

MEMORANDUM

February 19, 1998

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TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BROWN) MCB

RE: DOCKET NO. 980048-TL - REQUEST FOR REVIEW OF PROPOSED
NUMBERING PLAN RELIEF FOR 813 AREA CODE.

PSC-98-0304-PAD-TL

Attached is a PREHEARING ORDER, to be issued in the above
referenced docket. (Number of pages in order - 11)

MCB/anr
Attachment
cc: Division of Communications
I: 980048po.mcb

MUST GO TODAY

6 for printing
1 mailed (Leland)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for review of
proposed numbering plan relief
for 813 area code.

DOCKET NO. 980048-TL
ORDER NO. PSC-98-0304-PHO-TL
ISSUED: February 19, 1998

Pursuant to Notice, a Prehearing Conference was held on February 18, 1998, in Tallahassee, Florida, before Chairman Julia L. Johnson, as Prehearing Officer.

APPEARANCES:

Jack Shreve, Esquire, Charlie Beck, Esquire, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Suite 812, Tallahassee, Florida 32399-1400.

On behalf of Citizens of the State of Florida.

Kimberley Caswell, Esquire, P.O. Box 110, FLTC0007, Tampa, Florida 33601-011.

On behalf of GTE Florida Incorporated.

Richard Nelson, Esquire, Hopping Law Firm, P.O. Box 6526, Tallahassee, Florida 32314, and Thomas K. Bond, Esquire, 780 Johnson Ferry Road, Suite 700, Atlanta, Georgia 30342.

On behalf of MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc.

Mark Logan, Esquire, Bryant Law Firm, 201 South Monroe Street, Suite# 700, Tallahassee, Florida 32301, and Marsha Rule, AT&T Communications of the Southern States, Inc., 101 North Monroe Street, Suite 700, Tallahassee, Florida 32301.

On behalf of AT&T Communications of the Southern States, Inc.

Senator Jack Latvala, 19th District, 35111 US Highway 19N, Suite# 105, Palm Harbor, Florida 34684.

On behalf of himself.

Martha Carter Brown, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Commission Staff.

DOCUMENT NUMBER-DATE

02417 FEB 1998

FPSC-RECORDS/REPORTING

PREHEARING ORDER

I. CASE BACKGROUND

On January 8, 1998, the Florida Public Service Commission held public workshops in Tampa and St. Petersburg to provide information and receive customer testimony regarding GTE Florida, Inc.'s (GTEFL) proposal to provide relief for the pending exhaustion of the 813 area code. At the workshops, and by request thereafter, customers asked the Commission to hold a formal hearing to review proposed relief plans. Accordingly, this matter has been set for an administrative hearing in Tampa, Florida on February 24, 1998.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of

record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUE NO.</u>
<u>DIRECT</u>		
Beverly Y. Menard	GTEFL	1 and 2
Sergin J. Gancarz	GTEFL	1
Kelly Faul	MCI and MCI Metro	1 and 2
Bobby R. Smith	AT&T	1 and 2
Senator Jack Latvala	Self	1

V. BASIC POSITIONS

OPG: The Citizens take no position at this time.

GTEFL:

The Commission should affirm the geographic overlay as the most appropriate solution to the number exhaust problem in the Tampa Bay area. This method of relief was unanimously approved by the current code holders in the 813 area code. The overlay is the least disruptive and most long-term solution for the area at issue. There is no geographic split that makes sense and that will not cause confusion about dialing patterns. Even if it is not implemented now, an overlay, along with ten-digit dialing, will likely become inevitable.

MCI:

In general, geographic splits are preferable to overlays as a mean of providing area code relief. Geographic splits tend to have fewer end-user impacts and fewer negative impacts on emerging competition. If the Commission nevertheless determines, due to the unique circumstances in the 813 area code that an overlay is in the public interest, it should impose several conditions to mitigate the adverse impacts on competition. These conditions include: 1) no slippage in the current schedule for permanent local number portability (LNP);

2) 10-digit dialing should be required both within and between the old and new area codes; 3) GTE should be required to analyze and report on the feasibility of a revenue-neutral rate center consolidation plan for the 813 area; and, 4) a workshop or other process should be established to consider a number pooling mechanism for the Tampa LNP area.

AT&T:

AT&T suggests that any NPA relief must be planned and implemented in a competitively neutral manner so that no particular service provider is unduly favored or adversely affected. The impact of area code relief on customers should be kept to a minimum while promoting the development of local competition for the long term benefit of Florida consumers. AT&T suggests a geographic split best accomplishes these goals in the 813 NPA.

LATVALA:

The interests of the citizens residing in the 813 area code will be best served by implementing a geographic split to provide additional numbers.

STAFF:

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VI. ISSUES AND POSITIONS

ISSUE 1: Should the Commission approve the overlay plan for 813 area code relief, and if not, what relief plan should the Commission approve?

POSITION:

OPC: No Position at this time.

GTEEL:

Yes, the Commission should approve the overlay plan, which was unanimously approved as the best solution by current code holders in the telecommunications industry. The overlay is the least disruptive and most long-term solution, and recognizes that Tampa Bay is a single metropolitan area. In contrast, there is no rational geographic split, and the area would, in any case, be facing an overlay solution in the not-too-distant future.

MCI:

The Commission should not approve the overlay plan for the 813 area code. If relief is necessary, the Commission should approve a geographic split. If the Commission nevertheless determines, due to the unique circumstances in the 813 area code that an overlay is in the public interest, it should impose the following conditions to mitigate the adverse impacts on competition: 1) no slippage in the current schedule for permanent local number portability (LNP); 2) 10 digit dialing should be required both within and between the old and new area codes; 3) GTE should be required to analyze and report on the feasibility of a revenue-neutral rate center consolidation plan for the 813 area; and, 4) a workshop or other process should be established to consider a number pooling mechanism for the Tampa LNP area.

AT&T:

While there are advantages and disadvantages of either imposing an overlay as proposed by GTE or a geographic split, AT&T suggests that the advantages associated with the latter outweigh the former. From a technical standpoint, AT&T will support either one. The determining factor should be what is in the best interests of the people living and working within the 813 area code.

LATVALA:

No. The Commission should implement a geographic split instead of an overlay plan.

STAFF:

Staff has no position at this time.

ISSUE 2:

What should the dialing pattern be for the following types of calls?

- a. Local
- b. Toll
- c. EAS
- d. ECS

POSITION:

OPC: No position at this time.

GTEEL:

- a) Upon implementation of the overlay, local calls will be ten-digit dialed. Even with a geographic split, certain local calls should be dialed on a ten-digit basis, as detailed in Ms. Menard's Exhibit BYM-1. There is no dividing line that will not split some local calling area.
- b) Dialing on the toll routes at issue (shown in Exhibit BYM-1) will continue to be 1+10 digits, regardless of the relief plan implemented.
- c) Upon implementation of the overlay, EAS calls would be dialed on a ten-digit basis. Even if a geographic split is used, certain EAS calls should be dialed on a ten-digit basis, as shown in Exhibit BYM-1.
- d) Upon implementation of the overlay, ECS calls would be ten-digit dialed. Even if a split is implemented, certain ECS calls should be dialed on a ten-digit basis, as detailed in Exhibit BYM-1.

MCI:

If the Commission approves an overlay, 10 digit dialing should be required within and between the new and old area codes for all types of calls. In addition, toll calls should be made on a 1+ 10-digit basis. If the Commission approves a geographic split, 10-digit dialing should be required between the new and old area dialing codes for all types of calls. In addition, toll calls should be made on a 1+ 10-digit basis. Local, ECS, and EAS calls within an area code may be on a seven digit basis.

AT&T:

If the Commission approves an overlay, 10 digit dialing should be required within and between the new and old area codes for all types of calls. In addition, toll and ECS calls should be made on a 1+ 10-digit basis.

If the Commission approves a geographic split, 1-digit dialing should be required between the new and old area dialing codes for all types of calls. In addition, toll and ECS calls should be made on a 1+ 10-digit basis. Local and EAS calls within an area code may be on a seven digit basis.

LATVALA:

No position.

STAFF:

Staff has no position at this time.

VII. EXHIBIT LIST

WITNESS	PROFFERED BY	I.D. NUMBER	DESCRIPTION
Beverly Y. Menard	GTEFL	_____ (BYM-1)	dialing patterns
Sergin J. Gancarz	GTEFL	_____ (SJK-1)	relief options
Senator Jack Latvala	self		statement

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

The parties will inform the Commission at the conclusion of the hearing whether or not they agree to forego the filing of post-hearing briefs in the case.

IX. PENDING MOTIONS

None.

X. RULINGS

Senator Latvala's request to be excused from the prehearing conference was granted at the commencement of the conference.

Senator Latvala's request to personally deliver the statement attached to his testimony at the hearing is granted.

AT&T's Motion to Accept Late-Filed Prehearing Statement is granted.

XI. OTHER MATTERS

The parties shall deliver a brief opening statement at the commencement of the hearing.

It is therefore,

ORDERED by Chairman Julia L. Johnson, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

ORDER NO. PSC-98-0304-PHO-TL
DOCKET NO. 980048-TL
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By ORDER of Chairman Julia L. Johnson, as Prehearing Officer,
this 18th day of February, 1998.



Julia L. Johnson, Chairman
and Prehearing Officer

(S E A L)

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.