

**ORIGINAL**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In Re:** Request for review of proposed numbering  
plan relief for the 904 area code

**Docket No:** 990517-TL

**Filed:** June 22, 2000

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**CITY OF DELTONA, FLORIDA  
BRIEF OF THE EVIDENCE**

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## STATEMENT OF THE CASE

In April of 1999, the North American Numbering Plan Administration ("NANPA") notified the Florida Public Service Commission ("FPSC") that the 904 area code was in extraordinary jeopardy, and the FPSC opened Docket No. 990517-TL to investigate proposed numbering relief plans. The FPSC had, also, in March of 1999, as to the 305 area code, and in April of 1999, as to the 561 and 954 area codes, opened Docket Nos. 990455-TL, 990456-TL and 990457-TL, respectively, in response to similar declarations of extraordinary jeopardy by NANPA. The FPSC consolidated these Dockets for hearing purposes, and established the procedure to be utilized in the combined Dockets, by Order dated November 1, 1999.

In a related matter, the FPSC, also, opened a separate Docket No. 981444-TP, investigating number conservation measures. In that Docket, the FPSC on March 16, 2000 entered Order No. PSC-00-0543-PAA-TP (PAA Order), requiring immediate NXX code reclamation for wireline and wireless carriers statewide and thousands-block number pooling for wireline carriers in 954, 561 and 904 area codes, beginning May 1, July 1 and October 1, 2000, respectively. In response to formal protest, the Commission, ultimately, on May 30, 2000, entered Order No. PSC-00-1046-PAA-TP, Approving Offer of Settlement and Final Order Dismissing Protest and Making Final Unprotested Portions of Order No. PSC-00-0543-PAA-TP. Pursuant to said Order, with respect to the 904 area code, number pooling for those carriers that have implemented permanent LNP in the Jacksonville MSA shall begin in the Jacksonville MSA area of the 904 NPA (ie. Clay, Duval, Nassau and St. Johns Counties) no later than April 2, 2001, using uncontaminated 1000's number blocks.

In Docket No. 990517-TL, presently before the Commission on review of proposed

numbering plan relief for the 904 area code, the positions of the City of Deltona and of the County of Volusia are united. Wayne Gardner presented direct and rebuttal testimony on behalf of the City of Deltona (Transcript 36-42), and introduced Composite Exhibit 10 (local telephone directory and Resolution of the City Commission). On behalf of Volusia County, Robert Weiss presented direct testimony (Transcript 43-48), and introduced Exhibit 11 (area map of southwest Volusia County area code, LATA and exchange boundaries) and Exhibit 12 (Resolution of the Volusia County Commission). John Evans presented rebuttal testimony on behalf of Volusia County. (Transcript 195-197)

Lenny Fulwood presented direct testimony on behalf of the FPSC (Transcript 189-194), and introduced Exhibit 16 (alternatives to the industry's consensus numbering relief plans). The portion of Exhibit 16 relevant to the 904 area code is labelled as "LF-5". These alternatives were developed in response to the Community of Interest in the City of Deltona and Volusia County. (Exhibit 7, Fulwood deposition, pp 16-17.)

A summary of the City of Deltona's positions on each of the issues to be resolved in these combined dockets is delineated in the following pages, and marked with asterisks.

## STATEMENT OF BASIC POSITION

An additional overlay or additional area code in the City of Deltona, or in Volusia County as a whole, as proposed by the industry consensus, would be unacceptable and not in the public interest. This would bring as many as four (4) area codes within the City of Deltona alone, and, ultimately, as many as five (5) area codes in only a few more years. This is unprecedented in the State of Florida, and entirely unworkable from the perspective of the affected public.

Within one city, Deltona residents and businesses face the untenable prospect of memorizing four or five different area codes to successfully make telephone calls across the street or down the block! A change within the entire geographic area of Volusia County, encompassing all of the City of Deltona, to a single area code would be in the best interests of the residents and of the economy of the area.

To accomplish a single area code for all of Volusia County, the City of Deltona advocates the adoption of Alternative 16 (a phased plan including both 16A and 16B), modified to address concerns of Sprint by including Bradford County in Area A in phase 16B (thus, avoiding a split between Bradford and Clay Counties). Alternative 16 can be found in Exhibit 16, and, in particular, the LF-5 portion of Exhibit 16. In the event Alternative 16 is not, for whatever reason, supported by the Commission, the City of Deltona would, then, advocate the adoption of Alternative 6, modified, however, to **include** the DeBary and Osteen exchanges in Area B (thus, all of Volusia County would be included in one area code). Alternative 6 would be further modified to include Bradford County in Area A, so as to address the concerns of Sprint, and not split Bradford and Clay Counties.

**Issue 1a: Should the Commission approve the industry's consensus relief plan for the 904 area code?**

**\*\*Position: No. An overlay or additional area code in the City of Deltona would not be in the public interest. This would bring as many as four (4) area codes to the City of Deltona alone! The entire geographic area of Volusia County should be brought into a single area code.**

The industry's consensus relief plan for the 904 area code calls for an overlay which would bring yet **another** area code to the small geographic area of the City of Deltona, located in the southwest area of Volusia County. There are already three (3) area codes for this small City--904, 407 and 321! This untenable situation is unknown in the rest of the state, including the major metropolitan areas of Jacksonville, Orlando and Miami. (Transcript 37, 40 (testimony Gardner); Exhibit 8, p 52 (deposition Greer); Exhibit 11 (area map southwest Volusia County)). Adding an additional overlay would bring this number to four (4), and, possibly five (5), appreciating that the 407/321 overlay lifetime is limited!

As stated by the FPSC in its Reply Comments, dated August 31, 1999, in CC Docket No. 99-200, the industry's agenda and the state commission's agenda may not be one and the same. The industry's agenda is necessarily focused primarily on profit maximization, while that of the Commission is protection of the welfare of their consumers. (Exhibit 1)

The public of the City of Deltona and Volusia County look to the Commission for relief. It is within the jurisdiction of the FPSC to consolidate Volusia County into a single area code--that is, **all** of Volusia County, including all of the City of Deltona. The gravity of the problem is

demonstrated by Exhibit 11 (area map of southwest Volusia County) and Composite Exhibit 10 (local Deltona telephone directory).

Currently, in the City of Deltona, literally, neighbors within the same city are having to make long distance calls across the street, and are having to dial eleven (11) digits to communicate with one another! (Transcript 45-46 (testimony Weiss); Composite Exhibit 10 (local telephone directory)). The Commission has the ability and has indicated an interest in ameliorating this serious condition.

Browsing through the local telephone directory it is readily obvious that many businesses and residents of the City of Deltona are not even listed, and cannot be found, in the Deltona directory. Take, for example, the Deltona Elks Lodge. In order to locate that number, you must have the foresight to look in the Sanford, not the Deltona, directory.

This proposal, to assign to the entirety of Volusia County one area code, has the **overwhelming** public support of the businesses, residents and elected officials throughout Volusia County. (Testimony presented at service hearings; Exhibit 2 (numerous Cities' and County's Resolutions, Chamber of Commerce Resolutions, residents' letters); Transcript 195-197 (testimony Evans)).

Geographic splits are competitively neutral, whereas an overlay plan can significantly frustrate entry by competitors into the local exchange market. (Transcript 161-163 (testimony Faul)). The Commission is charged with the authority and responsibility of protecting the public health, safety and welfare, as well as promoting competition by encouraging new entrants into the telecommunications market. Section 364.01 (4), Florida Statutes.

Admittedly, with respect to inclusion of the Osteen exchange in the proposed one area code

for Volusia County, insufficient interest was demonstrated by ballot to warrant earlier relief (Docket No. 981795-TL). In response, the City would offer that the evidence in **this current docket** is overwhelmingly in support of a single area code for **all** of Volusia County. Even a cursory review of the ballot utilized in Docket No. 981795-TL shows how confusing the question presented to the residents was. And the record in that docket demonstrates that only a very small percentage of the residents of the City of Deltona (less than 1/6), and an even smaller percentage of the residents of the County of Volusia, were polled on the issue.

A change to a new and single area code in all of Volusia County ought to take place all at one time so as to reduce customer confusion and inconvenience to the greatest extent possible. The Commission unquestionably has the jurisdiction to effectuate this relief by means of the current docket.

**Issue 1b:**     **If the Commission does not approve the industry's consensus relief plan, what alternative plans should be approved for the 904 area code?**

**\*\*Position:**   **The entire geographic area of Volusia County should have one single area code. All the municipalities, the County and Chamber of Commerce in Volusia County advocate for the assignment of the area code 386 ("FUN"). Alternative 16 (phased A and B) or a modified Alternative 6 would accomplish this objective.**

To accomplish a single area code for all of Volusia County, the City of Deltona advocates the adoption of Alternative 16 (a phased plan including both 16A and 16B), modified, however, to



address concerns of Sprint, so as to include in phase 16B Bradford County in Area A (thus, avoiding a split between Bradford and Clay Counties). Alternative 16 can be found in Exhibit 16, and, in particular, the LF-5 portion of Exhibit 16. In the event Alternative 16 is not, for whatever reason, supported by the Commission, the City of Deltona would, then, advocate the adoption of Alternative 6, modified, however, to **include** the DeBary and Osteen exchanges in Area B (thus, all of Volusia County would be included in one area code). Alternative 6 would be further modified to include Bradford County in Area A, so as to address the concerns of Sprint, and to not split Bradford from Clay County.

Utilizing either (modified) 16 A and 16B or (modified) 6, all of Volusia County should be assigned a new area code, while Duval County will retain the 904 area code. Thomas Foley, NPA relief planner with Neustar, the neutral third party administrator for the North American Numbering Plan Administration, has confirmed with FPSC staff, Mr. Ileri, Volusia County and the City of Deltona that the area code 386 ("FUN") has been reserved for Volusia County, and that there should be no conflicts with such assignment so long as the relief plan adopted does not include Duval, Clay and St. Johns County in the 386 area code with Volusia County. Alternatives 16 (A and B) and 6 satisfy this precondition, so as to avoid conflicts. (Transcript 228-232, Exhibit 16, LF-5).

Both of the preferred alternatives (16 (A and B) and 6) would, also, satisfy the industry guideline that the difference between the area codes in a given alternative not exceed fifteen (15) years. Alternative 16 B, the final, and integral, phase of Alternative 16, leads to a differential of 11.1 years without overlay (phase C), or a differential of 8.4 years with overlay (phase C). Likewise, Alternative 6 leads to a differential of 11.2 years. (Exhibit 16, LF-5).

Moreover, the exhaust dates are not absolutes, but best "guestimates," likely to be affected

by such variables as conservation measures and the number of new entrants in the market. Whether the exhaust dates would increase or decrease as a result of the variables is uncertain. (Exhibit 6, pp. 14,17,20, 25, 27-29 (deposition of Foley)). Therefore, even were the fifteen year industry "guideline" breached, which it is not by Alternatives 16 and 6, it ought not be applied as a adopted regulation so as to prevent selection of a plan which affords the most meaningful relief and accords with the greatest support with the Community of Interest.

**Issue 2a: What number conservation measures, if any, should be implemented for the 904 area code?**

**\*\*Position: It is the position of the City that number conservation measures should be adopted by the Commission to avoid the future necessity for number overlay in the City of Deltona. The City supports the measures adopted by Order No. PSC-00-1046-PAA-TP, together with local number portability and rate center consolidation.**

The City of Deltona has consistently supported number conservation measures to avoid the future necessity for number overlay in the City, including those measures adopted by the Commission by Order No. PSC-00-1046-PAA-TP, NXX code reclamation and 1000's block number pooling. Furthermore, local number portability is needed, and should be required.

**Issue 2b:** If number conservation measures are to be implemented, when should they be implemented?

**\*\*Position:** As quickly as reasonably possible.

**Issue 3:** What should be the dialing pattern for local, toll, EAS and ECS calls for the 904 area code?

**\*\*Position:** Local, EAS and ECS- 7 digit dialing; Toll- 11 digit dialing.

**Issue 4:** What is the appropriate relief plan implementation schedule for the 904 area code?

**\*\*Position:** The City of Deltona supports an implementation schedule where any and all changes within the areas of 904, 407 and 321 and the rest of Volusia County are implemented at the same time.

## **CONCLUSION**

The City of Deltona, in unison with the County of Volusia and citizens and business community, urges the Commission to adopt a relief plan which assigns one single new area code to the entire geographic area of Volusia County--not to adopt the industry consensus plan which would add an overlay and additional, fourth (4th) area code to this one small city. The City of Deltona urges adoption of Alternative 16 (A and B) or Alternative 6, modified, as discussed above, to include the DeBary and Osteen exchanges with the balance of Volusia County, and, further, modified so as to not split Bradford from Clay County. The time is ripe for elimination of the multiple area codes in the City of Deltona. The Commission has the jurisdiction and opportunity to do so in this docket.

## **PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The City of Deltona proposes that the Commission include in its Order the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. In Docket No. 990517-TL, presently before the Commission on review of proposed numbering plan relief for the 904 area code, the positions of the City of Deltona and of the County of Volusia are united.
2. Wayne Gardner presented direct and rebuttal testimony on behalf of the City of Deltona (Transcript 36-42), and introduced Composite Exhibit 10 (local telephone directory and Resolution of the City Commission).
3. On behalf of Volusia County, Robert Weiss presented direct testimony (Transcript 43-48), and introduced Exhibit 11 (area map of southwest Volusia County area code, LATA and exchange boundaries) and Exhibit 12 (Resolution of the Volusia County Commission).
4. John Evans presented rebuttal testimony on behalf of Volusia County. (Transcript 195-197)
5. Lenny Fulwood presented direct testimony on behalf of the FPSC (Transcript 189-194), and introduced Exhibit 16 (alternatives to the industry's consensus numbering relief plans).
6. The portion of Exhibit 16 relevant to the 904 area code is labelled as "LF-5."
7. These alternative relief plans were developed in response to the Community of Interest in the City of Deltona and Volusia County. (Exhibit 7, Fulwood deposition, pp 16-17)
8. The industry's consensus relief plan for the 904 area code overlay which would bring yet

**another** area code to the small geographic area of the City of Deltona, located in the southwest area of Volusia County.

9. There are already three (3) areas codes for this small City of Deltona--904, 407 and 321.
10. This situation is unknown in the rest of the state, including the major metropolitan areas of Jacksonville, Orlando and Miami. (Transcript 37, 40 (testimony Gardner); Exhibit 8, p 52 (deposition Greer); Exhibit 11 (area map southwest Volusia County))
11. Adding an additional overlay would bring this number to four (4), and, possibly five (5), appreciating that the 407/321 overlay lifetime is limited.
12. Within one city, Deltona residents and businesses face the untenable prospect of memorizing four or five different area codes to successfully make telephone calls across the street or down the block.
13. A change within the entire geographic area of Volusia County, encompassing all of the City of Deltona, to a single area code would be in the best interests of the residents and of the economy of the area.
14. Currently, in the City of Deltona, literally, neighbors within the same city are having to make long distance calls across the street, and are having to dial eleven (11) digits to communicate with one another.
15. This proposal, to assign to the entirety of Volusia County one area code, has the **overwhelming** public support of the businesses, residents and elected officials throughout Volusia County. (Testimony presented at service hearings; Exhibit 2 (numerous Cities' and County's Resolutions, Chamber of Commerce Resolutions, residents' letters); Transcript 195-197 (testimony of Evans)).

16. Geographic splits are competitively neutral, whereas an overlay plan can significantly frustrate entry by competitors into the local exchange market. (Transcript 161-163 (testimony Faul)).
17. A change to a new and single area code in all of Volusia County ought to take place all at one time so as to reduce customer confusion and inconvenience to the greatest extent possible.
18. To accomplish a single area code for all of Volusia County, the City of Deltona advocates the adoption of Alternative 16 (a phased plan including both 16A and 16B), modified, however, to address concerns of Sprint, so as to include in phase 16B Bradford County in Area A (thus, avoiding a split between Bradford and Clay Counties).
19. Alternative 16 may be found in Exhibit 16, and, in particular, the LF-5 portion of Exhibit 16.
20. In the event Alternative 16 is not, for whatever reason, supported by the Commission, the City of Deltona would, then, advocate the adoption of Alternative 6, modified, however, to **include** the DeBary and Osteen exchanges in Area B (thus, all of Volusia County would be included in one area code). Alternative 6 would be further modified to include Bradford County in Area A, so as to address the concerns of Sprint, and to not split Bradford from Clay County.
21. Utilizing either (modified) 16A and 16B or (modified) 6, all of Volusia County should be assigned a new area code, while Duval County will retain the 904 area code.
22. Both of the preferred alternatives (16 (A and B) and 6) would, also, satisfy the industry guideline that the difference between the area codes in a given alternative not exceed fifteen (15) years.
23. Moreover, the exhaust dates are not absolutes, but best “guestimates,” likely to be affected

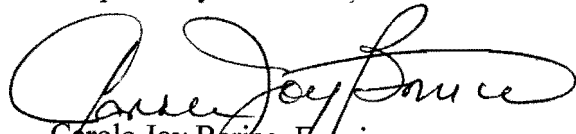
by such variables as conservation measures and the number of new entrants in the market. Whether the exhaust dates would increase or decrease as a result of the variables is uncertain. (Exhibit 6, pp 14, 17, 20, 25, 27-29 (deposition of Foley))

24. The time is ripe for elimination of the multiple area codes in the City of Deltona.

### CONCLUSIONS OF LAW

1. An additional overlay or additional area code in the City of Deltona, or in Volusia County as a whole, as proposed by the industry consensus, would not be in the public interest.
2. A change within the entire geographic area of Volusia County, encompassing all of the City of Deltona, to a single area code would be in the best interests of the residents and of the economy of the area.
3. It is within the jurisdiction of the FPSC to consolidate Volusia County into a single area code--that is, all of Volusia County, including all of the City of Deltona.
4. The Commission is charged with the authority and responsibility of protecting the public health, safety and welfare, as well as promoting competition by encouraging new entrants into the telecommunications market. Section 364.01(4), Florida Statutes.
5. The Commission has the jurisdiction to effectuate a single area code for all of Volusia County by means of the current docket.

Respectfully submitted,



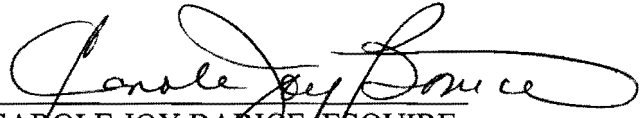
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the attached service list, this 22 day of June, 2000.



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