reviewing NANPA's future denials of applications of central office codes.

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 C.F.R. §52.15(g)(3)(iv).

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission establish an expedited process for reviewing NANPA's central office code denials?

RECOMMENDATION: Yes. Staff recommends that the Commission approve staff's proposed expedited process for review of NANPA code denials for any telecommunications carrier certificated by the Commission, as set forth in the staff analysis. If the Commission approves staff's recommendation, the expedited process should be posted on the Commission website; staff should be directed to administratively dispose of these petitions as set forth herein; and appropriate modifications should be made to the APM to reflect this process. (ILERI, CASEY, B. KEATING)

STAFF ANALYSIS: As mentioned in the case background, BellSouth submitted several applications to NANPA for additional numbering resources to either meet its customers' needs or obtain a growth code for its switches. BellSouth's requests for additional numbering resources were denied by NANPA because it had not met the rate center months to exhaust (MTE) criteria currently required to obtain a growth code.

Pursuant to Order No. FCC 00-104¹, applicants must 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.

Staff believes that the new MTE criteria create a disadvantage for carriers with multiple switch rate centers. One switch in a multiple-switch rate center may be close to exhaust while the average MTE for the rate center could be more than six months, thus preventing a carrier from obtaining a growth code for the switch close to exhaust. Another carrier which may have just one switch

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

in the rate center, would have an advantage and may be able to obtain a growth code to provide telecommunications services. Staff notes that BellSouth has a total of 101 rate centers in Florida, with 30 of these being multi-switch rate centers.

Staff believes the code denials also impair a customer's ability to obtain service from his preferred carrier. A customer desiring service from one carrier may have to turn to another carrier simply because his preferred carrier cannot meet the MTE rate center requirement. As mentioned in the case background, BellSouth recently lost a customer to an ALEC solely because BellSouth was unable to fulfill the customer's numbering requests for the Sawgrass (FTLDFLSGDS0) switch in the Ft. Lauderdale rate center.

In its application, BellSouth states "under earlier MTE procedures, waivers or exceptions were granted when customer hardship could be demonstrated or when the service provider's inventory did not have a block of sequential numbers large enough to meet the customer's specific request. Under the existing FCC rules, NANPA looks at the number of MTE for the entire rate center without any exception." BellSouth asserts that its requests were denied by NANPA even though the company did not have the numbering resources necessary to satisfy its customers' demand in the switch.

The denial of these codes appears to be contrary to FCC Order No. DA 01-386² at ¶11, which states:

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

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, each

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)

with 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 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.

The procedure which is available to carriers who are denied growth codes because of the rate center MTE requirement is addressed in 47 C.F.R. § 52.15(g)(3)(iv), which 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.

In evaluating BellSouth's previous petitions, staff has analyzed them and concluded that:

- 1) BellSouth has demonstrated that it has customers in need of numbering resources;

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)

- 2) BellSouth has shown that it is unable to provide services to the potential customers because of NANPA's denial of the numbering resources;
- 3) There are possible competitive and customer choice concerns because potential customers cannot obtain service from the provider of their choice because BellSouth does not have the numbers available; and,
- 4) There would be minimal impact to the exhaust of NPAs under investigation by releasing these needed NXXs.

Staff believes that this analysis is necessary to ensure compliance with the INC Guidelines and FCC Rules, as well as ensure customers' needs are met. However, staff agrees with BellSouth that our current procedure for addressing these petitions is not conducive to ensuring that carriers in need of these numbering resources obtain them as soon as possible. Therefore, in the interest of administrative efficiency, staff believes the Commission should establish an expedited process for reviewing NANPA's denial of applications for additional NXX codes for all telecommunications carriers.

In its petition, BellSouth recommends that to be consistent with the Act, the FCC's statements in FCC 00-104, and to minimize the potential adverse effects of code denials, the Commission should adopt the following four-step review process:

- A. Day 1: A carrier that submits a code request to NANPA that does not meet the six (6) MTE requirement may file a Petition for Review with the Commission at the same time it files its code request based on the carrier's expectation that NANPA will deny the code request for failure to meet the MTE standard.
- B. Day 15: NANPA or any other interested party files a response and Code Applicant files NANPA's denial (Part 3) with the Commission.
- C. Day 25: Commission agenda conference on the Petition for Review.
- D. Day 30: Commission issues final order on Petition for Review.

With regard to Point A, staff notes that the procedure in 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." Thus, staff believes that the Commission should not act on an appeal of a NANPA decision denying codes prior to the actual NANPA decision.

Staff believes that a more appropriate and efficient process can, however, be implemented. To that end, staff proposes the following three steps:

- A. Day 1: Upon NANPA's code denial (Part 3), the carrier files a petition with the Commission requesting review of NANPA's code denial.

Subsequent to the filing of its petition, the carrier must, within three business days, file with the Commission:

1. The customer's name, address, and telephone number.
2. The utilization thresholds for every switch in that particular rate center where additional numbering resources are sought.
3. The MTEs for every switch in that particular rate center where additional numbering resources are sought.

To the extent necessary, companies may seek confidential treatment of the information provided, pursuant to Rule 25-22.006, Florida Administrative Code and Section 364.183, F.S.

- B. Day 7: Upon review and evaluation, the office of primary responsibility (OPR) ensures that the following four criteria used in previous Commission decisions have been met:

- 1) The carrier has demonstrated that it has customers in need of immediate numbering resources, or has a switch in a non-pooling multi-switch rate center which has a MTE of less than six months;
- 2) The carrier has shown that it is unable to provide services to a potential customer because of NANPA's denial of the numbering resources, or it will be

unable to provide services to customers from a switch in a multi-switch non-pooling rate center because its supply of numbers in less than six months;

- 3) A potential customer cannot obtain service from the provider of his/her choice because the carrier does not have the numbers available, or customers will not be able to have a choice of providers because a provider will run out of numbers for that switch in a multi-switch non-pooling rate center within six months; and,
- 4) A statement from NANPA or NeuStar stating that release of the NXX code(s) would have a minimal impact on the exhaust of the NPAs in question has been received.

C. Day 10: The following conditions apply:

- 1) If these four criteria are met, the OPR submits a memorandum to the Division of Legal Services for the Docket file, stating that the identified criteria have been met; therefore, an administrative Proposed Agency Action (PAA) Order will be issued within seven business days of receipt of the memorandum. If a protest is filed, this docket will remain open to address the protest.
- 2) If these four criteria are not met, or staff believes that the complexity of the case warrants a more thorough analysis in a recommendation to be considered on the regular agenda schedule, staff will prepare a recommendation to address the matter before the full Commission.

Under this procedure, a PAA Order would be issued administratively within seven business days of the memorandum. The Order would state that the NANPA's decision to deny a growth code to the carrier is overturned.

Staff believes that its proposed expedited process to address NANPA code denials is administratively efficient, and less time

consuming than BellSouth's proposal. Staff also notes that this would be the first case for the Commission to address and instruct staff to issue PAA Orders administratively. Therefore, staff recommends that the Commission approve staff's expedited process for review of NANPA code denials for any telecommunications carrier certificated by the Commission. If the Commission approves staff's recommendation, the expedited process should be posted on the Commission website, and Commission staff should be directed to administratively dispose of these petitions as set forth herein, and the appropriate changes to the APM should be made to reflect this process.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. This recommendation addresses a purely procedural proposal for handling a category of petitions. Thus, no person's substantial interests will be affected by the Commission's decision from this recommendation. As such, this docket should be closed. (B. KEATING)

STAFF ANALYSIS: This recommendation addresses a purely procedural proposal for handling a category of petitions. Thus, no person's substantial interests will be affected by the Commission's decision from this recommendation. As such, this docket should be closed.