

State of Florida



Public Service Commission
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DATE: FEBRUARY 21, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYO)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (S.B. BROWN, ILERI, CASEY, BULECZA-BANKS) (FUDGE) *SB*

RE: DOCKET NO. 020087-TL - PETITION BY BELLSOUTH TELECOMMUNICATIONS, INC. FOR EXPEDITED REVIEW OF POOLING ADMINISTRATOR'S DENIAL OF REQUEST FOR ADDITIONAL NUMBERING RESOURCES FOR THE WEST PALM BEACH EXCHANGE (ROYAL PALM BEACH), AND MODIFICATION OF EXPEDITED PROCESS FOR REVIEWING NORTH AMERICAN NUMBERING PLAN ADMINISTRATION (NANPA) TO INCLUDE POOLING ADMINISTRATOR CODE DENIALS.

AGENDA: 03/05/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020087A.RCM

CASE BACKGROUND

On January 4, 2002, BellSouth Telecommunications, Inc. (BellSouth) requested additional numbering resources from NeuStar, Inc. (NeuStar or Pooling Administrator) to meet the numbering demands of its customers in the Royal Palm Beach switch of the West Palm Beach exchange. This exchange is located in a pooling area where numbering resources are issued to BellSouth in blocks of one thousand numbers. BellSouth made the request in order to provide 420 consecutive numbers for a customer that requested Integrated Service Digital Network (ISDN) service. The switch that serves the customer, Riviera Beach (WPBHFLRB84E), is not capable of providing ISDN service. As a result, BellSouth must change the service to a

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digital switch that is ISDN capable, Royal Palm Beach (WPBHFLRPDS0). BellSouth needs a block of numbers that has been donated to the West Palm Beach pool from the Royal Palm switch in order to meet the customer's numbering needs.

The West Palm Beach exchange consists of seven central offices and eight switches: Gardens (WPBHFLGRDS0), Greenacres (WPBHFLGADS0), Haverhill (WPBHFLHDS0 and WPBHFLHRS0), Lake Worth (WPBHFLLEDS0), Main Annex (WPBHFLANDS0), Riviera Beach (WPBHFLRB84E), and Royal Palm Beach (WPBHFLRPDS0).

On January 11, 2002, NeuStar denied BellSouth's request for additional numbering resources. The basis for NeuStar's denial was that BellSouth had not met the rate center based months-to-exhaust (MTE) criteria.

On January 31, 2002, BellSouth filed its "Petition for Expedited Review of Pooling Administrator's Denial of Request for Additional Numbering Resources for the West Palm Beach Exchange (Royal Palm Beach), and Modification of Expedited Process for Reviewing North American Numbering Plan Administration (NANPA) Code Denials to Include Pooling Administrator Code Denials." This recommendation addresses BellSouth's request that the Commission overturn NeuStar's decision to deny numbering resources for the West Palm Beach Exchange.

By Order No. PSC-01-1973-PCO-TL, issued October 4, 2001, in Docket No. 010782-TL, the Commission established a generic expedited process specifically to address NANPA ten thousand-block code denials. However, the current BellSouth petition involves a one thousand-block code denial in a number pooling area where NeuStar, not NANPA, oversees the numbers. Issue 2 of this recommendation recommends that future one thousand-block code denials by NeuStar be addressed through the administrative process previously approved by Commissioners for NANPA ten thousand-block code denials.

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 overturn NeuStar's decision to deny numbering resources for the Royal Palm Beach switch (WPBHFLRPDS0) in the West Palm Beach Exchange?

RECOMMENDATION: Yes, the Commission should overturn NeuStar's decision to deny the requested numbers, and direct NeuStar to provide BellSouth with numbering resources for the Royal Palm Beach switch (WPBHFLRPDS0) in the West Palm Beach Exchange. (S.B. BROWN, ILERI, CASEY, BULECZA-BANKS)

STAFF ANALYSIS: As mentioned in the case background, BellSouth submitted an application to NeuStar for additional numbering resources for the Royal Palm Beach switch (WPBHFLRPDS0) to provide 420 numbers to a specific customer. BellSouth was denied these numbering resources because it had not met the rate center based MTE criteria required to obtain a growth code. The West Palm Beach exchange had a MTE of 10.83 months and a utilization of over 71.53%, while the MTE for the Royal Palm Beach (WPBHFLRPDS0) switch was 11 months.

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

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

an advantage and may be able to obtain a growth code to provide the service.

Staff believes 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. Staff notes that BellSouth, in the month of July 2001, lost a customer to an ALEC solely because BellSouth was unable to fulfill the customer's numbering request for the Sawgrass switch (FTLDFLSGDS0) in the Ft. Lauderdale rate center.

In its petition, 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, NeuStar 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 doesn't 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.

In FCC Order 01-362, released December 28, 2001, the FCC addressed the "safety valve" process to allow carriers that do not meet the utilization criteria to obtain additional numbering resources stating "[W]e agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources." (¶61)

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)

The Order also addressed specific instances of code denials which apply to this BellSouth petition, stating "[W]e also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances." (§61)

The Commission has previously addressed NANPA code denials in Dockets Nos. 010309-TL, 010565-TL, 010983-TL, 011235-TL, 011266-TL, 011312-TL, 011419-TL and 011528-TL, and NeuStar thousand-block code denial in Docket No. 010783-TL. In each of these dockets, the carrier made a showing that numbering resources were needed in a specific switch, and that their application was denied by NANPA or NeuStar. The Commission overturned the code denials in each case and directed NANPA or NeuStar to issue the codes.

The procedure which is available to carriers who are denied growth codes because of the rate center MTE requirement is also 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 staff with the name of the customer who requested the 420 consecutive numbers, a copy of its NeuStar application for numbering resources, copies of its MTE worksheets for the West Palm Beach exchange, and a copy of NeuStar's denial. Staff contacted BellSouth's proposed customer via telephone and verified that he wants BellSouth as his provider of service. We believe that there would be minimal impact on the 561 NPA by releasing the required block for this switch. In addition, we reviewed the BellSouth utilization data for the switches in the West Palm Beach exchange to verify that BellSouth has no available blocks to meet the specific customer's needs.

In evaluating BellSouth's petition, staff has analyzed and concluded that:

- 1) BellSouth has demonstrated that it has a customer in need of numbering resources in the Royal Palm Beach switch;
- 2) BellSouth has shown that it is unable to provide services to the potential customer in the Royal Palm Beach switch because of NeuStar's denial of the numbering resources;
- 3) There is a potential customer choice and competitive concern because of the NeuStar denial since the potential customer in the Royal Palm Beach switch cannot obtain his preferred provider because BellSouth does not have the numbers available;

Based on the foregoing, staff recommends that the Commission should overturn NeuStar's decision to deny the code request, and direct NeuStar to provide BellSouth with the requested numbering resources for the Royal Palm Beach (WPBHFLRPDS0) switch in the West Palm Beach exchange.

ISSUE 2: Should the Commission apply the same process and guidelines for future Pooling Administrator's one thousand-block code denials as in the existing administrative process set up for NANPA ten thousand-block code denials?

RECOMMENDATION: Yes. Staff recommends that the Commission apply the same process and guidelines for future Pooling Administrator's one thousand-block code denials as in the existing administrative process set up for NANPA ten thousand-block code denials, 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 Administrative Procedures Manual (APM) to reflect this process. (ILERI, CASEY, BULECZA-BANKS)

STAFF ANALYSIS: As mentioned in the case background, Order No. PSC-01-1973-PCO-TL established an expedited process to review NANPA code denials. The Commission ordered that this expedited process should be applicable to any telecommunications carrier certificated by the Commission, and ordered staff to administratively dispose of future petitions regarding NANPA code denials using guidelines set forth in the Order.

Staff believes that the same expedited process should also be applicable to one thousand-block denials to allow carriers to meet their customers' needs or obtain a growth one thousand-block code for its switches. Staff believes the code denials 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.

In this petition, BellSouth's requests for additional numbering resources were denied by NeuStar (the current Pooling Administrator) because it had not met the rate center months to exhaust (MTE) criteria currently required to obtain a growth one thousand-block code.

Staff believes that more petitions regarding Pooling Administrator one thousand-block code denials will be filed in the future because more number pooling is being implemented in Florida. Since the expedited process approved by the Commission addresses only ten thousand-block code denials by NANPA, staff believes that Commission approval is necessary before using the expedited process for Pooling Administrator one thousand-block code denials.

By PSC Order No. 01-1973-PCO-TL, the Commission adopted a three-step process, which staff believes should apply to one thousand-block code denials. The following is the expedited process approved by Order No. PSC 01-1973-PCO-TL, modified to include Pooling Administrator one thousand-block code denials. Additions are underlined and deletions are struck out.

- A. Day 1: Upon NANPA's ten thousand-block code denial or the Pooling Administrator's one thousand-block code denial (Part 3), the carrier shall file a petition with the Commission requesting review of ~~NANPA's~~ the code denial.

Subsequent to the filing of its petition, the carrier must, within three business days, file with this 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 Commission staff assigned as the office of primary responsibility (OPR) shall ensure that the following three criteria 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 or the Pooling Administrator'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~~ is 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,

C. Day 10: The following conditions apply:

- 1) If these three criteria are met, the OPR will submit a memorandum to this Commission's ~~Division of Legal Services~~ Office of the General Counsel for the Docket file, stating that the identified criteria have been met; thereafter, 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 three criteria are not met, or Commission staff believes that the complexity of the case warrants a more thorough analysis in a recommendation to be considered on the regular agenda schedule, Commission staff will contact the company to discuss the matter. If discussions with the company do not resolve the concerns, Commission staff will prepare a recommendation to address the matter before the full Commission.

Staff believes that this modified expedited process to address Pooling Administrator one thousand-block code denials is administratively efficient and less time consuming. Therefore, staff recommends that the Commission apply the same process and guidelines for future Pooling Administrator's one thousand-block code denials as in the existing administrative process set up for NANPA ten thousand-block code denials, 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.

ISSUE 3: 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

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days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (FUDGE)

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.