

# County of Volusia ORIGINAL

## LEGAL DEPARTMENT

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April 12, 2002

### VIA FEDERAL EXPRESS

Mrs. Blanca S. Bayo  
Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

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Re: Docket No.: 010743-TL

Dear Mrs. Bayo:

Enclosed please find an original and fifteen (15) copies and disk of the County of Volusia's Brief of the Evidence.

Copies of these documents have been served to the parties shown on the attached Certificate of Service.

Very truly yours,

Frank B. Gummey, III  
Assistant County Attorney

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04137 APR 15 02

FPSC-COMMISSION CLERK



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for review of  
proposed numbering plan relief  
for the 407/321 area codes.

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DOCKET NO.: 010743-TL

Filed: April 12, 2002

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COUNTY OF VOLUSIA  
BRIEF OF THE EVIDENCE

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Deputy County Attorney  
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**TABLE OF CONTENTS**

	Page
Statement of the Case.....	1
Statement of Basic Position.....	2
Conclusion .....	5
Certificate of Service.....	6

## STATEMENT OF THE CASE

In May 15, 2001, the North American Numbering Plan Administration ("NANPA") filed a petition with the Florida Public Service Commission ("FPSC") requesting approval of a relief plan for the 407/321 area code, and the FPSC opened Docket No. 010743-TL to investigate proposed numbering relief plans. By order of March 25, 2002, the FPSC has assigned a new area code to be implemented to overlay the 407 area code on July 15, 2002, but left pending the issue of what area code to overlay 407 in the Osteen area of southwest Volusia County.

In Docket No. 010743-TL, presently before the Commission on review of proposed numbering plan relief for the 407/321 area codes, the positions of the City of Deltona and of the County of Volusia are united.

At the service hearing in Orlando February 20, 2002, Katrina Powell testified on behalf of the City of Deltona and Ann McFall, Robert Weiss and Frank Gummey testified on behalf of the County of Volusia in support of the 386 area code being overlaid in the Osteen area of southwest Volusia County. At the service hearing in Melbourne February 20, 2002, Robert Weiss and Frank Gummey testified in support of the Osteen 386 overlay.

At the technical hearing March 14, 2002, Ann McFall testified in support of the Osteen 386 overlay and Stan Greer, BellSouth, and Sandra Klagraee, Sprint, testified in opposition. Robert Weiss testified in rebuttal to BellSouth's testimony.

## **STATEMENT OF BASIC POSITION**

The overlay of the 386 area code in the Osteen section of Southwest Volusia County served by the 407 area code is in the best interest of telephone customers in Volusia County and the 407 area code.

The vast majority of Volusia County telephone customers are assigned the 386 (FUN) area code. The 386 (FUN) area code has rapidly developed a geographic identity with Volusia County, which markets itself as the "Funcoast". Having 386 as the overlay in the Osteen section strengthens the geographic identity and promotes a cohesive economy for the County.

The 386 area code has a later projected exhaust date than the new overlay area code approved March 5, 2002. Thus, by using 386 as the overlay in the Osteen section of Southwest Volusia County, all numbers of the new overlay area code will be conserved to serve the 407 area outside Volusia County and thus extend the exhaust date for the new overlay.

**Issue 4. What type of mechanisms, not previously considered, if any, should the Commission approve to address Volusia County's area code and local dialing issues, and if so, when?**

**Position: The 386 NPA should be overlaid on the 407 NPA in Southwest Volusia consistent with standard overlay number assignment practices as soon as practicable. No changes in local dialing requirements are requested.**

With the Commission's order of March 15, 2002, implementing a new NPA to overlay 407 effective July 15, 2002, this docket provides the opportunity to implement the

overlay of 386 in the Osteen area concurrently. Since no change in dialing requirements, calling scope or rates are being considered in this docket, and no present customer has any change to present service or telephone number, the overlay can be accomplished without extensive notice procedures.

BellSouth has forthrightly testified that it believes it is technically possible to implement the 386 Osteen overlay (Greer prefiled p. 12, lines 18-19). Though BellSouth had concerns about number pooling because it did not have experience with the subpooling (Greer technical hearing, p. 49, line 25) which appears appropriate in this instance, BellSouth and Sprint could provide no evidence that subpooling would not be an effective tool to implement the overlay.

The use of 386 in Osteen would conserve the new NPA numbers as conceded by Thomas Foley of NeuStar (Foley technical hearing, p. 23, lines 23-25). Since 386 has a later exhaust date, this is beneficial by forestalling the establishment of yet another area code.

**Issue 5. Pursuant to Florida Statutes, FCC delegated authority, or both, does the Commission have the authority to require telecommunications carriers to place 386 numbers in their Sanford Exchange to allow customers in the Osteen area to get new lines and migrate their existing services to the 386 numbers?**

**Position: The Commission has the power to overlay the 386 NPA in the 407 NPA in Southwest Volusia.**

The Commission has jurisdiction pursuant to Sections 364.01 and 364.16 (4),

Florida Statutes (2002), and 47 C.F.R. Sections 52.3 and 52.19. The Commission staff has taken this position and it is supported by the clear intent of the FCC:

“State commissions may resolve matters involving the introduction of new area codes within their states. Such matters may include, *but are not limited to*: Directing whether area code relief will take the form of a geographic split, an overlay area code, or a boundary realignment; establishing new area code boundaries...” 47 C.F.R. Section 52.19(a) [emphasis supplied].

The proposed 386 NPA solution for the Osteen area is an overlay. The fact that it varies from previous overlay applications does not change its basic characteristic. The Osteen area meets the requirement of 47 C.F.R. Section 52.19(c)(3)(ii) because mandatory ten digit dialing is already in place.

Number conservation is achieved for the new NPA established by the March 15, 2002, order in this docket by eliminating the assignment of those numbers in Osteen. Subpooling will provide an effective method of meeting the assignment requirements of 47 C.F.R. Section 52.19(c)(3)(i).

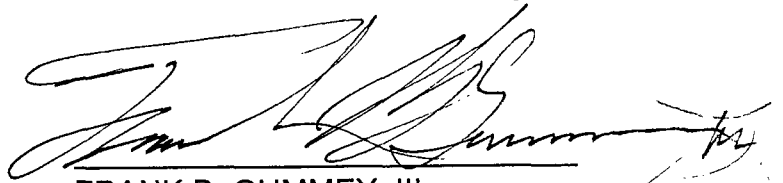
## **CONCLUSION**

It is in the best interests of telephone customers and within the jurisdiction of this Commission to overlay the 386 NPA for the Osteen area of southwest Volusia County served by the 407 NPA.



**CERTIFICATE OF SERVICE**

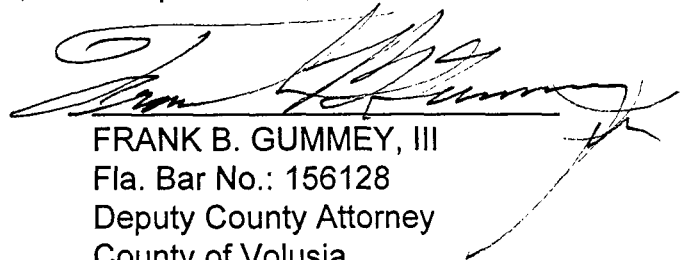
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the addressees on the **attached service list**, this 12th day of April, 2002.

A handwritten signature in black ink, appearing to read "Frank B. Gumme, III", written over a horizontal line.

FRANK B. GUMMEY, III  
Fla. Bar No: 156128  
Deputy County Attorney  
COUNTY OF VOLUSIA  
123 W. Indiana Avenue  
DeLand, FL 32720  
(386) 736-5950

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail this \_\_\_\_ day of April, 2002 to: Alarm Association of Florida, Inc., Bob Neely, 1802 North University Drive, #329, Plantation, FL 33322-4115; BellSouth Telecommunications, Inc., James Meza III/Nancy B. White, c/o Nancy H. Sims, 150 S. Monroe Street, Suite 400, Tallahassee, FL 32301; City of Deltona Fritz Behring, City Manager, P. O. Box 5550, Deltona, FL 32728-5550; Florida Cable Telecommunications Assoc. Inc., Michael A. Gross, 246 E. 6th Ave., Suite 100, Tallahassee, FL 32303; Florida Public Telecommunications Assoc., Angela Green, General Counsel, 2292 Wednesday Street, Tallahassee, FL 32308-4334; Fowler, Barice Law Firm Carole J. Barice/James A. Fowler, 8 W. Central Blvd., Orlando, FL 32801; Jonathan W. Kylleskwy, III, P. O. Box 7836, Ft. Lauderdale, FL 33329; Katz, Kutter Law Firm, Patrick Wiggins/Natalie Futch, P.O. Box 1877, Tallahassee, FL 32302-1877; Messer Law Firm, Floyd R. Self, Esq., P. O. Box 1876, Tallahassee, FL 32302-1876; Morrison & Foerster Law Firm, Kimberly D. Wheeler, 2000 Pennsylvania Ave., NW, Washington, DC 20006-1888; NeuStar, Inc., Thomas C. Foley, 820 Riverbend Blvd., Longwood, FL 32779; Pennington Law Firm, Peter Dunbar/Karen Camechis, P. O. Box 10095, Tallahassee, FL 32301; Sprint-Florida Incorporated, Mr. F.B. Poag, (MC FLTLHO0107), Tallahassee, FL 32316-2214; Time Warner Telecom of Florida, L.P., Ms. Carolyn Marek, c/o Time Warner Telecom, 233 Bramerton Court, Franklin, TN 37069-4002; VCOG, Marry Curran, 1190 Pelican Bay Drive, Daytona Beach, FL 32119-1381; and Verizon Wireless, Anne Hoskins, 1300 'Eye' Street NW, Suite 400W, Washington, D.C. 20005; and Dana Smith, Verizon Wireless, Six Campus Circle, Room 8322D, Westlake, TX 76262.



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