BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cost recovery and allocation issues for number pooling trials in Florida.

DOCKET NO. 001503-TP ORDER NO. PSC-02-0466-PAA-TP ISSUED: April 5, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman J. TERRY DEASON BRAULIO L. BAEZ MICHAEL A. PALECKI RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION ORDER ON FILING A PETITION FOR COST RECOVERY MECHANISMS FOR THE STATE THOUSANDS-BLOCK POOLING TRIALS

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.

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.

DOCUMENT NUMBER-DATE

FPSC-COMMISSION CLERK

By Federal Communications Commission (FCC) Order No. FCC 99-249¹, released September 15, 1999, the FCC granted this Commission authority to conduct mandatory thousands-block number pooling trials in Florida. Since receiving authority to mandate state number pooling trials, we have ordered implementation of number pooling trials in the following areas:

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 01-362². This Order directs states that have implemented thousands-block number pooling under delegated authority to commence cost recovery

¹ <u>Order</u>, CC Docket No. 96-98, Order No. FCC 99-249, released September 15, 1999, <u>In the Matter of the Florida Public Service</u> <u>Commission Petition to the Federal Communications Commission for</u> <u>Expedited Decision for Grant of Authority to Implement Number</u> <u>Conservation</u>.

²Third Report and Order and Second Order on Reconsideration, CC Dockets Nos. 96-98 and 99-200, Order No. FCC 01-362, released December 28, 2001, <u>In the Matter of Numbering Resource</u> <u>Optimization; Implementation of the Local Competition Provisions of</u> <u>the Telecommunications Act of 1996; Telephone Number Portability</u>.

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: (1) shared industry costs [costs incurred by the industry as a whole such as the North American Numbering Plan (NANP) administration costs]; (2) 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 (3) carrier-specific costs not directly related to thousands-block number pooling. In Order No. FCC 00-104³, 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. The FCC further concluded in this Order that Id. at ¶211. incremental shared industry costs become carrier-specific costs once they are allocated among carriers. <u>Id</u>. at \P 204.

On December 12, 2000, our 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:

<u>ALLTEL Florida, Inc. (ALLTEL)</u> - ALLTEL believes it is more efficient and appropriate for this Commission 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.

<u>AT&T Communications of the Southern States, Inc. (AT&T)</u> -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

³<u>Report and Order and Further Notice of Proposed Rule Making</u>, CC Docket No. 99-200, Order No. FCC 00-104, released March 31, 2000, <u>In the Matter of Numbering Resource Optimization</u>.

> 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.

> <u>BellSouth Telecommunications, Inc. (BellSouth)</u> -BellSouth believes this 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 statespecific pooling trials. It believes this 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.

> <u>The Office of Public Counsel (OPC)</u> - 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.

> <u>Sprint</u> - 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.

> <u>Verizon</u> - Cost recovery should be at the national level under the federal LNP charge. This Commission 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.

> <u>WorldCom</u> - 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 00-429⁴, 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. FCC 00-429 at ¶180.

On February 13, 2001, we 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

⁴Second Report and Order, Order on Reconsideration in CC Docket No. <u>96-98</u> and CC Docket No. <u>99-200</u>, and Second Further Notice of <u>Proposed Rulemaking in CC Docket No. <u>99-200</u>, CC Dockets Nos. <u>96-98</u> and <u>99-200</u>, Order No. FCC 00-429, released December 29, 2000, <u>In</u> the Matter of Numbering Resource Optimization; Petition of <u>Declaratory Ruling and Request for Expedited Action on the July 15,</u> <u>1997 Order of the Pennsylvania Public Utility Commission Regarding</u> <u>Area Codes 412, 610, 215, 717.</u></u>

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.

In Order No. FCC 01-362, the FCC acknowledged the argument proffered by some commentators that state costs should be combined with national costs, and all thousands-block number pooling costs should be recovered in the federal jurisdiction. Id. at $\P26$. 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." Id. at $\P27$. 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. Id. at $\P24$.

COST RECOVERY MECHANISM

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. Id. at The FCC has stated that thousands-block number pooling is ¶25. essentially an enhancement of existing numbering administration procedures designed to extend the life of the existing numbering system. Id. at $\P{34}$. Because the FCC maintains that the costs of numbering administration are generally and appropriately treated as an ordinary cost of doing business, 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. <u>Id</u>. at ¶37, ¶39.

Subsequent to the staff workshop and receipt of the postworkshop 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.

Order No. FCC 00-104 at ¶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. Id. at ¶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. Id. at ¶207.

By Order No. PSC-00-1046-PAA-TP, issued May 30, 2000, we 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, we would select a method from options provided by the Joint Petitioners. In a September 28, 2000, letter to us, 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 method⁵, and that these shared or

⁵The 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

common pooling costs should be allocated among all service providers in Florida. We find that this methodology for allocating shared industry costs meets the requirement of being competitively neutral. Therefore, this methodology for shared industry number pooling costs shall 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). We find that the following criteria, established by the FCC for national pooling cost recovery, shall also be adhered to by carriers petitioning for recovery of state number pooling trial costs:

- 1. A carrier needs to 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 shall 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 costs that would not have been incurred "but for" thousands-

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.

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 shall only be Florida-specific costs not related to national number pooling. Paragraph 29 of Order No. FCC 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 statespecific, 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 shall 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.

Order No. 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. Order No. FCC 01-362 at \P 32.

In summary, the carriers shall be allowed 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 shall be the modified version of the LNP method, and the shared or common pooling costs shall be allocated among all service providers in Florida. Carriers seeking recovery of carrier-specific costs shall 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:

- 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.

Commission regulated carriers seeking recovery shall file a petition with a cost recovery mechanism that meets federal and state law and all supporting documents related to their cost analysis with the Commission within 90 days after the issuance of this Order and tariffs thereafter. After reviewing the filings, a recommendation shall be filed for consideration by this Commission and upon Commission approval thereafter tariffs may be filed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Commission regulated carriers seeking recovery shall file a petition with a cost recovery mechanism that meets federal and state law and all supporting documents related to their cost analysis with this Commission within 90 days after the issuance of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is 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 the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall remain open pending consideration of the petitions filed by the regulated carriers.

By ORDER of the Florida Public Service Commission this <u>5th</u> day of <u>April</u>, <u>2002</u>.

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

(SEAL)

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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.

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 <u>April 26, 2002</u>.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.