

State of Florida



Public Service Commission
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COMMISSION
CLERK

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DATE: MARCH 6, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (SARAK, ILERI, CASEY, ^{PC} BULECZA-BANKS) ~~URR~~ OFFICE OF THE GENERAL COUNSEL (CHRISTENSEN, KEATING) ^{PC} _{PK}

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

AGENDA: 3/18/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001503E.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. 99-249¹, released September 15, 1999, the FCC granted the Florida Public

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

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Service Commission (FPSC or Commission) authority to conduct mandatory thousands-block number pooling trials in Florida. The Order also addressed number pooling cost recovery by stating:

We further require that the Florida Commission determine the method to recover the costs of the pooling trials. The Florida Commission must also determine how carrier-specific costs directly related to pooling administration should be recovered.

FCC 99-249, ¶ 17. Since receiving authority to implement state number pooling trials, the FPSC has ordered implementation of the following number pooling trials:

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

* The Keys area is not a Metropolitan Statistical Area.

In Order No. FCC 00-104², released March 31, 2000, the FCC stated:

States implementing pooling must also ensure that they provide carriers with an adequate transition time to implement pooling in their switches and administrative systems. In addition, because our national cost recovery plan cannot become effective until national pooling implementation occurs, states conducting their own pooling trials must develop their own cost recovery scheme for the joint and carrier-specific costs of implementing and administering pooling in the NPA in question.

FCC 00-104, ¶ 171. The Order further states:

Costs incurred by carriers to implement state-mandated thousands-block number pooling are intrastate costs and should be attributed solely to the state jurisdiction.

FCC 00-104, ¶ 197.

By Order No. PSC-00-1046-PAA-TP, issued May 30, 2000, in Docket No. 981444-TP, the Commission acknowledged an obligation to review the issues pertaining to number pooling cost recovery. The Commission also acknowledged the FCC Order No. 00-104 requiring the Commission to resolve any matters related to cost recovery under the federal law and agreed to open a docket to address this issue. Staff subsequently opened Docket No. 001503-TP on September 29, 2000.

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 post-workshop comments were focused mainly on whether cost recovery should be delayed until the FCC makes a determination as to whether state-mandated pooling costs should be rolled into the federal cost recovery mechanism, or whether the Commission should proceed with the cost recovery. However, the Office of Public Counsel believes

² Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 99-200, Order No. FCC 00-104, released March 31, 2000, In the Matter of Numbering Resource Optimization.

that price cap regulation in Florida already provides cost recovery for the local exchange companies, and 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.

In Order No. FCC 00-429³, released December 29, 2000, the FCC concluded that the amount and detail of the cost data that had been provided in response 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 additional comments 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.

In Order No. FCC 01-362⁴, released December 28, 2001, the FCC again addressed state-mandated number pooling costs and stated:

In this Third Report and Order, we direct states implementing thousands-block number pooling under delegated authority to commence cost recovery actions for state-mandated thousands-block number

³ Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Dockets Nos. 96-98 and 99-200, Order No. FCC 00-429, released December 29, 2000, In the Matter of Numbering Resource Optimization; Petition of Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, 717.

⁴ Third 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, In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability.

pooling trials. We applaud the efforts that state commissions have made in implementing pooling trials within their respective jurisdictions, and we believe that the costs should be covered within those jurisdictions that have enjoyed the benefits of such trials.

FCC 01-362, ¶ 25. The FCC also acknowledged the argument proffered by some commenters, including the FPSC, 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 ". . . [w]e believe that the entire nation should not be required to bear the costs incurred for the benefit of a particular state." (¶ 27) Order No FCC 01-362 further stated:

We now direct states that have exercised delegated authority and implemented thousands-block number pooling to likewise commence cost recovery procedures for these state-specific costs. We agree with BellSouth that any state that has ordered implementation of pooling in advance of the national rollout is required to implement a cost recovery scheme.

FCC 01-362, ¶ 28.

By Commission Order No. PSC-02-0466-PAA-TP, issued April 5, 2002, in Docket No. 001503-TL⁵, the Commission ordered that the carriers shall be allowed the opportunity to seek recovery of costs associated with state-mandated pooling trials.

The Commission further ordered that Commission-regulated carriers seeking recovery shall file a petition with the Commission for a cost recovery mechanism that meets federal and state law, including all supporting documents related to their cost analysis.

On August 5, 2002, BellSouth filed a petition for recovery of its costs (\$3,506,844) associated with state-mandated number pooling trials. This recommendation addresses BellSouth's petition for cost recovery.

⁵ Consummating Order PSC-02-0590-CO-TP, issued April 30, 2002.

DISCUSSION OF ISSUES

ISSUE 1: Does BellSouth's cost recovery petition for state-mandated number pooling trials comply with the guidelines established pursuant to Commission Order No. PSC-02-0466-PAA-TP?

RECOMMENDATION: Yes. Staff recommends that BellSouth's cost recovery petition for state-mandated number pooling trials complies with the guidelines established pursuant to Commission Order No. PSC-02-0466-PAA-TP, and the Commission should allow BellSouth to recover its carrier-specific costs associated with state-mandated number pooling trials. (ILERI)

STAFF ANALYSIS: As stated in the Case Background, by Order No. PSC-02-0466-PAA-TP, the Commission allowed carriers the opportunity to seek recovery of costs associated with state-mandated number pooling trials. The Commission further stated that the appropriate cost allocation methodology should be the modified version of the Local Number Portability (LNP) method⁶, and the shared and common number pooling costs should be allocated among all service providers in Florida.

On August 5, 2002, BellSouth filed its petition for recovery of costs (\$3,506,844) associated with state-mandated number pooling trials. By Order No. PSC-02-0466-PAA-TP, the Commission allowed carriers the opportunity to seek recovery of costs associated with state-mandated number pooling trials. Since BellSouth complied with the Commission's Orders and implemented state-mandated number pooling trials, BellSouth filed its petition for cost recovery.

By Order No. PSC-02-0466-PAA-TP, the Commission ordered that carriers seeking recovery of carrier-specific costs shall show that:

⁶ In a September 28, 2000, letter to the Commission, the carriers agreed by a consensus vote that the appropriate cost allocation methodology to apply shared industry costs should be the modified version of the LNP method. This methodology would use the Southeastern LNP Regional allocation percentages to assign the Pooling Administration costs to service providers (SP) in the state of Florida. An SP 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.

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- 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. Order No. PSC-02-0466-PAA-TP at p. 10.

Upon staff's extensive review and analysis of BellSouth's petition, and based on the Commission's Order No. PSC-02-0466-PAA-TP, staff recommends that BellSouth's cost recovery petition for state-mandated number pooling trials complies with the guidelines established pursuant to Commission Order No. PSC-02-0466-PAA-TP, and the Commission should allow BellSouth to recover its carrier-specific costs associated with state-mandated number pooling trials.

ISSUE 2: If the Commission approves staff's recommendation in Issue 1, how should BellSouth recover its carrier-specific costs of \$3,506,844 associated with state-mandated number pooling trials?

PRIMARY RECOMMENDATION: If staff's recommendation in Issue 1 is approved, staff recommends that BellSouth recover its carrier-specific costs of \$3,506,844 associated with state-mandated number pooling trials through a one-time charge allocated among BellSouth's Florida end-user lines located in the state-mandated number pooling areas as of June 30, 2003. BellSouth should also submit its final calculation of the end-user line charge to staff prior to any assessment on customer bills. Staff should be allowed to approve the final assessment administratively; however, any material difference between the estimated one-time charge and the final assessment should be brought before the Commission for approval. (SALAK, CHRISTENSEN)

ALTERNATE RECOMMENDATION: If staff's recommendation in Issue 1 is approved, staff recommends that BellSouth recover its carrier-specific costs of \$3,506,844 associated with state-mandated number pooling trials through a one-time charge allocated among all of BellSouth's Florida end-user lines as of June 30, 2003. BellSouth should also submit its final calculation of the end-user line charge to staff prior to any assessment on customer bills. Staff should be allowed to approve the final assessment administratively; however, any material difference between the estimated one-time charge and the final assessment should be brought before the Commission for approval. (ILERI, KEATING)

GENERAL ANALYSIS: By Order FCC 00-104, the FCC 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. (FCC 00-104, ¶ 201, ¶ 208, and ¶ 211)

Order No. FCC 00-104 concluded that incremental shared industry costs become carrier-specific costs once they are allocated among carriers. (¶ 204) The FCC also stated that ". . . each carrier should bear its carrier-specific costs not directly

related to thousands-block number pooling implementation as network upgrades." (§ 211)

BellSouth's August 5, 2002 petition included the following assertions in calculating the costs associated with state-mandated number pooling trials:

- a) Costs are associated with the following state-ordered area code number pooling trials: 305⁷, 561, 904, and 954;
- b) Costs included in its petition were not included in the regional study⁸;
- c) Cost categories included consist of: Network Capital and Expenses (switch generic advancement and switch pooling feature software), Employee Related (switch translations, Network contract salaries & Block Administration Center salaries) and Number Portability Administration Center (NeuStar) Expenses;
- d) The cost methodology used in its petition is the total direct long-run incremental costs plus a reasonable allocation of shared and common costs. The study recovers the costs incurred during the years 2000, 2001, and 2002; and
- e) The Present Value (PV) calculations are based on an 11.25% after-tax return rate, which has been used in other FCC filings⁹, such as BellSouth's Telephone Number Portability revised tariff filed dated June 11, 1999.

Staff has reviewed and analyzed BellSouth's cost recovery petition in its entirety and believes that BellSouth has met the five requirements of Order No. PSC-02-0466-PAA-TP as shown in Issue 1. Staff also believes the costs in BellSouth's petition to be reasonable. BellSouth requests recovery of \$3,506,844 for costs associated with state-mandated number pooling trials.

⁷ The 305 area code only considers the Keys region.

⁸ The regional study considers all of BellSouth's territory in the United States for FCC-mandated national number pooling cost recovery.

⁹ FCC Order No. 01-362 states " . . . an ILEC's unrecovered capital investment will be subject to an 11.25% percent after-tax return, however, a longer recovery period greatly increases the total cost, while a shorter recovery period would increase total cost by decreasing the interest expense." (FCC 01-362, § 41)

PRIMARY STAFF ANALYSIS: Per an FCC mandate, only the exchanges that are within the boundaries of the 100 top Metropolitan Statistical Areas or ordered by state regulators could be involved in number pooling. Therefore, if consumers in exchanges with state-mandated pooling are the ones who benefit, staff believes they should be the ones who absorb the costs. Customers located in these state-mandated number pooling areas benefit from these trials since their area code life is extended. This Commission has consistently ruled that the "cost-causers", not the general body of ratepayers should bear the costs. By Order No. PSC-99-1399-PAA-WU, issued July 21, 1999, in Docket No. 981663-WU, the Commission stated:

These charges are designed to more accurately reflect the costs associated with each service and to place the burden of payment on the person who causes the cost to be incurred (the "cost causer"), rather than on the entire ratepaying body as a whole.

By Order No. PSC-99-0924-PAA-EI, issued May 10, 1999, in Docket No. 990179-EI, the Commission stated:

In our order approving the late payment charge for Southern Bell, we stated that "this Commission has consistently taken action to place costs on the cost-causer rather than the general body of ratepayers."

As mentioned in the case background, the FCC, in Order 01-362, rejected the idea 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 rationale for rejecting the proposal was that the entire nation should not be required to bear the costs incurred for the benefit of a particular state. (¶ 25) Using the same rationalization, consumers in non-state-mandated pooling areas should not bear the costs incurred for the benefit of consumers in areas where state-mandated pooling has been implemented. Therefore, staff believes that BellSouth's carrier-specific costs associated with state-mandated number pooling trials should be borne by consumers whose end-user lines are located in the state-mandated number pooling areas.

Staff estimates that BellSouth would have approximately 3,047,922 end-user lines in the rate centers with state-mandated pooling trials by the middle of July 2003. When addressing the

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length of time to allow number pooling cost recovery, the FCC stated:

We are thus required to establish some reasonable period of time, shorter than five years, over which these costs may be recovered. Given that an ILEC's unrecovered capital investment will be subject to an 11.25 percent after-tax return, however, a longer recovery period greatly increases the total cost, while a shorter recovery period would decrease total cost by decreasing the interest expense. Accordingly, we conclude that recovery should be spread over a two-year period.

FCC 01-362, ¶ 41. Using a two-year dispersion period, staff estimates that each access line would have an approximate additive cost of \$0.04794 per month.

However, since the total costs recovered from BellSouth's Florida end users associated with state-mandated number pooling trials would be approximately \$1.15 per line ($\$3,506,844/3,047,922$ end-user lines in the affected rate centers), staff believes that in the interest of administrative efficiency, a one-time charge would be appropriate and not present a hardship to consumers. BellSouth should use its Florida end-user lines of record as of June 30, 2003 to calculate the exact charge.

In conclusion, if staff's recommendation in Issue 1 is approved, staff recommends that BellSouth recover its carrier-specific costs of \$3,506,844 associated with state-mandated number pooling trials through a one-time charge allocated among BellSouth's Florida end-user lines located in the state-mandated number pooling areas as of June 30, 2003. BellSouth should also submit its final calculation of the end-user line charge to staff prior to any assessment on customer bills. Staff should be allowed to approve the final assessment administratively; however, any material difference between the estimated one-time charge and the final assessment should be brought before the Commission for approval.

ALTERNATIVE STAFF ANALYSIS: Staff believes that BellSouth's carrier-specific costs associated with state-mandated number pooling trials should be borne by all BellSouth's Florida end-user lines. Since all customers benefit from extending the life of area codes, because it extends the life of the NANP, all customers

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should share the cost of number pooling. This position is also consistent with the FCC's decision on federally-mandated number pooling costs. FCC Order No. 01-362 states:

. . . all carriers and subscribers will benefit from national thousands-block number pooling to the extent that it postpones or avoids area code relief and ultimately the replacement of the existing NANP. (¶ 34)

For this reason, under this option, costs of federally-mandated number pooling would be shared and borne by all end-user lines in the United States. To avoid disproportionate impacts from the combination of federal and state cost recovery, BellSouth's carrier-specific costs associated with state-mandated number pooling trials should be borne by all BellSouth's Florida end-user lines.

Staff estimates that BellSouth would have approximately 6,200,176 end-user lines by the middle of July 2003. When addressing the length of time to allow number pooling cost recovery, the FCC stated:

We are thus required to establish some reasonable period of time, shorter than five years, over which these costs may be recovered. Given that an ILEC's unrecovered capital investment will be subject to an 11.25 percent after-tax return, however, a longer recovery period greatly increases the total cost, while a shorter recovery period would decrease total cost by decreasing the interest expense. Accordingly, we conclude that recovery should be spread over a two-year period.

FCC 01-362, ¶ 41. Using a two-year dispersion period, staff estimates that each access line would have an approximate additive cost of \$0.02357 per month.

However, since the total costs recovered from BellSouth's Florida end users associated with state-mandated number pooling trials would be approximately \$0.57 (\$3,506,844/6,200,176 end-user lines), staff believes that in the interest of administrative efficiency, a one-time charge would be appropriate, and not present a hardship to consumers. BellSouth should use its Florida end-user lines of record as of June 30, 2003 to calculate the exact charge.

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In conclusion, if staff's recommendation in Issue 1 is approved, staff recommends that BellSouth recover its carrier-specific costs of \$3,506,844 associated with state-mandated number pooling trials through a one-time charge allocated among all of BellSouth's Florida end-user lines as of June 30, 2003. BellSouth should also submit its final calculation of the end-user line charge to staff prior to any assessment on customer bills. Staff should be allowed to approve the final assessment administratively; however, any material difference between the estimated one-time charge and the final assessment should be brought before the Commission for approval.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. 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, this order will become final upon issuance of a consummating order. Staff recommends that this docket should remain open pending review of cost recovery petitions from other carriers. (CHRISTENSEN)

STAFF ANALYSIS: 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, this order will become final upon issuance of a consummating order. Staff recommends that this docket should remain open pending review of cost recovery petitions from other carriers.