

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of BellSouth
Telecommunications, Inc. for
expedited review of growth code
denials by North American
Numbering Administration (Miami
Exchange).

DOCKET NO. 010983-TL
ORDER NO. PSC-01-1955-PAA-TL
ISSUED: October 1, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION ORDER DIRECTING THE
NANPA TO PROVIDE BELLSOUTH WITH GROWTH CODES FOR
THE (MIAMFLGRDS1), (MIAMFLHLDS0), (MIAMFLCADS0),
AND (MIAMFLBA85E) SWITCHES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

On July 9, 2001, BellSouth Telecommunications, Inc.
(BellSouth) submitted four requests to the North American Numbering
Plan Administrator (NANPA) for numbering resources to meet the
numbering demands of its customers in the Grande, Hialeah, Canal,
and Bayshore switches in the Miami rate center. The requests for
the Grande (MIAMFLGRDS1) and Hialeah (MIAMFLHLDS0) switches were
made to meet customer requests for Direct-Inward-Dialing (DID)
service, which include 10,000 numbers for Grande and 1,000
consecutive numbers for Hialeah. In addition to the customer's
request for additional consecutive DID numbers, the Hialeah switch
customer wants to consolidate its current numbers that are spread
between three NXXs into a single NXX in the same NPA. This will

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allow the customer to continue abbreviated dialing between its numbers. The customer's current numbers will go back into the inventory for the Hialeah switch. The other code requests for the Canal (MIAMFLCADS0) and Bayshore (MIAMFLBA85E) switches were for general growth numbering resources needed to retain a six month inventory of telephone numbers. This is the first time we have addressed general growth codes due to a switch lacking six months of inventory.

The Miami exchange consists of twenty-four central offices and twenty-eight switches: Airport (MIAMFLAGRS0), Alhambra (MIAMFLAEDS0 and MIAMFLAERS0), Allapattah (MIAMFLAL63E), Bayshore (MIAMFLBA85E), Miami Beach (MIAMFLBRDS0), Biscayne (MIAMFLBCDS0), Canal (MIAMFLCADS0), Dadeland Blvd (MIAMFLDBRS1), Flagler (MIAMFLFLDS0), Grande (MIAMFLGRDS0 and MIAMFLGRDS1), Hialeah (MIAMFLHLDS0), Indian Creek (MIAMFLICDS0), Key Biscayne (MIAMFLKEDS0), Metro (MIAMFLMERS0 and MIAMFLME32E), Miami Shores (MIAMFLSH75E), North Miami (MIAMFLNMDS0), Northside (MIAMFLNSDS0), Opa Locka (MIAMFLOL68E), Palmetto (MIAMFLPLDS0 and MIAMFLPLRS0), Poinciana (MIAMFLPB88E), Red Road (MIAMFLRRDS0), Silver Oaks (MIAMFLSODS0), West Dade (MIAMFLWDDS0), and West Miami (MIAMFLWMDS0).

On July 11, 2001, NANPA denied BellSouth's request for the four codes in the Miami rate center. The basis for NANPA's denials was that BellSouth had not met the rate center based months to exhaust (MTE) criteria. On July 18, 2001, BellSouth filed its "Petition for Expedited Review of Growth Code Denials by the North American Numbering Administration (Miami Exchange)."

We are 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).

ANALYSIS

As mentioned in the case background, BellSouth submitted an application to NANPA for NXX codes for the Grande, Hialeah, Canal, and Bayshore switches in the Miami rate center. The codes for the Grande and Hialeah switches were made to meet customer requests for consecutive DID numbers. The codes for the Canal and Bayshore switches, however, were for general growth numbering resources needed to retain a six month inventory of telephone numbers. The

Canal switch MTE is 5.31 months and the Bayshore MTE is 2.42 months. BellSouth was denied these numbering resources because it had not met the rate center 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.

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 obtaining a growth code for the switch near exhaust. 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. At the time of BellSouth's code denial, the Miami exchange had a MTE of 10.6-10.9 months, while the MTE for the Grande switch was 53.70 months, the MTE for the Hialeah switch was 1.64 months, the MTE for the Canal switch was 5.31 months, and the MTE for the Bayshore switch was 2.42 months.

We believe the code denials also pose a possible barrier to customer choice and competition. A customer desiring service from BellSouth may have to turn to another carrier simply because BellSouth cannot meet the MTE rate center requirement. We note that BellSouth recently lost a customer to an ALEC solely because BellSouth was unable to fulfill the customer's numbering request for the Sawgrass switch in the Ft. Lauderdale rate center.

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

In its application, BellSouth states that "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 existing procedures, NANPA looks at the number of MTE for the entire rate center without any exception." BellSouth asserts that its request was denied even though the company does not have the numbering resources necessary to satisfy its customers' demand in the switch. 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 small rate centers having one switch are consolidated, resulting in 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.

We have previously addressed three similar issues in Dockets Nos. 010309-TL, 010565-TL and 010783-TL. These previous dockets concerned 1,000 number blocks and addressed growth codes which contain 10,000 numbers. However, the scenario was the same. On February 6, 2001, BellSouth was denied a growth code for its Orlando Magnolia switch (ORLFLMADSI), and as a result, could not provide numbering resources to a specific customer requesting 2,500 consecutive DID numbers. On March 9, 2001, BellSouth challenged NANPA's decision by filing a petition with us. By Order No. PSC-01-1146-PAA-TL, issued May 21, 2001, we overturned NANPA's decision and directed NANPA to issue a new growth code to BellSouth for its Orlando Magnolia switch.

On April 10, 2001, BellSouth was denied a growth code for its Orlando Pinecastle switch (ORLFLPCDSO), and as a result, could not provide numbering resources to two customer requests for 2,500 and 500 DID numbers. On April 20, 2001, BellSouth appealed NANPA's decision by filing a petition with us. By Order No. PSC-01-1312-PAA-TL, issued June 18, 2001, we overturned NANPA's decision and directed NANPA to issue a new growth code to BellSouth for its Orlando Pinecastle switch.

On May 10, 2001, NeuStar denied BellSouth's block request for the Ft. Lauderdale-Cypress (FTLDFLCY0S0) and the Ft. Lauderdale-Sawgrass (FTLDFLSGDS0) switches and as a result could not provide numbering resources for customer requests of 2,000 consecutive DID numbers for the Cypress switch and 5,000 block of numbers for the Sawgrass switch. On May 11, 2001 NeuStar denied BellSouth's block request for the Jacksonville Clay Street switch (JCVLFLCLDS0). As a result BellSouth could not provide 1,200 consecutive DID numbers to meet a specific customer's need. On May 25, 2001, BellSouth

challenged NeuStar's decision by filing a petition with us. By Order No. PSC-01-1568-FOF-TL, issued July 30, 2001, we overturned NeuStar's decision and directed NeuStar to issue a new growth code to BellSouth for its Ft. Lauderdale and Jacksonville exchanges.

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.

BellSouth has provided us with the name of the customers requesting the 10,000 and 1,000 consecutive DID numbers, copies of its NeuStar applications for numbering resources, copies of its MTE worksheets for the Miami rate center, and copies of NeuStar's denials. Our staff contacted BellSouth's proposed customers via telephone and verified that they want BellSouth as their provider of service. We also verified with NeuStar that there would be minimal impact on the 305 NPA by releasing the required blocks for these switches. In addition, we reviewed the BellSouth utilization data for the switches in the Miami rate center to verify that BellSouth has no available codes to meet the specific customer's needs.

In evaluating BellSouth's petition, we concluded that:

- 1) BellSouth has demonstrated that it has customers in need of numbering resources in the Grande and Hialeah switches;
- 2) BellSouth has shown that it is unable to provide services to the potential customers in the Grande and Hialeah switches because of NeuStar's denial of the numbering resources;
- 3) There are potential customer choice and competitive concerns because of the NeuStar denial since these potential customers in the Grande and Hialeah switches cannot obtain the

preferred provider because BellSouth does not have the numbers available;

4) The FCC requires that in order to qualify for growth numbering resources, the rate center must have less than six months of numbering resources. Collectively the Miami rate center has a MTE of 10.6-10.9 months. As such, it fails to meet the FCC requirement for growth numbering resources. However, the Canal and Bayshore switches in the Miami rate center are at 5.31 and 2.42 MTE respectively, and therefore, cannot meet the projected numbering needs of BellSouth.

5) There would be minimal impact to the 305 and 786 NPAs by releasing these needed blocks.

CONCLUSION

Based on our analysis, we find it appropriate to overturn NANPA's decision to deny the code requests, and direct NANPA to provide BellSouth with the requested numbering resources for the Grande (MIAMFLGRDS0), Hialeah (MIAMFLHLDS0), Canal (MIAMFLCADS0) and Bayshore (MIAMFLBA85E) switches in the Miami rate center.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that North American Numbering Plan Administrator shall provide BellSouth Telecommunications, Inc. with the requested numbering resources referenced in this Order for the Grande (MIAMFLGRDS0), Hialeah (MIAMFLHLDS0), Canal (MIAMFLCADS0) and Bayshore (MIAMFLBA85E) switches in the Miami rate center. It is further

ORDERED that BellSouth Telecommunications, Inc. shall maintain as many of the remaining blocks as possible in the new NXX uncontaminated for future number pooling. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth

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in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 1st Day of October, 2001.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

CLF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 22, 2001.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.