

State of Florida



**Public Service Commission**

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** NOVEMBER 15, 1999

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

**FROM:** DIVISION OF COMMUNICATIONS (CUTTING) *JCC HW*  
DIVISION OF LEGAL SERVICES (CALDWELL) *DWC BK*

**RE:** DOCKET NO. 980671-TP - REQUEST FOR REVIEW OF PROPOSED  
NUMBERING PLAN RELIEF FOR THE 407 AREA CODE

**AGENDA:** NOVEMBER 16, 1999 - REGULAR AGENDA - MOTION FOR  
RECONSIDERATION - PARTIES SHOULD BE ALLOWED TO PARTICIPATE

**CRITICAL DATES:** DECEMBER 1, 1999 (EXHAUSTION DATE)

**SPECIAL INSTRUCTIONS:** DECISION NEEDED BEFORE DECEMBER 1, 1999

**FILE NAME AND LOCATION:** S:\PSC\LEG\WP\980671E.RCM

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**CASE BACKGROUND**

In Order No. PSC-99-0384-FOF-TL, issued February 23, 1999, this Commission approved an overlay plan for Orange, Osceola, and Seminole Counties (the affected counties). In addition, Brevard County was assigned the 321 area code. Permissive dialing of the 407 area code for the affected counties began on April 1, 1999, and will end on December 1, 1999. Mandatory ten-digit dialing of the 407 and 321 area codes for the affected counties will begin on December 1, 1999. Permissive dialing will begin in Brevard County on November 1, 1999, and will end on September 30, 2000.

On September 10, 1999, ADT Security Services, Inc. (ADT) filed an Emergency Request for Extension of Permissive Dialing in Docket No. 980671-TL. ADT requested an extension of the start of mandatory ten-digit dialing for an additional four months, until April 1, 2000. On September 23, 1999, Sprint-Florida Incorporated filed a letter with the Division of Records and Reporting to lodge an initial objection to ADT's Emergency Request. ADT's request was denied by Order No. PSC-99-2185-FOF-TL, issued November 8, 1999.

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On November 10, BellSouth Telecommunications, Inc. (BellSouth) filed a Motion for Reconsideration of that Order. Because of the time-sensitive nature of the issue, staff brings this recommendation for consideration by the Commission before the response time has run.

### DISCUSSION OF ISSUES

**ISSUE 1:** Should BellSouth Telecommunications, Inc.'s Motion for Reconsideration of Order No. PSC-99-2185-FOF-TL be granted?

**RECOMMENDATION:** Yes. BellSouth Telecommunications, Inc.'s Motion for Reconsideration of Order No. PSC-99-2185-FOF-TL should be granted to correct a mistake of fact and to extend the permissive dialing period until April 1, 2000, for the 10-15 NXXs within BellSouth's service territory that contain ADT monitoring numbers as requested by ADT Security Services, Inc. in its September 10, 1999, Emergency Request for Extension of Permissive Dialing.  
**(CUTTING, CALDWELL)**

**STAFF ANALYSIS:** In Order No. PSC-99-2185-FOF-TL, the Commission denied ADT Security Services, Inc.'s request for extension of the permissive dialing period for several reasons. First, the Commission was concerned that a large number of NXXs (approximately 280) were affected, requiring permissive dialing to be continued in entire 407 area. Second, because the current 407 NXXs were expected to exhaust in late December, stricter rationing would have to be implemented, requiring consensus by the industry. The Commission was concerned that gaining consensus may be complicated by wireless carriers seeking access to telephone numbers during the month of December due to seasonal sales increases. Finally, the Commission found that ADT had taken reasonable steps to inform its customers of the situation and that the customers who failed to remedy their situation should not be allowed to delay implementation to the detriment of all the citizens in the area.

In its Motion for Reconsideration, BellSouth Telecommunications, Inc. states that an incorrect statement had been made at the October 20, 1999 agenda conference and relied upon by the Commission in rendering its decision. BellSouth had stated that, if the extension were granted, it would be necessary to

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provide a permissive dialing extension to the majority of the NXXs in the overlay area. BellSouth states that this statement was incorrect. To the contrary, BellSouth states that if the extension is granted, the Commission would need only to grant an extension for the 10-15 NXXs that contain an ADT telephone monitoring number. Therefore, BellSouth believes that the Commission should reconsider its decision.

The proper standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3rd DCA 1959); citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974).

Staff believes that BellSouth's incorrect statement constitutes a mistake of fact that was considered by the Commission in rendering its decision and should be corrected. Furthermore, staff believes that this mistake of fact is material. Therefore, staff recommends BellSouth's Motion for Reconsideration should be granted.

In its Motion for Reconsideration, BellSouth states that it can extend the permissive dialing period for the 10-15 NXXS within its service territory that contain ADT monitoring numbers until April 1, 2000. BellSouth states that the proposal will provide ADT with the requested relief and still allow other carriers to receive numbering resources because the NXXs not containing ADT numbers will be available for assignment.

Staff believes that the earlier concerns stated in Order No. PSC-99-2185-FOF-TL regarding extending the permissive dialing period for all of the 407 area code are alleviated by this information. First, since it appears that a large number of NXXs (approximately 280) are not affected, there is no need to continue permissive dialing in the entire 407 area. Moreover, stricter rationing will not have to be implemented (necessitating consensus by the industry to continue rationing) because the NXXs not

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containing ADT numbers will be available for assignment. Therefore, staff recommends granting ADT Security Services Inc.'s September 10, 1999, request for extension of the permissive dialing period until April 1, 2000, for the 10-15 NXXs within BellSouth's service territory that contain ADT monitoring numbers.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. With the approval of Issue 1, this docket should be closed. **(CALDWELL)**

**STAFF ANALYSIS:** Yes. With the approval of Issue 1, this docket should be closed.