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T.R.A. DOCKET ROOM

October 28, 2003

Honorable Deborah Taylor Tate
Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

DOCKET NO.

03-00574

Re: Petition of NewSouth for Review of Denial of Numbering Resources by
Number Pooling Administrator

Dear Chairman Tate:

Enclosed please find the original and fourteen (14) copies of the Petition of NewSouth Communications for expedited review of denial by NeuStar of a block of telephone numbers in the Knoxville rate center for the purpose of establishing a switch in Knoxville, where NewSouth currently only has a point of presence.

I have also enclosed a filing fee of \$25.00. Please feel free to call me if you have any questions.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:


Henry Walker

HW/aai

Enclosure

cc: Eddie Roberson

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 28, 2003

IN RE:

Petition for Expedited Review of Denial by
the Number Pooling Administrator Relating
to the Knoxville Rate Center

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Docket No. 03-00574

PETITION OF NEWSOUTH COMMUNICATIONS FOR
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL

NewSouth Communications ("NewSouth"), pursuant to rules adopted by the Federal Communications Commission ("FCC") for challenging determinations of the Number Pooling Administrator ("NeuStar"), hereby petitions the Tennessee Regulatory Authority ("TRA") for an expedited review of NeuStar's denial of NewSouth's application for one block of telephone numbers in the Knoxville rate center in order for NewSouth to establish and test a switch in Knoxville, where NewSouth currently only has a point of presence.

1. NewSouth is a competitive local exchange carrier providing telecommunications services in Tennessee under the jurisdiction of the TRA.

2. NeuStar is an independent, non-governmental entity that is responsible for administering and managing numbering resources in pooling areas. See C.F.R. Section 52.13(a) and (b).

3. This Petition is based on the Federal Communications Commission ("FCC") Rules found at 47 C.F.R. § 52.15(g)(4) and pursuant to the Thousands-Block Number (NXX-X) Pooling Administration Guidelines ("TBPAG") and the Central Office Code (NXX) Assignment Guidelines published by the Industry Numbering Committee ("INC"). In addition, on March 31, 2000, the FCC issued a Report and Order and Further Notice of Proposed Rule Making related to numbering resource optimization ("FCC 00-104" or the "March Order"). On December 29, 2000, the FCC issued its Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200 ("FCC 00-249" or the "December Order"). These FCC Orders addressed issues and strategies relating to the efficient use of numbering resources.

4. In FCC 00-104 and FCC 00-429, the FCC announced rules and sought comments in an effort to implement uniform standards governing requests for telephone numbering resources in order to increase efficiency in the use of existing telephone numbers and to slow further exhaustion of existing numbers under the North American Numbering Plan.

5. Among other things FCC 00-104 adopted a revised standard for assessing a carrier's need for numbering resources by requiring carriers to report rate center based utilization data to NeuStar. The FCC further required that to qualify for access to new numbering resources, applicants must establish that existing inventory within the applicant's rate center will be exhausted within six months of the application.

6. In addition to the months-to-exhaust ("MTE") requirement described above, the FCC's rules also require carriers to meet a rate center utilization threshold of

70 percent (as of July 1, 2003) to receive additional numbering resources in a given rate center. FCC 00-249 at Paragraph 22; FCC 01-362 Paragraphs 50-52. The utilization threshold increases by five percent per year until it reaches a maximum of 75 percent. Based on the FCC's orders, carriers must meet both the six-month MTE requirement and the utilization threshold on a rate center basis to obtain additional number resources. *Id.* at Paragraph 29.

7. NewSouth currently serves customers in Knoxville through a switch in Nashville. NewSouth has only one code in Knoxville (865/862) and a list is attached as **Exhibit A** showing all assigned numbers and a utilization breakdown of that code.

8. NewSouth wishes to set up a switch within Knoxville. A new code is required for this switch to establish a new Local Routing Number and provide blocks of numbers to perform testing on. NANPA guidelines prohibit creating two LRNs for different switches out of the same code, so NewSouth is unable to use the code previously assigned to them for Knoxville. Furthermore, NewSouth's active customers on 865/862 would suffer service disruptions if those numbers had to be moved to the new switch.

9. The Knoxville rate center of the 865 Area Code was converted to Number Pooling on August 21, 2002 as authorized by the FCC. Consequently, normal numbering resource acquisition by a Number Pooling carrier, such as NewSouth, is gained through an interface with NeuStar¹.

10. On August 11, 2003, NewSouth submitted a "Thousand Block Application Form Part 1A", to NeuStar for one thousands-block of a specific nature (consecutive

¹ The federal rules in 47 C.F.R 52.15 generalize responsibilities of NANPA and the Pooling Administrator under the heading "Central office code administration".

block range of 865-xxx-9) in the Knoxville rate center to set up the new switch. A copy of this application is attached as **Exhibit B**.

11. Later that day, NewSouth received, via Pooling Administration System, an error message indicating the request would not process through the system without documentation supporting a state waiver. A copy of this rejection is attached as **Exhibit C**. NeuStar applies the FCC rules and order and INC Guidelines. As set forth in Paragraphs 5 and 6, these rules and guidelines require that a block holder requesting growth resources demonstrate that existing resources within the rate center will both exhaust within 6.0 months, and meet the 70% utilization level. There is currently a usage level of approximately 27% in this rate center. NewSouth's request for the number block was considered a growth code, and was thus denied by the Number Pooling Administrator. See **Exhibit C**.

12. Although NewSouth has an adequate supply of telephone numbers to satisfy incremental requests for numbers without receiving new blocks of numbers, NewSouth existing telephone resources do not enable them to upgrade their operations in Knoxville from a mere point of presence to the establishment of a switch, for the reasons enumerated in paragraph 8. A copy of the portion of NewSouth's NPA/NXX Inventory Forecast Summary pertaining to the utilization status in the Knoxville Rate Center for the 865/862 code is attached as **Exhibit D**.

13. As a result of the denial of NewSouth's request for additional numbering resources, NewSouth is unable to set up the desired switch in Knoxville.

14. In setting its policy for the assignment of telephone numbers, the FCC designated NANPA and NeuStar, as the Pooling Administrator, to handle numbering

resource administration.² If a numbering resource administrator withholds numbering resources from a carrier, the FCC has specifically authorized state commissions to overturn those decisions for reasonable cause. That authority is specifically set out in the relevant FCC Rule, 47 C.F.R. §52.15 (g)(4), which states:

The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. **The state commission may affirm, or may overturn, the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has complied with the reporting and numbering resource application requirements herein. The state commission also may overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies.**

(emphasis added). The FCC also clarified in the FCC 00-249 Order that carriers may now appeal to states using a "safety valve" mechanism (paragraphs 57-66). The FCC contemplated the need for, and gave structure to states to respond when denials failed to consider a "specific customer request":

We also agree with WinStar that a carrier should be able to get additional numbering resources when there is a verifiable need due to the carrier's inability to satisfy a

² 47 C.F.R. § 52.15(a) states: "Central Office Code Administration shall be performed by the NANPA, or another entity or entities, as designated by the Commission." 47 C.F.R. § 52.20(d) states: "The Pooling Administrator shall be a non-governmental entity that is impartial and not aligned with any particular telecommunications industry segment, and shall comply with the same neutrality requirements that the NANPA is subject to under this part."

specific customer request. We therefore clarify that states may also grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory. Carriers may demonstrate such a need by providing the state with documentation of the customer request and current proof of utilization in the rate center.

Id.

15. An essential aspect of the "safety valve" provision is the accelerated response that is provided for in the FCC's order: States should act upon such a request in most instances in 10 business days, as noted by the FCC.

Finally, we recognize that in many instances, the failure to address a request for additional numbering resources can impair a carrier's ability to stay in or expand business. We therefore direct states to act on carrier requests for a safety valve as expeditiously as possible. Although we do not establish a specific time limit for states to act on these requests, we believe that, in most instances, 10 business days from receipt of a request that the state determines to be sufficiently detailed and complete will be sufficient time to review and act upon safety valve requests. If a state does not reach a decision on a safety valve request within a reasonable timeframe, carriers may submit such requests to the Commission for resolution. In addition, carriers may appeal to the Commission safety valve decisions made by states, and we delegate authority to the Common Carrier Bureau to review such petitions as expeditiously as possible.

Id. at Paragraph 66. Such treatment is warranted in this case, where the petitioner is in need of utilizing the Knoxville switch.

16. NewSouth seeks the Authority's review of NeuStar's decision to withhold numbering resources from it on the grounds that it: (1) violates the orders and rules of the FCC which grant carriers access to numbering resources to meet specific customer

demands upon a sufficient showing of need and (2) interferes with NewSouth's ability to serve its customers in Tennessee. As the FCC has stated, "Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources." FCC 00-429 at Paragraph 61. By refusing to grant numbering resources sufficient to meet this Knoxville customer's needs, the decision is preventing NewSouth from providing efficient and needed service to customers in Knoxville.

17. NewSouth has successfully petitioned the North Carolina Utilities Commission for review of NANPA denial of numbering resources, under a similar fact situation to that in the subject petition. Documentation of the NCUC decision is provided in **Exhibit E**.

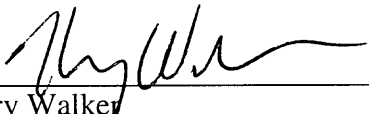
18. If additional numbering resources should indeed be granted as described herein, once NewSouth has completed the necessary switch testing, it will donate back to the Tennessee number pool such numbering resources exclusive of the block containing NewSouth's new LRN.

Relief Sought

For these reasons, NewSouth respectfully requests that the Authority expeditiously review NeuStar's decision denying NewSouth's request for additional numbering resources and order NeuStar to provide the requested numbers to meet the specific requirements of NewSouth.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 
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P.O. Box 198062
Nashville, Tennessee 37219
(615) 252-2363

COUNSEL FOR NEWSOUTH

EXHIBIT A

Assigned Numbers in the Knoxville Code

Assigned TNs in Nashville Switch
Knoxville Point of Interface/ Knoxville Rate Center
1911 Total Assigned

8658620000
8658620001
8658620003
8658620005
8658620011
8658620012
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8658620015
8658620016
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8658629721
8658629759
8658629900
8658629901
8658629920
8658629921
8658629922
8658629923
8658629924
8658629925
8658629926
8658629927
8658629928
8658629929
8658629971
8658629998

EXHIBIT B

Application to NeuStar for Consecutive Number Block

View Block Request Forms

Page 1 of 2

Pooling Administration System

apence@newsouth.com (SP)

Sign Out

Part 1A**Type of Application : New****Tracking Number : 865-KNOXVILLE-TN-100815****1.1 Contact Information :***Note: If any of the contact info is incorrect, edit your user profile.***Block Applicant :****Company Name NEWSOUTH COMMUNICATIONS****Headquarters Address 2 N. MAIN ST.****City GREENVILLE****State SC****Zip 29601****Contact Name April Pence****Contact Address 2 N. Main St.****City Greenville****State SC****Zip 29601****Telephone (864) 672-5000 (x) 5857****Fax (864) 672-5073****E-mail apence@newsouth.com****Pooling Administrator :****Contact Name Dora Wirth****Contact Address 1800 Sutter St. Ste. 780****City Concord****State CA****Zip 94520****Telephone 9253638706****Fax 9253637684****E-mail dora.wirth@neustar.com****1.2 General Information****LRN Needed YES****NPA 865****LATA 474****OCN 8660 - NEWSOUTH COMMUNICATIONS CORP****AOCN 8660****Parent Company OCN 8660****Number of Thousands-Blocks
Requested 1****Switch Identification (Switching
Identity/POI) KNVLTNMARS1****City or Wire Center
Name****Rate Center KNOXVILLE****Rate Center Sub Zone KNOXVILLE****1.3 Dates****Date of Application 08/11/2003**

View Block Request Forms

Page 2 of 2

Requested Block Effective Date **10/23/2003**Request Expedited Treatment **N****1.4 Type of Service Provider Requesting the Thousands-Block**

- a) Type of Service Provider **CAP OR CLEC**
- b) Primary type of service Blocks to be used for **Wireline**
- c) Thousands-Block(s) (NPA-NXX-X) assignment preference **865-xxx-9**
- d) Thousands-Block(s) (NPA-NXX-X) that are undesirable for this assignment, if any
- e) If requesting a code for LRN purposes, indicate which block(s) you will be keeping (the remainder of the blocks will be given to the pool) **865-xxx-9**

1.5 Type of Request

Initial block for rate center

Growth block for rate center **Yes**

Change block

Disconnect block

I hereby certify that the above information requesting an NXX-X block is true and accurate to the best of my knowledge and that this application has been prepared in accordance with the Thousands-Block (NXX-X) Polling Administration Guidelines INC 99-0127-023

[Back](#) [Print](#)

EXHIBIT C

Denial By Pooling Administration System

Pooling Administration System Part Three Form for your request-Pooling Administration ... Page 1 of 2

April Pence

From: dora.wirth@NeuStar.com
Sent: Monday, August 11, 2003 4:20 PM
To: April Pence
Cc: PA_Part3@neustar.biz
Subject: Pooling Administration System Part Three Form for your request



Pooling Administration System

Dated 11 August 2003

Pooling Administrator's Response/Confirmation Part 3

Tracking Number **865-KNOXVILLE-TN-100815**
Date of Application **08/11/2003** Block Effective Date
Date of Receipt **08/11/2003** Date of Response **08/11/2003**
Service Provider Name **NewSouth Communications**
(TelcordiaTM LERGTM Routing **8660-NEWSOUTH COMM CORP**
Guide) OCN
NPAC SOA SPID

Pooling Administrator Contact Information :

Name **Dora Wirth**
Phone **9253638706** Fax **9253637684**
E-Mail **dora.wirth@neustar.com**

Response

NPA-NXX-X **0-0-0**

Block Assigned
Block Disconnected

Block Contaminated (Yes or No) **null**

Block Allocation Date

Switch Identification (Switching
Entity / POI) **KNVLTNMARS1**Rate Center **KNOXVILLE**Rate Center Sub Zone **KNOXVILLE**

X Form Complete, block requested denied

Explanation :

DR-3: No documentation to support the State Waiver request was received. Please resubmit your request with documentation supporting the State Waiver.

-- Assignment activity suspended by the administrator

Explanation :

08/25/2003

28-Aug-03 02:42P

Pooling Administration System Part Three Form for your request-Pooling Administration ... Page 2 of 2

Further Action :

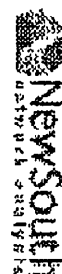
Pooling Administrator
Dora Wirth
1800 Sutter St. Ste. 780
Concord, CA 94520
Phone: 9253638706
Fax: 9253637684

08/25/2003

EXHIBIT D

NPA Inventory Forecast Summary for Knoxville Rate Center

08/04/2003



1000 Black

He's assured
per week

exhausting
within 5 yrs

28-Aug-03 02:42P

* 815-010 1,112 adian of Knoxville, TN code

2009

EXHIBIT E

Decision of North Carolina Utilities Commission

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. P-100, SUB 146

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Central Office Code (NXX) Reclamation) ORDER GRANTING NEWSOUTH
) COMMUNICATIONS CORPORATION
) A CENTRAL OFFICE CODE (NXX)
) FOR GROWTH

BY THE COMMISSION. On April 15, 2003, NewSouth Communications Corporation (NewSouth) filed a Petition with the Commission for the review of the North American Numbering Plan Administrator's (NANPA's) denial of numbering resources for a growth code in the Asheville Rate Center. NANPA's denial was based on NewSouth not meeting the "months-to-exhaust" criteria for the Asheville Rate Center. NeuStar, as NANPA, stated that because NewSouth had not achieved 65% utilization of its initial code, the growth code was denied. The requested numbering resources would be assigned to a switch being placed in-service in Asheville. Currently, NewSouth provides local service in Asheville from its switch located in Greenville, South Carolina, where the initial code for Asheville is assigned, and currently has assigned approximately 5,000 numbering resources for customer applications. NewSouth stated that testing the switch in Asheville with BellSouth, and subsequent service provisioning, cannot be accomplished until an NXX is granted.

After careful consideration, the Commission concludes that there is good cause to have NANPA assign a growth code to NewSouth, as requested.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of April 2003.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount, Deputy Clerk



Name given by
Switzer Wigfall (NC)
919-733-2924

April 9, 2003

Geneva S. Thigpen
Chief Clerk
North Carolina Utilities Commission
430 N. Salisbury St.
Raleigh, NC 27603-5918

*Granted
April 29th*

Alicia

Dear Ms. Thigpen,

I am requesting from you a new NPA NXX in the Asheville, NC rate center in view of a NANPA denial NewSouth received on April 1, 2003. We currently have one NPA NXX (828/210) in Asheville with approximately 5000 numbers available for assignment, therefore we were denied due to the lack of 65% utilization. I have even applied for a temporary 'testing code' from NANPA, but was denied again and referred to you.

We are in an unusual situation. Currently we do not have a switch in Asheville, just a Point of Presence. Our one Asheville NPA NXX - 828/210 is assigned to our Greenville, SC switch. We are in the process of adding a switch so that we will not have to route calls through Greenville. We currently need administrative numbers in the 828 NPA in order to perform testing with Bellsouth on this new Asheville switch, but we cannot move the existing code because there are 'active customers' using it and it would disrupt their service. The switch will not be active and able to route calls appropriately until after we perform testing, but we cannot perform testing unless we have numbers. It's a catch 22!

I am hoping that the Utilities Commission will be able to help us attain a second code in order for us to test this switch properly. I am enclosing copies of the Part 1 application and the Part 3 response for your review. I am also sending a copy of our NC State Certification for business. Please let me know if there is any other information you need from us and I will send it promptly. Thank you for your consideration.

Regards,

April P. Pence

April P. Pence
Code Administrator
NewSouth Communications

NewSouth Center • Two N. Main Street
Greenville, South Carolina 29601
T:(864)-672-5000 • F:(864)-672-5055

NewChoice. NewTechnology. NewValue.

CAS: View related Part 3

Page 1 of 2

BIRKDS 1-10-03
/ NPAC 8-8**April Pence**

From: mary.ogilvie@NeuStar.com
 Sent: Tuesday, July 01, 2003 3:46 PM
 To: April Pence
 Cc: mary.ogilvie@nanpa.com; part3@neustar.com
 Subject: Part 3 Response for Tracking #: 828-181167

*Asheville
PSAX*

**Central Office Code (NXX) Assignment Request - Part 3
 Effective May 18, 1998**

Code Request Tracking Number: 828-181167

Administrator's Response/Confirmation

Date of Application: June 24, 2003 Date of Receipt: June 24, 2003
 Date of Response: July 1, 2003 Effective Date: August 28, 2003

Company/Entity Name: NEWSOUTH COMMUNICATIONS CORP

Code Administrator Contact Information:

Mary Ogilvie Phone: 9253638711
 Signature of Code Administrator
Mary Ogilvie Fax: 9253638714
 Name (print)

X NPA: 828 Code Assigned: 532 Date of NXX Code Assignment: July 1, 2003

- a. Switch Identification (Switching Entity/POI): AHVLNCOHRS1 Rate Center: ASHEVILLE
 b. The Code Administrator is , is not X responsible for inputting Part 2 information into RDBS and BRIDS.
 c. Routing and Rating information complete: Yes No X
 Additional RDBS and BRIDS information necessary as follows:
No
 d. To be published in the LERG and TMP by
 Additional RDBS and BRIDS information needs to be received by the code administrator no later than

 Code Reserved: Date of Reservation:

Your code will be honored until

Switch Identification (Switching Entity / POI):

 Form incomplete

Additional information required in the following section(s):

 Form complete, code request denied

Explanation:

 Assignment activity suspended by the administrator

07/07/2003

CAS: View related Part 3

Explanation: _____

Further Action: _____

☒ NPA in jeopardy: Yes ___ No ☒

If yes, refer to Section 7 of the assignment guidelines.

Change/Disconnect List: _____

Remarks:

SV:2 This request for a Growth Assignment for OCN # 8660 has been approved in accordance with the State of North Carolina Utilities Commission Order issued April 29, 2003.

07/07/2003