

State of Florida



Public Service Commission
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DATE: MARCH 7, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS AND ENFORCEMENT (ILERI, ² ~~20~~)
CASEY, BULECZA-BANKS, SIMMONS, DOWDS)
OFFICE OF THE GENERAL COUNSEL (CHRISTENSEN) ^{ARC/B} ~~ARC~~ C.F.F.

RE: DOCKET NO. 001503-TP - COST RECOVERY AND ALLOCATION ISSUES
FOR NUMBER POOLING TRIALS IN FLORIDA.

AGENDA: 03/19/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001503.RCM

CASE BACKGROUND

Thousands-block number pooling is the process by which telephone companies share a pool of telephone numbers that have the same central office code. Historically, telephone numbers have been assigned to service providers in blocks of 10,000 numbers. Thousands-block number pooling allows phone numbers to be allocated to service providers in blocks of 1,000, instead of the historical 10,000 number blocks, which conserves numbers and provides for more efficient number utilization.

By Federal Communications Commission (FCC) Order No. FCC 99-249, released September 15, 1999, the FCC granted the Florida Public Service Commission (FPSC) authority to conduct mandatory thousands-block number pooling trials in Florida. Since receiving authority to mandate state number pooling trials, the FPSC has ordered implementation of number pooling trials in the following areas:

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Metropolitan Statistical Area	Area Code	Implementation Date of Number Pooling
Ft. Lauderdale	954 and 754	January 22, 2001
West Palm Beach	561	February 5, 2001
Jacksonville	904	April 2, 2001
Keys Region*	305	May 28, 2001
Daytona Beach	386	July 16, 2001
Ft. Pierce-Port St. Lucie	772 (currently 561)	September 17, 2001
Tampa	813	January 14, 2002
Sarasota-Bradenton	941 and 239	February 11, 2002

* The Keys area is not a Metropolitan Statistical Area.

On December 28, 2001, the FCC released Order No. FCC 01-362, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200. This Order directs states that have implemented thousands-block number pooling under delegated authority to commence cost recovery actions for state-mandated thousands-block number pooling trials if they have not done so already.

The FCC has adopted three cost categories for thousands-block number pooling: shared industry costs [costs incurred by the industry as a whole such as the North American Numbering Plan (NANP) administration costs]; carrier-specific costs directly related to thousands-block number pooling [such as enhancements to carriers' Service Control Point (SCP), Local Service Management System (LSMS), Service Order Activation (SOA), and Operation Support Systems (OSS)]; and carrier-specific costs not directly related to thousands-block number pooling. In Order No. FCC 00-104, released March 31, 2000, the FCC found that each carrier should bear its carrier-specific costs not directly related to thousands-block number pooling implementation as network upgrades. (§211) The FCC further concluded in this Order that incremental shared industry costs become carrier-specific costs once they are allocated among carriers. (§204)

On December 12, 2000, staff conducted a workshop to solicit input from the industry regarding cost recovery and allocation mechanisms for number pooling trials in Florida. The following is a summary of the post workshop comments:

ALLTEL Florida, Inc. (ALLTEL) - ALLTEL believes it is more efficient and appropriate for the FPSC to defer action on cost recovery procedures until such time as the FCC establishes permanent procedures for national number pooling. At that time, a single recovery system for both state and federal costs should be implemented. Recovery should be through an end user charge for at least three years.

AT&T Communications of the Southern States, Inc. (AT&T) - AT&T believes that the best approach to cost recovery for the Florida interim pooling trials is to wait until the FCC approves a national cost recovery system and to recover any appropriate interim costs through the same process. A similar process was employed by this Commission for interim number portability cost recovery. Waiting until the national cost recovery process has been specified would avoid the need for any true-up of a state cost recovery system. Given the timetable for the national cost recovery system being developed by the FCC, it would be appropriate to simply wait for that process to conclude. A cost recovery mechanism similar to the interim number portability cost recovery should be applied.

BellSouth Telecommunications, Inc. (BellSouth) - BellSouth believes the Commission should proceed with the implementation of an interim cost recovery mechanism until such time as a national mechanism is in place. It does not believe that Florida's price regulation statute or any other state statute conflicts with the FCC's mandate that the Commission implement a competitively neutral cost recovery mechanism.

BellSouth believes that the cost recovery mechanism established for number portability, with minor modifications, is an appropriate framework for recovering the costs associated with the implementation of state-specific pooling trials. It believes the Commission should allow, but not require, incumbent LECs to recover their carrier-specific costs associated with the implementation of state-specific pooling trials over a two year period through a charge similar to the federal charge allowed for number portability.

The Office of Public Counsel (OPC) - OPC believes that price cap regulation in Florida already provides cost recovery for the local exchange companies. There is no need for a local rate surcharge, as the local exchange industry argues, nor is a surcharge on local rates authorized by the Florida Statutes. The FCC does not have the power to require the FPSC to take an action that is not authorized by Florida Statutes, such as raising local rates through a surcharge, when the price cap statute does not allow such an increase.

Sprint - Sprint would like to see state number pooling costs rolled into a national mechanism from the beginning through an end-user surcharge. The amount of the surcharge should be determined via the same type of methodology that was used to determine the local number portability (LNP) surcharge.

Verizon - Cost recovery should be at the national level under the federal LNP charge. The FPSC should order its current LNP charge, \$0.36/line statewide, to be used for number pooling, with this surcharge implemented for two months immediately following cessation of the federal charge.

WorldCom - WorldCom had no objections regarding a carrier's methodology for cost recovery of carrier-specific costs, provided the implemented method does not affect other carriers.

In Order No. FCC 00-429, released December 29, 2000, the FCC concluded that the amount and detail of the cost data that had been provided in answer to Order No. FCC 00-104 was insufficient for it to determine the amount or magnitude of the costs associated with thousands-block number pooling, and sought comment and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. (¶180)

On February 13, 2001, the FPSC submitted comments to the FCC regarding Order No. FCC 00-104, stating that the FCC should give state commissions the option to defer state-mandated thousands-block number pooling cost recovery until national thousands-block number pooling is implemented and a federal cost recovery mechanism is put in place. At that time, the costs of the state-mandated thousands-block number pooling could be rolled into one recovery mechanism. This would result in having only one number pooling charge on a customer's bill, which would cause less confusion for the customers.

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In Order No. FCC 01-362, the FCC acknowledged the argument proffered by some commenters that state costs should be combined with national costs, and all thousands-block number pooling costs should be recovered in the federal jurisdiction. (§26) The FCC expressly rejected this proposal, stating that "the entire nation should not be required to bear the costs incurred for the benefit of a particular state." (§27) The FCC applauded the efforts that state commissions have made in implementing pooling trials within their respective jurisdictions, but stated that the costs should be covered within those jurisdictions that have enjoyed the benefits of such trials. (§24)

This recommendation addresses cost recovery for state-mandated thousands-block number pooling in the state of Florida.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission allow carriers the opportunity to seek recovery of costs associated with state-mandated pooling trials?

RECOMMENDATION: Yes, staff recommends that the Commission allow carriers the opportunity to seek recovery of costs associated with state-mandated pooling trials. For shared-industry costs for all state pooling trials, the appropriate cost allocation methodology should be the modified version of the LNP method allocated among all service providers in Florida. A carrier seeking recovery of carrier-specific costs should make a filing with this Commission detailing the means by which it proposes to recover its costs, consistent with FCC guidelines and in accordance with federal and state statutes. Each carrier's filing should show that:

- 1) pooling results in a net cost increase rather than a cost reduction;
- 2) the costs would not have been incurred "but for" and "for the provision of" thousands-block number pooling;
- 3) the costs are "new" costs;
- 4) the costs for which recovery is requested are Florida-specific costs not related to national number pooling; and
- 5) the costs will be recovered on a competitively neutral basis in accordance with Section 251(e) (2) of the Telecommunications Act of 1996. (ILERI, CASEY, BULECZA-BANKS, SIMMONS, DOWDS)

STAFF ANALYSIS: As stated in Order No. FCC 01-362, many of the costs associated with thousands-block number pooling are ordinary costs for which no additional or special recovery is appropriate. (¶25) The FCC has stated that thousands-block number pooling is essentially an enhancement of existing numbering administration procedures designed to extend the life of the existing numbering system. (¶34) Because the FCC maintains that the costs of numbering administration are generally and appropriately treated as an ordinary cost of doing business (¶37), and recovery for numbering administration expenses is already included in basic LEC compensation, LECs seeking recovery of costs must overcome a

rebuttable presumption that no additional recovery is justified. (§39)

Subsequent to the staff workshop and receipt of the post-workshop comments, Order No. FCC 01-362 was released directing state commissions that have exercised delegated authority and implemented state thousands-block number pooling trials to commence cost recovery procedures for state-specific costs, if they have not already done so. To accomplish this, the FCC suggested that states may use the blueprint for cost recovery outlined in Order No. FCC 01-362 and previous orders on national pooling cost recovery.

Shared Industry Costs - The FCC states that the shared costs of thousands-block number pooling, such as code administrator costs, are to be recovered on a competitively neutral basis in accordance with Section 251(e)(2) of the Telecommunications Act of 1996. In Order No. FCC 00-104, the FCC provided guidance regarding the criteria with which a cost recovery mechanism must comply in order to be considered competitively neutral. Specifically, the Order states that the costs of thousands-block number pooling:

- a) should not give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and
- b) should not have a disparate effect on competing providers' abilities to earn a normal return. (§199)

In Order No. FCC 00-104, the FCC also concluded that Section 251(e)(2) does not exclude any class of carriers and that all telecommunications carriers must bear numbering administration costs on a competitively neutral basis. (§199) It went on to state that allocating shared industry costs only among the carriers participating in thousands-block number pooling would not comply with Section 251(e)(2)'s requirement that all telecommunications carriers bear the cost of numbering administration on a competitively neutral basis. (§207)

By Order No. PSC-00-1046-PAA-TP, issued May 30, 2000, the FPSC ordered that if the industry could not decide on a method to allocate shared industry costs for number pooling in the 954, 561, and 904 NPAs, the Commission would select a method from options provided by the Joint Petitioners. In a September 28, 2000, letter to the Commission, the carriers agreed by a consensus vote that the appropriate cost allocation methodology to apply to shared industry

costs should be the modified version of the LNP method¹, and that these shared or common pooling costs should be allocated among all service providers in Florida. Staff believes this methodology for allocating shared industry costs meets the requirement to be competitively neutral. Therefore, staff recommends that this methodology for shared industry number pooling costs should also apply to all other state-mandated pooling trials. Once shared industry costs are allocated among the carriers, they become carrier-specific costs.

Carrier-Specific Costs - Carrier-specific costs are costs directly related to thousands-block number pooling, and shared-industry costs once they are allocated to the carrier. The thousands-block number pooling costs are enhancements to carriers' Service Control Point (SCP), Local Service Management System (LSMS), Service Order Activation (SOA), and Operation Support Systems (OSS). Staff believes that the following criteria, established by the FCC for national pooling cost recovery, should also be adhered to by carriers petitioning for recovery of state number pooling trial costs:

1. A carrier should show that pooling results in a net cost increase rather than a cost reduction. According to the FCC, thousands-block number pooling may reduce network costs, and to the extent that thousands-block pooling postpones or avoids area code relief and ultimately the replacement of the North American Numbering Plan, all carriers and subscribers will benefit. A carrier seeking recovery should demonstrate that its costs exceed the costs that would have been incurred had the carrier engaged in an area code split, overlay or other numbering relief that would otherwise have been required in the absence of pooling.
2. Only costs that were incurred "for the provision of" thousands-block number pooling are eligible for recovery through this extraordinary mechanism, but these must also be

¹The modified version of the LNP cost allocation methodology would use the Southeastern LNP Regional allocation percentages to assign the Pooling Administration costs to service providers (SP) in the state of Florida. A service provider that does not provide service in the state of Florida would be excluded from the allocation percentages, and costs would be reallocated to the remaining carriers providing service in the state of Florida. This would result in a fair and equitable allocation to all SP in the State of Florida, as all carriers benefit from number pooling whether they are LNP capable or not.

costs that would not have been incurred "but for" thousands-block number pooling. This means that only the demonstrably incremental costs of thousands-block number pooling may be recovered.

3. Thousands-block number pooling costs must also be "new" costs in order to qualify for recovery through the extraordinary mechanism. Costs incurred prior to the implementation of thousands-block number pooling are ineligible for recovery because they are embedded investments already subject to recovery through standard mechanisms (i.e., the number portability end-user charge or query charge).
4. The number pooling costs for which recovery is requested should only be Florida-specific costs not related to national number pooling. ¶ 29 of FCC Order No. 01-362 reads:

Carriers maintain that the bulk of their costs attributable to thousands-block number pooling are incurred on a regional, rather than a state-specific, level and thus they are uncertain how to allocate costs between the federal and the state jurisdiction. When carriers have incurred costs directly related to thousands-block number pooling at the state level prior to the implementation of national thousands-block pooling, the advancement costs of state-specific deployment should be attributed to the state jurisdiction. In other words, carrier-specific costs directly related to number pooling that are incurred for national implementation of thousands-block number pooling should be recoverable through the federal mechanism, but any costs attributable to advance deployment at the state level will be subject to state recovery mechanisms. Advancement costs should be allocated among study areas according to normal accounting procedures and assigned directly to the state jurisdiction.

5. The costs should be recovered on a competitively neutral basis in accordance with Section 251(e)(2) of the Telecommunications Act of 1996. In Order No. FCC 00-104, the FCC provided guidance regarding the criteria with which a cost recovery mechanism must comply in order to be considered competitively

neutral, stating that the costs of thousands-block number pooling:

a) should not give one provider an appreciable, incremental cost advantage over another when competing for a specific subscriber; and

b) should not have a disparate effect on competing providers' abilities to earn a normal return. (FCC 00-104 at ¶ 199)

The FCC also concluded that carriers not subject to rate regulation, such as CLECs and CMRS providers, may recover their carrier-specific costs directly related to implementation of thousands-block number pooling in any lawful manner consistent with their obligations under the Act. (FCC 01-362 at ¶32)

In summary, staff recommends that the Commission allow carriers the opportunity to seek recovery of costs associated with state-mandated pooling trials. For shared industry costs for all state pooling trials, the appropriate cost allocation methodology should be the modified version of the LNP method, and the shared or common pooling costs should be allocated among all service providers in Florida. Carriers seeking recovery of carrier-specific costs should make a filing with this Commission detailing the means by which they propose to recover their costs consistent with FCC guidelines and in accordance with federal and state statutes. The carriers' filings should show that:

- 1) pooling results in a net cost increase rather than a cost reduction;
- 2) the costs would not have been incurred "but for" and "for the provision of" thousands-block number pooling;
- 3) the costs are "new" costs;
- 4) the costs for which recovery is requested are Florida-specific costs not related to national number pooling; and,
- 5) the costs will be recovered on a competitively neutral basis in accordance with Section 251(e) (2) of the Telecommunications Act of 1996.

ISSUE 2: If staff's recommendation in Issue 1 is approved, how should FPSC regulated carriers seeking recovery proceed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, staff recommends that the FPSC regulated carriers seeking recovery should file tariffs and all supporting documents related to their cost analysis with the Commission no later than 30 days after the issuance of the final Order. After reviewing the filings, staff should file a recommendation for consideration by the Commission.
(ILERI, CASEY, BULECZA-BANKS)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, staff recommends that the FPSC regulated carriers seeking recovery should file tariffs and all supporting documents related to their cost analysis with the Commission no later than 30 days after the issuance of the final Order. After reviewing the filings, staff should file a recommendation for consideration by the Commission.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If staff's recommendations in Issues 1 and 2 are approved, staff recommends that this docket should remain open pending the review of the cost analyses and filed tariffs.
(CHRISTENSEN)

STAFF ANALYSIS: If staff's recommendations in Issues 1 and 2 are approved, staff recommends that this docket should remain open pending the review of the cost analyses and filed tariffs.