

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Florida Public Service Commission's)
Petition to Federal Communications)
Commission For Expedited Decision For)
Grant of Authority to Implement Number)
Conservation Measures)

NSD File No. L-99-33
Received

CC DOCKET: 96-98 MAY 17 1999

Common Carrier Bureau
Network Service Division
Office of the Chief

BELLSOUTH COMMENTS

BellSouth Corporation,¹ on behalf of itself and its affiliated companies (BellSouth), by counsel, hereby comments on the issues raised in Petitioner's request for delegated authority to implement various number conservation measures.²

I. INTRODUCTION.

The instant petition is the latest in a series of well-intentioned attempts by state regulatory bodies to address "the difficult task of assuring that adequate numbering resources are available for carriers in their states, while protecting the interests of consumers who are understandably frustrated about the burdens associated with area code relief."³ State regulatory bodies such as

¹ BellSouth Corporation (BSC) is a publicly traded Georgia corporation that holds the stock of companies which offer local telephone service, provide advertising and publishing services, market and maintain stand-alone and fully integrated communications systems, and provide mobile communications and other network services world-wide.

² *Common Carrier Bureau Seeks Comment on the Florida Public Service Commission's Petition for Authority to Implement Number Conservation Measures*, NSD File No. L-99-33, Public Notice DA 99-725 (April 15, 1999) (*Public Notice*).

³ *Petition for 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, and 717*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009, 19011-12 (1998) (*Pennsylvania Order*).

the Florida Public Service Commission (FPSC) are in the vanguard with respect to protecting the interests of consumers and are filing these petitions due to the effects that area code changes may have on consumers. Nevertheless, the granting of these petitions would undermine the orderly development of uniform national numbering standards. Until this Commission takes definitive action on the important numbering matters pending before it,⁴ the industry is forced to expend resources responding to multiple state petitions that are persuasive only of the need for immediate Commission action.⁵ This Commission should encourage the FPSC to use the authority it already has to assure an adequate supply of number resources, and act immediately to prevent the substitution of piecemeal, state-specific approaches to number optimization that “jeopardiz[e] telecommunications services throughout the country.”⁶

II. THE FCC MUST TAKE A LEADERSHIP ROLE WITH RESPECT TO DEVELOPING NATIONAL NUMBER CONSERVATION POLICIES.

The FPSC Petition and similar pending state petitions demonstrate the need for the FCC to immediately assume a leadership role with respect to number conservation and number conservation policy. The Commission undertook such a role with respect to number portability.⁷

⁴ The Commission has yet to clarify the scope of the NXX “rationing” requirement set forth in its rules (see Petition for Reconsideration of BellSouth Corporation, CC Docket 96-98, filed October 7, 1996; to decide pending Petitions for Reconsideration of the *Pennsylvania Order* or to issue a Notice of Proposed Rulemaking arising out of the NANC NRO Report. *Number Resource Optimization, Working Group, Modified Report to the North American Numbering Council on Number Optimization Methods*, (October 20, 1998). (NANC Report).

⁵ This state frustration is best expressed by the terms of United States Senate Bill 765, sponsored by Senator Susan Collins (R, ME), which would direct the Commission to take decisive action by December 31, 2000, and in the meantime allow each state the broad authority to fashion whatever state specific relief it deems necessary in the meantime. S.765, 106th Congress (1999). The bill essentially mirrors each of the state petitions for additional authority that have been filed to date

⁶ *Pennsylvania Order* at 19023.

⁷ *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8371 (1996).

By adopting uniform national rules regarding number portability implementation and deployment, and by preventing number portability from developing on a state-by-state basis, the commission prudently sought to ensure the efficient and consistent use of both number portability methods and numbering resources on a nationwide basis as well as carrier network interoperability.⁸

Similarly, the FCC must immediately assume its rightful leadership role in establishing national policies for telephone number optimization. Indeed, less than eight months ago in the *Pennsylvania Order*, the Commission consistently reiterated the importance of this principle:

The Commission specifically declined to delegate to states the task of NXX code allocation or assignment, stating that to do so would vest in fifty-one separate commissions oversight of functions that the Commission centralized in the new NANPA. The Commission noted that a uniform, nationwide system of numbering, including allocation of NXX codes, is essential to the efficient delivery of telecommunications services in the United States.⁹

* * *

The Commission, the state commissions, and the industry should work together to bring about as quickly as possible national methods to conserve and promote efficient use of numbers that do not undermine that uniform system of numbering. Such attempts, however, cannot be made on a piecemeal basis without jeopardizing telecommunications services throughout the country. Substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes for number conservation and area code relief. Such inconsistency could interfere with, or even prevent the routing of calls in the United States. The lack of uniformity also could hamper the industry's efforts to forecast and plan properly for exhaust of the North American Numbering Plan, and therefore ultimately could accelerate unnecessarily the introduction of a new nationwide numbering plan. Introduction of a new plan would mean costly network upgrades to accommodate a new dialing scheme that would be confusing to consumers.¹⁰

* * *

⁸ *Id.*

⁹ *Pennsylvania Order* at 19016.

¹⁰ *Id.* at 19023-24.

Once the uniform national standards for number pooling are in place, it may be appropriate to delegate state commissions additional authority to implement and enforce those standards.¹¹

* * *

If each state commission were to implement its own NXX code administration measures without any national uniformity or standards, it would hamper the NANPA's efforts to carry out its duties as the centralized NXX code administrator. In that event, the NANPA would have the potentially impossible task of performing its NXX code administration and area code relief planning functions in a manner that is consistent with both Commission rules and industry guidelines, as well as fifty-one different regimes for overall NXX code administration. Further, a lack of consistency in NXX code administration could interfere with forecasting and projections for exhaust of the North American Numbering Plan and could force implementation of a new plan earlier than would otherwise be necessary to ensure that numbers are always available for telecommunications service providers.¹²

* * *

We continue to be concerned that there not be multiple, inconsistent pooling trials throughout the country. We encourage states to participate in the national efforts to develop number conservation measures, including number pooling.¹³

* * *

Three weeks after release of the *Pennsylvania Order*, on October 21, 1998, the NANC submitted a report to the Chief of the Common Carrier Bureau entitled "Number Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Optimization Methods" (NANC Report) on telephone number pooling and numerous other strategies for optimizing the use of telephone numbers in the NANP.¹⁴ The NANC Report

¹¹ *Id.* at 19028.

¹² *Id.* at 19031-32.

¹³ *Id.* at 19030.

¹⁴ *Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures*, NSD File No. L-98-134, Public Notice DA 98-2265 (November 6, 1998) at 1.

contains a detailed discussion of each of the measures set forth in the FPSC Petition, as well as a State Issues Task Force section that also addresses these issues.

The Commission received comments on the NANC Report in late December 1998. The Commission must consider the costs and benefits of the various number optimization methods addressed in the NANC Report and not allow the inefficient and expensive deployment of piecemeal "solutions" prior to the Commission's establishing a cost/benefit record. In the meantime, as the Commission is aware, there is an ongoing national work effort within the industry that focuses on the issues identified in the NANC Report. This effort includes developing national standards for thousand block pooling administration, identifying necessary number portability administration center modifications for pooling, developing uniform central office code audit procedures, revising central office code assignment guidelines, and defining uniform number definitions for enhanced number utilization reporting. This work must be allowed to continue uninterrupted even as the FCC considers the record developed after the filing of the NANC Report. The multiple state petitions filed recently at the FCC require the same industry resources that need to focus on this national work effort to divert their energies to address the states' concerns. All individual state requests that address methods addressed in the NANC Report should be summarily dismissed.

The FCC should use its authority to require the NANPA to do a more thorough job of monitoring number utilization, providing data, and reclaiming underutilized NXX codes. It would be more desirable for the NANPA, acting under FCC authority, to perform these essential number administration functions in a uniform manner throughout the numbering plan areas. In the meantime, BellSouth and other carriers continue to work within the industry and within the state jurisdictions in which they provide telecommunications services and utilize NANP

resources, to achieve uniform nationwide number optimization standards. Specifically, BellSouth continues to actively participate in many of the nationwide task forces currently addressing these issues; it is actively examining and exploring the issues associated with rate center consolidation; is reviewing current NXX codes assigned to its LEC operations in order to determine whether codes can be returned to the NANP; and is sharing NXX codes in rate centers between host and remote switches.¹⁵

III. THE FLORIDA PETITION SHOULD NOT BE GRANTED. THE FPSC CAN CONSIDER OTHER ALTERNATIVES TO ASSURE THE CONTINUED AVAILABILITY OF TELEPHONE NUMBERS ON A COMPETITIVELY NEUTRAL BASIS.

As with similar state petitions filed with the FCC to date, the FPSC seeks broad authority to implement an unlimited array of state specific solutions (all of which are the subject of the NANC Report) to numbering problems in advance of national standards without providing the Commission with sufficient details to assess its request under the standards set forth in the *Pennsylvania Order*. The FPSC also requests authority that BellSouth believes has been acknowledged to be within its particular power: the authority to consider implementing rate center consolidation.

In view of the delay in the establishment of national standards, the demand for numbering resources in Florida and the interpretation of the *Pennsylvania Order*, it is understandable why the FPSC is asking for additional authority. On the one hand, the *Pennsylvania Order* emphatically rejected various number conservation measures ordered in unquestioned good faith

¹⁵ Sharing NXXs across non-host/remote switch relationships within rate centers is problematic. The industry has examined this, and has determined that even if feasible, only minimal telephone number conservation would be achieved.

by the Pennsylvania Public Utility Commission in the name of telephone number conservation. On the other hand, the FCC specifically encouraged state commissions that “have additional ideas for innovative number conservation methods” or that “wish to initiate number pooling trials” to request an additional, limited delegation of authority to implement conservation methods which, if implemented, would fall “outside the guidelines” adopted in the *Pennsylvania Order*.¹⁶ In apparent response to this invitation, the FPSC states that “we are willing to volunteer to be the trial state for number pooling.”¹⁷

The *Pennsylvania Order* requires state commissions to do more than present a request for additional authority or to volunteer to be a trial state for number pooling in order to obtain additional limited authority to prescribe specific number conservation methods. The FCC stated that in light of the NANC’s broad industry representation and the subject-matter expertise of its members, the Commission would seek a recommendation from the NANC on the proposed conservation method that a state commission presents.¹⁸ The FCC, therefore, encouraged state commissions to present their proposals to the NANC first.¹⁹ The FPSC Petition contains no suggestion that this has been done.

Moreover, the Common Carrier Bureau can only consider a grant of additional limited authority to a state commission where it is able to determine on the record that “a proposed number conservation method will conserve numbers and thus slow the pace of area code relief,

¹⁶ *Pennsylvania Order* at 19030.

¹⁷ FPSC Petition at 3. The FPSC does not suggest that it has “additional ideas for innovative number conservation methods.” *Pennsylvania Order* at 19030-31.

¹⁸ *Pennsylvania Order* at 19030.

¹⁹ *Id.*

without having anticompetitive consequences.”²⁰ The FPSC Petition is clear about what kind of number conservation authority it wants. But the essential showing that the FPSC and other state commissions must make is how any of the measures for which it must request federal authority will conserve numbers and slow area code exhaust in a competitively neutral manner.²¹ Because the instant petition does not meet this criteria, the Commission should not grant the request.

The FPSC could consider rate center consolidation. Nothing in any of the Commission’s rules or orders prohibits states from implementing this number conservation process. In fact, in the *Pennsylvania Order* the Commission stated:

We encourage the Pennsylvania Commission and other state commissions to consider other measures and activities, *such as rate center consolidation*, that affect number usage and may decrease the frequency of the need for area code relief.²²

Rate center consolidation is essentially a local issue within the purview of the FPSC. If the number of rate centers can be reduced, the number of NXX codes that needs to be assigned to carriers can, as a consequence, be reduced. Based on BellSouth’s initial analysis, it appears that rate center consolidation may make sense in selected areas. However, rate center consolidation will have impacts on local calling and carrier revenues that state commissions cannot ignore. For this reason, rate center consolidation must only be ordered by state commissions when it can be accomplished on a revenue neutral basis.

²⁰ *Id.*

²¹ *Id.*

²² *Pennsylvania Order* at 19029, n. 93.

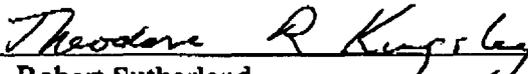
Finally, BellSouth believes that the industry, working with the NANPA, can reach consensus on a solution to resolve the NXX shortage in the Florida Keys. Such area code relief is clearly allowed under the Commission's rules, and the FPSC clearly has the authority to allow such consensus solutions to take effect.

CONCLUSION

BellSouth, like many other carriers, operates in a number of state jurisdictions. BellSouth is concerned that states acting pursuant to individual grants of delegated authority may reach inconsistent conclusions to numbering resource problems. These inconsistent conclusions, in turn, would pose complicated and expensive operational and compliance barriers to multi-state and multi-regional carriers. Important work currently being accomplished at the national level must not be undermined by inconsistent state requirements. The Commission should deny all pending state petitions for additional authority, and take immediate action on the NANC Report and other numbering issues pending before it.

Respectfully submitted,

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Date: May 14, 1999

CERTIFICATE OF SERVICE

I do hereby certify that I have this 14th day of May, 1999, served the following parties to this action with a copy of the foregoing BELLSOUTH COMMENTS by hand delivery or by sending a true and correct copy of the same by Federal Express, addressed to the parties on the attached service list.


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