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November 6, 2000

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BY HAND DELIVERY
Ms. Blanca Bayó, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket Nos. 990455-TL, 990456-TL, 990457-TL and 990517-TL

Dear Ms. Bayó:

Enclosed for filing on behalf of the Florida Code Holders Group are an original and fifteen copies of their Joint Motion for Reconsideration and Request for Hearing on Proposed Agency Action in the above referenced dockets.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

Floyd R. Self

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cc: Parties of Record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Review of Proposed Numbering Plan Relief for the 305/786 Area Code - Dade County and Monroe County/Keys Region	Docket No. 990455-TL
In re: Review of Proposed Numbering Plan Relief for the 561Area Code	Docket No. 990456-TP
In re: BellSouth Telecommunications, Inc.'s Request for Review of Proposed Numbering Plan Relief for the 954 Area Code	Docket No. 990457-TL
In re: Review of Proposed Numbering Plan Relief for the 904 Area Code	Docket No. 990517-TP Filed: November 6, 2000

JOINT MOTION FOR RECONSIDERATION AND REQUEST FOR HEARING ON PROPOSED AGENCY ACTION

COMES NOW the undersigned parties ("Joint Petitioners") and pursuant to Rules 25-22.029 and 25-22.060, Florida Administrative Code, file this Joint Motion for Reconsideration and Request for Hearing on Proposed Agency Action ("Joint Petition") of portions of Order No. PSC-00-1937-PAA-TL ("Order") issued on October 20, 2000, by the Florida Public Service Commission ("Commission"), which was received by the undersigned via U.S. Mail. In support of the limited relief sought by this Joint Petition, the Joint Petitioners state:

I. INTRODUCTION

1. The name, address, and telephone numbers of each of the Joint Petitioners is attached hereto as Exhibit "A." Each of the Joint Petitioners is a telecommunications provider authorized to offer telecommunications service in Florida or is an association that represents telecommunications providers authorized to offer telecommunications services in Florida. Each of the telecommunications carriers represented by this Joint Petition has been assigned or may request to be assigned blocks of telephone numbers (NPA-NXX codes) in order to make possible the

provision of telecommunications services to end users, and will be substantially affected by the proposed agency action provisions of the Order.

2. The purpose of this Joint Petition is to seek reconsideration and clarification of limited portions of the Order as is more fully described herein and to protest the code sharing provisions of the Order. The Joint Petitioners do not seek reconsideration of nor protest the entire Order or its basic determinations with respect to the NPA relief ordered therein. In fact, the Joint Petitioners in large measure support the determinations of the Commission as reflected in the Order. However, in order to more fully realize the objectives and fundamental policy decisions rendered in the Order, consistent with the Commission's delegated authority, there are certain, limited portions of the Order which the Joint Petitioners believe are appropriate for reconsideration or clarification, or which require a hearing before proceeding further.

3. As to the points of the Order at issue for Joint Petitioners, it will be demonstrated for each that the Commission failed to consider or overlooked a point of law or fact, and that under the circumstances it would be appropriate for the Commission to grant reconsideration or clarification. Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974). Moreover, Joint Petitioners are not here merely to reargue matters that have been considered, but to bring pertinent issues to the attention of the Commission. To that end, Joint Petitioners request that the Commission grant reconsideration on the following issues identified in the following sections.

II. RECONSIDERATION AND CLARIFICATION

A. Further Rationing of NXX Codes

4. In Section VI.E of the Order, beginning at page 67, the Commission ordered additional, stricter rationing measures for the 561, 954, and 904 NPAs, by reducing the availability of NXX codes to three NXX codes per month with one of the three codes to be made available to wireless carriers. The Commission should reconsider this decision as it fails to consider the fact that the limitation on the allocation of the remaining NXX codes for the 561, 954 and 904 NPAs violates

the Florida Delegation Order[1] and other FCC orders, has no support in the record, and unfairly and impermissibly discriminates against wireless carriers.

5. As noted in the Order, under the direction of NANPA, the industry agreed to institute rationing procedures for the release of six NXX codes per month for the 954 area code, seven NXX codes per month for the 561 area code, and seven NXX codes per month for the 904 area code, pending the Commission's decisions for the implementation of a specific relief plan for each of these area codes. See Order, at 7-8.

6. Despite the industry consensus on a rationing plan for these three area codes, and despite the lack of evidence in the record which would support a rationing plan other than the above-described industry consensus, the Commission ordered a flash cut to a new rationing plan. Under the Commission's new rationing plan, NXX codes would be rationed at a rate of three NXX codes per month in the 561, 954, and 904 area codes until all NXX codes in these area codes reach exhaust. Further, the Commission decided to limit non-pooling carriers to only one of the three NXX codes made available under the new rationing plan. See, Order at 67.

7. The Commission should reconsider and reinstitute the rationing plan reflected in the industry consensus. The new, discriminatory rationing plan ordered by the Commission is clearly unlawful.[2]

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

[2] The Commission attempts to justify its new, discriminatory and unlawful rationing plan with speculation "that once pooling takes place in the 561, 954, and 904 area codes, the demand for 1,000-blocks will decline." See Order at 87. There is no evidence in the record supporting such speculation. Demand for full NXX codes may decline because pooling participants will obtain numbering resources in 1,000 number increments, but demand for 1,000 blocks is likely to remain the same on an overall basis. Moreover, it would seem unlikely that demand will decline in these area codes (561, 954, and 904) where rationing has been in place for more than a year. To the contrary, a reservoir of mounting but unsatisfied demand could well increase the demand for numbers.

8. First, in the Pennsylvania PUC Numbering Order[3], the FCC delegated authority to state commissions to order NXX code rationing in conjunction with area code relief decisions only "in the absence of industry consensus on a rationing plan." Id., at ¶54. The FCC in the Florida Delegation Order "declined to reach the Florida Commission's request for authority to revise rationing plans put into place pursuant to industry consensus." Florida Delegation Order at ¶39. Here, of course, there has been an industry consensus rationing plan in place and any modification of that plan by the Commission in conjunction with the implementation of area code relief plans in these dockets would clearly violate the Pennsylvania PUC Numbering Order and the Florida Delegation Order.

9. Second, there is absolutely no rationale or evidentiary support for the decision to limit non-pooling carriers to one NXX code per month until (presumably) all NXX codes in the 954, 561, and 904 area codes reach exhaust. The Commission's decision fails to address the demands of non-pooling carriers, including wireless carriers, who must continue to receive numbers in full NXX codes, not 1,000 number blocks. Moreover, the Commission's decision fails to adhere to the FCC's mandate that all carriers must have adequate access to numbering resources and that numbering administration, including a rationing plan, should not discriminate against a particular segment of the industry. See Pennsylvania PUC Numbering Order, at ¶6; 47 C.F.R. Sec. 52.9(a); FCC Order No. 96-333 issued on August 8, 1996 in CC Docket No. 96-98, at ¶278. The FCC has determined that,

> as pooling is implemented, non-LNP capable carriers must continue to be able to obtain the numbering resources they need, despite their inability to participate in thousands-block number pooling. Thus, we require the NANPA to ensure the continued existence of concurrent number allocation mechanisms available to non-LNP-capable carriers and to ensure that numbers are administered in a manner that does not

[3] In the Matter of 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, CC Docket No. 96-98, FCC 98-224, NSD File No. L-97-42 (Order adopted September 11, 1998, and released September 28, 1998).

> discriminate on the basis of a carrier's LNP-capability status. FCC NRO ¶135.

Limiting non-pooling carriers ability to obtain an NXX code to only one per month is clearly discriminatory against non-pooling capable carrier and is in violation of the FCC's Order.

10. Finally, the Florida Delegation Order limits the Commission's authority, in the case of an area code split (the 561 and 904 NPAs) to:

> direct that whatever rationing plan was in place prior to area code relief continue to be applied in both the newly implemented area code and the relieved area code for a period of up to six months following the area code relief date.

In the case of an overlay (the 954 NPA), the Florida Delegation Order authorizes the Commission only to:

> direct that the pre-existing rationing plan be applied to both the overlay code and the relieved code for a period of six months following the area code relief date.

Florida Delegation Order, at ¶28. The Commission's deviation from the pre-existing rationing plan and decision to restrict rationing for an unspecific period of time to three NXX codes per month, with only one NXX code available to a non-pooling carrier, is outside the limited interim authority granted to the Commission pursuant to the Florida Delegation Order and in violation of the FCC's NRO.

B. 75% Utilization Threshold Rate

11. In its Order, the Commission requires all non-pooling carriers in the 305, 561, 786, 904, and 954 area codes to achieve a 75% overall utilization rate within a NXX before requesting the assignment of a new NXX in the same rate center. Order, at 62. According to the Commission, a utilization threshold is "a conservation measure" that should improve "the efficiency with which numbers are used by requiring carriers to use contaminated blocks up to a specified percentage before they can receive and use additional blocks." Order, at 59. It is inappropriate on the basis of this record for this Commission to order such a requirement at this time.

12. The Order specifically recognizes that rigid application of a precise utilization rate may not adequately address the needs of fast-growing carriers and could result in the assignment of numbers to carriers that do not actually need them. Order, at 61. The Commission further recognizes that the rigid application of a utilization rate fails to provide flexibility necessary to accommodate carriers' unique situations that invariably arise. Order, at 61. Paradoxically, however, the Commission ultimately ignores these very problems it identifies and establishes a 75% utilization rate, not based on any evidence in the record, but simply because it is the utilization rate used in several other states.

13. The Commission's 75% utilization rate is both arbitrary and premature. Instead of establishing a Florida utilization threshold using Florida-specific utilization data, the Commission defers to the decisions of five other states. Indeed, the only stated basis for the Commission's 75% utilization rate is that it is "consistent with decisions by other state commissions, such as California, Maine, Massachusetts, New Hampshire, and New York." Order, at 62. There is a complete absence of data in the record of this proceeding addressing a 75% utilization rate for Florida. The 75% utilization rate was never considered by the Commission at the hearing. There is also a complete lack of record evidence establishing that utilization patterns and competitive markets in the five other states that use a 75% utilization rate are sufficiently similar to Florida to justify Florida adopting the same utilization threshold. Moreover, there is no data that indicates that utilization thresholds in those states or elsewhere have proven effective as a number conservation technique or reduced the net amount of NXXs requested by non-pooling carriers.

14. The Commission's reliance on utilization thresholds from other states is not justified. Furthermore, the FCC has changed the manner in which utilization thresholds will be determined. States that have adopted a utilization rate of 75 percent have calculated the rate based on "unavailable" numbers, which is fundamentally different from basing the utilization rate on numbers that are assigned. *See*, 47 CFR § 52.15(f)(5).

15. Furthermore, a carrier that does not meet the utilization threshold should be permitted to obtain a growth code if, based on historical utilization, the carrier can demonstrate that it will run out of numbers in less than six months or that an additional code is needed to meet a documented customer request. In the absence of such an exception, a carrier's ability to meet customer's demands for new service would be severely hampered without any corresponding number conversation benefits.

16. The establishment of a utilization threshold in Florida is an extremely important decision and one that, if not properly developed, could have serious adverse consequences on competitive telecommunications services in Florida. The Joint Petitioners respectfully submit that the establishment of a 75% utilization rate without actual utilization data to support that threshold could result in the unnecessary denial or delay of code requests. This would invariably thwart competition, especially for new entrants with a smaller subscriber base and numbering resources, since carriers with rapidly growing markets will not be able to obtain new numbering resources in a timely manner. For these reasons, the Commission should proceed cautiously in this area. In addition, caution in development of a utilization threshold for Florida is warranted because the FCC is currently in the midst of developing a uniform utilization threshold to be applied nationally. Accordingly, the Joint Petitioners respectfully request that the Commission reconsider its decision and vacate the 75% utilization threshold. If the Commission believes it must establish some interim utilization rate for non-pooling carriers, then the Commission should establish a 50% utilization threshold. If the Commission later empirically determines that a 50% utilization rate is too low, or too high, it can revisit the issue and modify the threshold requirement based upon a record that actually considers evidence on the subject.

C. Implementation of Daytona Beach and Ft. Pierce Pooling Trials

17. The Joint Petitioners request that the Commission reconsider its decision regarding the schedule for the implementation of number pooling in the Daytona and Ft. Pierce MSAs. In setting the pooling implementation dates for these two MSAs, the Commission overlooked, or failed

to consider, a number of facts and the relevant legal authority with respect to setting the starting date for the implementation of pooling trials. Accordingly, the Commission should amend its order to state that number pooling should begin in the Daytona MSA approximately 60 days after the implementation of pooling in the Jacksonville MSA (scheduled for implementation on April 2, 2000) and that pooling should begin in Ft. Pierce approximately 60 days after the implementation of pooling in Daytona.[4]

18. It is not surprising that the Commission overlooked certain points of fact and law in ordering number pooling in Daytona and Ft. Pierce. No party to this proceeding offered any testimony or other evidence on this subject in this proceeding. Indeed, number pooling in these MSAs was never proposed by anyone at any time during the proceeding. The subject was first raised in the staff's recommendation, after the record had closed, and no parties were permitted to participate at that stage. While there is no record upon which to base an order to implement pooling in these two MSAs, the Joint Petitioners do not object to the implementation of pooling in these MSAs, but the schedule adopted in the Commission's Order is both unwarranted and unwise.

19. In Docket 981444, the Commission has ordered the implementation of number pooling in three MSAs: Ft. Lauderdale, in the 954 NPA (to begin on January 22, 2001); Palm Beach, in the 561 NPA (to begin on February 5, 2001) and; Jacksonville, in the 904 NPA (to begin on April 2, 2001). In the course of that proceeding, the Commission appropriately staggered the implementation of pooling in each MSA in accordance with the ruling of the FCC in its Order No. FCC 99-249. The intervals in that proceeding were designed to be approximately 60 days between

[4] In its order delegating number pooling authority to Florida, the FCC recognized that 90 days would not be an unreasonable interval before implementing number pooling in an additional MSA. Order No. FCC 99-249 at ¶19, fn.51.

implementation of pooling in each MSA to "provide carriers time to upgrade or replace their SCPs and other components of their network, as necessary ." Order No. FCC 99-249 at ¶ 19.[5]

20. In its Order, however, the Commission has ordered the affected carriers to implement pooling in Daytona on March 12 and in Ft. Pierce on April 30, with a previously ordered implementation in Jacksonville falling in between, on April 2. This schedule is not "appropriately staggered," and would not leave sufficient time for the carriers to replace SCPs and perform all of the other tasks necessary to implement pooling. Indeed, the Order would result in the carriers having to implement pooling in 5 MSAs in under 4 months, with the last three implementations falling within 50 days of one another.

21. Because pooling in the Daytona Beach and Ft. Pierce MSAs was never proposed during the course of this proceeding, the matter of implementation schedules was never addressed during the proceeding. Accordingly, there is no basis for the Commission's conclusion on page 54 of the Order that "[t]hese time lines provide sufficient intervals for the necessary activities." The mere identification of a number conservation issue in these dockets is insufficient to provide a basis for this type of decision. In order to propose to implement number pooling in these two MSAs in such short order, competent substantial evidence should have been presented that implementation of additional MSAs was warranted and that an implementation schedule with such short time frames, sandwiched around the Jacksonville MSA, could be done. Had number pooling in these two MSAs been an issue in the proceeding, the parties would have provided evidence that such a rush to implement pooling in multiple MSAs would not only be inconsistent with the FCC's grant of authority, but it would be unwise.

[5] The date for implementation of pooling in the 954 NPA was moved from December with the parties' consent, only after it became clear that NeuStar would not be able to deliver its 3.0 release on time. Accordingly, the implementation date was moved to January, to enable pooling to begin using the 3.0 release of NeuStar's number pooling software. Although this left very little time between the implementation of pooling in 954 and the implementation of pooling in 561, the parties were willing to agree to this extremely short interval in order to start pooling with the later release and to maintain the schedule that they themselves had proposed for 561 and 904. This amendment to the roughly 60 day staggered interval was only ordered after extensive discussion on the record from the parties regarding the appropriate intervals.

22. Implementing number pooling is a complicated endeavor. To require multiple MSAs to implement pooling in such haste would certainly increase the risk that unforeseen problems would arise, and that any such problems that arose would be more widespread. The FCC did not require "appropriately staggered" implementation in order to slow effective number conservation measures—it did so to ensure that pooling is implemented successfully.

23. In addition, the Commission apparently overlooked or failed to consider that the overly ambitious implementation schedule for these two MSAs is wholly unnecessary. The central purpose of these combined dockets was to adopt area code relief, and the Commission's decisions in this regard certainly lessen any perceived urgency to rush number pooling in these MSAs. The Commission has ordered that both the 904 and 561 NPAs be split, with Daytona and Ft. Pierce each destined for a new NPA. In Daytona, for example, the new NPA will be implemented rapidly, with permissive dialing to begin in February of 2001, and mandatory dialing in November, 2001.

24. As a result of the area code relief, pooling in Daytona will serve chiefly to benefit the new NPA (which is not in jeopardy). The 904 numbers currently assigned to customers in Daytona and other parts of the new NPA (or held by carriers serving those areas) will be available for use in the areas remaining in 904 after the split, which should remedy the jeopardy situation that now exists in 904. Pooling in the Jacksonville MSA should further contribute to the efficient allocation of 904 numbers. Accordingly, while pooling might still increase the efficiency with which numbers are utilized in the Daytona MSA, the Commission need not run the risk of rushing to implement pooling in Daytona and Jacksonville at virtually the same time.

25. Similarly, the Ft. Pierce MSA will no longer be in the 561 NPA after the Commission-ordered split occurs. As discussed in more detail below, there is no reason why the Commission should wait to implement area code relief in 561, and good reasons why it should be implemented immediately. After the 561 area is split, Ft. Pierce will be in a new NPA, which will not be in jeopardy of exhaust any time soon. In addition, the 561 numbers currently assigned or held by carriers serving the Ft. Pierce MSA will become available for use in Palm Beach County, the area

that will retain the 561 area code, which will relieve the jeopardy situation in that NPA. In addition, pooling in the Palm Beach MSA will improve the efficiency with which numbers in the 561 NPA are utilized. Accordingly, there is no reason to rush to implement pooling in Ft. Pierce without allowing a reasonable interval after the implementation of pooling elsewhere.

26. In summary, the Commission overlooked or failed to consider that there is no proposal for pooling in these MSAs, or testimony or other evidence relating to such a proposal, in the record in this proceeding. While the Joint Petitioners do not object to the implementation of pooling in these MSAs, the implementation schedule adopted by the Commission is both unwise and unwarranted. Accordingly, the Commission should reconsider the implementation schedule for number pooling in the Daytona and Ft. Pierce MSAs, and make them effective on the successive 60 day/60 days later schedule outlined herein.

D. Implement the 561 Geographic Split Now

27. In its Order, the Commission decided to relieve the jeopardy situation in the 561 NPA by a geographic split, with Palm Beach County retaining the 561 area code, and the remaining area currently in 561 to receive a new area code. Order, at 27-29. This plan enjoyed widespread support from community leaders, and would alleviate the current jeopardy situation in 561. While the Commission clearly recognized the urgency of the number shortage in 561 by ordering pooling in the Palm Beach MSA and (inappropriately) ordering draconian rationing measures, it inexplicably failed to order a schedule for the implementation of area code relief. The Joint Petitioners believe that the Commission overlooked or failed to consider a number of facts that demonstrate that the geographic split of the 561 NPA should be implemented at the earliest possible date. Accordingly, we request that the Commission reconsider its decision in this regard.

28. There is no reason why the geographic split ordered by the Commission should not be implemented as soon as possible. The plan enjoys overwhelming support from community leaders in every area that would be affected by the plan. In addition, the plan would preserve, to the greatest extent possible, seven digit-dialing where it exists today. In addition, although the split

would require customers outside Palm Beach County to receive a number change (to include the new NPA), this change will be necessary in the short term in any event. There is no reason why it would be preferable to implement the change later, and in fact it will be more burdensome to implement later rather than sooner.

29. There are many reasons why the immediate implementation of area code relief in 561 would be beneficial. First and foremost, this area code is in serious jeopardy of exhaust. While number conservation measures are likely temporarily to stave off the exhaustion of the area code to an undetermined degree, the NPA will exhaust in the near future, with or without such measures, if area code relief is not implemented. It would be better to implement that relief soon, in an orderly way, than to wait for what now is a critical situation to reach crisis proportions.

30. Second, the rapid implementation of this geographic split will likely extend the life of 561. Every day, until relief is ordered, or the NPA exhausts, customers outside of Palm Beach County will be assigned numbers in 561. When the area code relief is implemented, they will be in the position of having to change a number only recently received, which creates numerous problems. By delaying the split, there will be more numbers in aging, since they cannot be reassigned in Palm Beach County until they have been properly aged, thus limiting the availability of numbers in Palm Beach County. If the split were implemented now, these customers could receive numbers from the new NPA, and the 561 numbers they would have been assigned could be made immediately available.

31. Furthermore, it is widely accepted that number conservation methods, such as pooling, are more effective in extending the lifespan of an NPA if they are implemented early in the life of the NPA, rather than when the NPA is in jeopardy of exhaust. Accordingly, it is likely that the number pooling ordered for the Palm Beach and Ft. Pierce MSAs would do more to preserve the

lives of 561 and the new area code if relief were ordered now, than it would to stave off the exhaustion of 561, in its current state of extreme jeopardy.[6]

32. In addition, the rationing measures currently necessary to prevent the exhaust of numbering resources in 561 may hinder competition among providers and may deprive customers of access to service from their provider of choice. A decision to delay relief is a decision to exacerbate these problems. These are the very problems that area code relief is designed to prevent, which is why the FCC has said that when there is a jeopardy situation, a relief plan must be adopted. The Commission should act now to relieve this situation. There is no justification in the record, and indeed, no justification at all, for delaying this area code relief. The Commission should reconsider its decision and move to implement the geographic split for the 561 NPA with permissive dialing to being on June 19, 2001.

E. Wireless Grandfathering Should be Permitted

33. One matter completely overlooked and omitted from the Order is the grandfathering of wireless numbers when the 904 and 561 NPAs are split.[7] Mr. Guepe testified that any geographic split should include an option for wireless carriers to grandfather existing telephone numbers. (Guepe, Tr. 142-143.) As the Commission is well aware, whenever an NPA is split, wireless carriers must reprogram each individual wireless telephone to reflect its new NPA. This process is disruptive and inconvenient for the customers since it may require them to physically bring their phone to an office of the wireless carrier to have it reprogrammed. Moreover, given the large geographic areas and the numbers of customers that are going to be subject to an NPA change by this Order, this process is very expensive for the wireless carriers to implement.

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[6] Even if the Commission delays the implementation of the pooling in the Daytona Beach and Ft. Pierce MSAs, as is outlined herein, this statement is still true – given the permissive dialing periods to be afforded both of these MSAs prior to the final effective date of these NPA splits, the proposed delay in the start of pooling in these two MSAs would still start in time to help create this benefit.

[7] MCI WorldCom does not join in with or support reconsideration or clarification of this issue.

34. The process of wireless grand fathering means that for the customers whose NPA will change, the wireless carrier will retain the NPA-NXX within the geographically split, new NPA area. From a dialing standpoint, dialing to or from the wireless number would be consistent with Section VII of the Order: local calls would be dialed on a 7 digit basis where the originating and terminating numbers have the same NPA and local calls where the originating and terminating number have different NPA's would be dialed on a 10 digit basis.

35. As Mr. Guepe testified, by providing the wireless carriers with the option of grandfathering wireless numbers, a wireless carrier that did not want to change the telephone number for some or all of its affects could make that choice. Because this issue was not in any manner addressed by the Order, the Joint Carriers respectfully request that the Commission address this matter and grant the request for wireless grandfathering.

F. The Permissive Dialing Date for the 904 NPA Should be Changed

36. This Commission should reconsider its decision to set the permissive dialing date for the 904 area code relief. The date set in the Order is February 15, 2001. Order at 79. We request that this date be changed to Monday, February 12, 2001. Carriers ordinarily perform the necessary modifications to their information systems and databases to execute an NPA split over a weekend. Accordingly, Mondays are customarily chosen as the optimal dates to begin permissive dialing. The Joint Petitioners therefore request that the Commission reconsider the start date for permissive dialing in the 904 NPA and change it to begin on Monday, February 12, 2001.

G. Aging of Numbers Should be Consistent with the FCC's Timeline

37. In section VI.B.2.ii of the Order, at page 73, the Commission ordered specific timelines for the aging of residential and business numbers in jeopardy and non-jeopardy situations.[8] the Commission should reconsider its decision to set aging limits inconsistent with those ordered by the FCC as it violates the FCC Order. The FCC in its Number Resource Optimization Order set

[8] The Commission adopted non-jeopardy aging timelines for residential of no less than 30 and no longer than 90 days and for business no less than 90 and no longer than 365 days. For jeopardy situations that Commission ordered for residential no less than 30 and no longer than 90 days and for business no less than 60 and no longer than 180 days.

limits for the aging of numbers, specifically, the FCC adopted an upper limit of 90 days for residential numbers and 360 days for business numbers and declined to set lower aging limits. The FCC, in addition, determined that states were not allowed to alter the aging timeframes for numbers, "in the interest of maintaining uniformity in our definitions and reporting requirements, we decline to permit states to modify our aging limits."[9]

H. Assignment of Administrative Numbers

38. The Commission's limitation on the assignment of administrative numbers is unnecessary and not permissible. In Section VI.B.2.iii of the Order, beginning on page 73, the Commission ordered that code holders can not assign administrative numbers to multiple thousands blocks unless for technical reasons the administrative number has to be assigned to a specific thousands block. In this Order the Commission already correctly determined that the FCC has established requirements for sequential number assignment and determined that "it is unnecessary to establish additional guidelines to contrary the opening of new thousand-blocks within an assigned NXX".[10] The Commission by adding additional requirement for administrative numbers is in effect no longer following the guidelines that have been set forth for sequential number assignment and is inconsistent with their decision in this Order regarding sequential number assignment.

III. PAA PROTEST: Implementation of Code Sharing

39. In Section V.A.3 of the Order, beginning at page 24, the Commission required the implementation of code sharing in the Keys and Miami-Dade County. The record is completely lacking any support for implementation of code sharing at this time. In fact, at page 26 of the Order, the Commission states: "[w]e note that the record in this proceeding is quite limited with respect to code sharing." As the Order recognizes, little work has been undertaken by the working group assigned to study this subject, and in fact, no report has been prepared by this group for a variety of reasons that are not reflected in the record. Indeed, there is nothing in the record indicating that code

[9] See *In the Matter of Numbering Resources Optimization,* Report and Order, CC Dkt No. 99-200, FCC 00-104 (rel. March 31, 2000).

[10] Order, page 68.

sharing is technically feasible or economically viable. Accordingly, mere statements in the Order declaring that code sharing shall be implemented in these two areas is insufficient to establish that it can be implemented. The disputed issues of material fact and the ultimate facts alleged, along with the relevant rules, orders, and statutes affecting this protest, are detailed below.

40. While not present in the record, the industry's definition of "code sharing" is where one carrier is assigned as the code holder for the NXX code ("NPA -NXX holder"). The code holder then provides tandem like services to other carriers for up to nine of the thousands-blocks in the respective NXX. Because there is no definition or factual information present in this record, this definition of code sharing shall be used for the purposes of this Joint Petition.

41. There are a number of technical issues that would preclude code sharing. Most importantly, each carrier that would seek to share a code from the host carrier would need to subtend the host's switch. The carrier using the shared code must modify its switches and support systems to uniquely screen, route, and bill calls since the NXX code belongs to another carrier. Code sharing further requires unique modifications to switch routing tables, translation, and operations support systems. These modifications are entirely separate from the modifications necessary for pooling.

42. Additionally, most of the existing interconnection facilities would not support code sharing. In order to support code sharing it would be necessary for the subordinate carrier to provision Type 1 or Type 2B facilities. Since this type of interconnection only provides connectivity to the end office, it is highly inefficient, especially in an area like the Keys. Additionally, in order to pass CLASS services, these trunks would need to be provisioned with SS7 capability, which may present a technical hurdle.

43. In addition to the technical issues to be resolved, the paucity of the record creates another flaw. It has not been demonstrated that any minimal conservation effect resulting from code sharing outweighs the tremendous costs involved – both from an administrative and financial perspective.

44. Another non-technical issue is that of "financial interest." The carriers believe that code sharing gives the code holder a proprietary interest in the control of terminating traffic. One carrier, the NPA-NXX holder, has control of the terminating traffic for as many as 9 other carriers using the same NXX. In a competitive environment, it is inappropriate for this Commission to give one carrier "proprietary interest" over another carrier

45. Additionally, there is a significant issue regarding the degradation in service quality or network reliability with a competing carrier controlling terminating traffic to its competitors. Code sharing allows one carrier to control service quality and network reliability of up to 9 other carriers using the same NXX. There is the strong possibility that the Commission would be forced to resolve numerous disputes relating to service quality and network reliability between competing carriers. Local number portability is a better solution and was approved by the FCC as the vehicle to place service quality and network reliability on each individual carrier respectively.

46. As the body of the order recognized, this issue will be dealt with to a greater extent in Docket No. 981444-TP. A full record needs to be developed on this issue before the Commission can take any action to attempt to implement code sharing. Accordingly, the Joint Petitioners hereby protest the code sharing provisions of the Order and request that code sharing be evaluated in Docket No. 981444-TP. If it is proven to be feasible and viable, it should be implemented in that proceeding.

Respectfully submitted,

EXHIBIT "A"

The undersigned hereby joins in requesting reconsideration on all issues identified in Sections II A (Further Rationing), III (Code Sharing), #B (75% Utilization), #C (Pooling Trials), #E (Wireless Grandfathering) and #F (904 Permissive Dialing) of the joint petition submitted in these consolidated dockets on November 6, 2000 and in requesting a hearing with respect to the rate center consolidation proposed agency action provisions that are also being protested herein. The name, address, and telephone number of this Joint Petitioner are follows:

by Fax

Harriet Eudy ALLTEL Florida, Inc P. O. Box 550 Live Oak, FL 32060 904.364.2517	J. Jeffry Wahlen Ausley & McMullen P. O. Box 391 Tallahassee, FL 32302 850.425.5471

Respectfully submitted this 6th day of November, 2000.

J. JEFFRY WAHLEN
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ATTORNEYS FOR ALLTEL FLORIDA, INC.

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EXHIBIT "A"

The undersigned hereby joins in requesting reconsideration on all issues identified in the joint petition submitted in these consolidated dockets on November 6, 2000 and in requesting a hearing with respect to the proposed agency action provisions that are also being protested herein.. The name, address, and telephone number of this Joint Petitioner is: AT&T Communications of the Southern States, Inc., 101 N. Monroe St., Suite 700, Tallahassee, Florida 32301 and AT&T Wireless Services, Inc., P.O. Box 97061, Redmond, Washington 98073-9761.

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EXHIBIT "A"

The undersigned hereby joins in requesting reconsideration on all issues identified in the joint petition submitted in these consolidated dockets on November 6, 2000 and in requesting a hearing with respect to the proposed agency action provisions that are also being protested herein.. The name, address, and telephone number of this Joint Petitioner is: BellSouth Telecommunications, Inc., 150 S. Monroe St., Suite 400, Tallahassee, FL 32301.

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EXHIBIT "A"

The undersigned hereby joins in requesting reconsideration on all issues identified in the joint petition submitted in these consolidated dockets on November 6, 2000 and in requesting a hearing with respect to the proposed agency action provisions that are also being protested herein. The name, address, and telephone number of this Joint Petitioner is: Cingular Wireless LLC ("Cingular"), formerly Florida Cellular Service, Inc. d/b/a BellSouth Mobility, 1100 Peachtree Street, Suite 809, Atlanta, GA 30309.

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TAL1 #226211 v1

EXHIBIT "A"

The undersigned hereby joins in requesting reconsideration on all issues identified in the joint petition submitted in these consolidated dockets on November 6, 2000 and in requesting a hearing with respect to the proposed agency action provisions that are also being protested herein.. The name, address, and telephone number of this Joint Petitioner is: MCI WorldCom, Inc., The Atrium Building, Suite 105, 325 John Knox Road, Tallahassee, FL 32303.

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EXHIBIT "A"

The undersigned hereby joins in requesting reconsideration on all issues identified in the joint petition submitted in these consolidated dockets on November 6, 2000 and in requesting a hearing with respect to the [redacted] proposed agency action provisions that are also being protested herein. The name, address, and telephone number of these Joint Petitioners are Sprint PCS, Sprint – Florida, Inc. and Sprint Communications Company Limited Partnership (together "Sprint"), 315 South Calhoun Street, Suite 500, Tallahassee, Florida 32301.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Joint Motion for Reconsideration and Request for Hearing on Proposed Agency Action by Florida Code Holders Group in Docket Nos. 990455-TL, 990456-TL, 990457-TL, and 990517-TL has been served upon the following parties by Hand Delivery (*) and/or U. S. Mail this 6th day of November, 2000.

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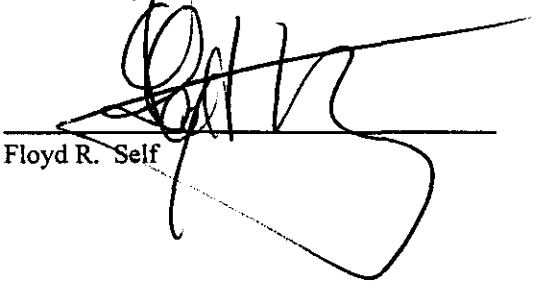

Floyd R. Self