

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 14, 2006

IN RE:

**PETITION FOR EXPEDITED REVIEW OF GROWTH
CODE DENIAL BY THE NUMBER POOLING
ADMINISTRATOR RELATING TO THE NASHVILLE
RATE CENTER**

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**DOCKET NO.
06-00160**

**ORDER GRANTING PETITION
FOR EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL
AND REVERSING CENTRAL OFFICE CODE DENIAL**

This matter came before Chairman Sara Kyle, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the “Authority”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on August 7, 2006, for consideration of the *Petition for Expedited Review of Central Office Code Denial* filed by NuVox Communications, Inc (“NuVox”) on June 16, 2006 that relates to David Lipscomb University (“Lipscomb”).

BACKGROUND

In March of 2000, recognizing “the near-crisis” caused by the exhaustion of telephone numbers in certain expanding geographic areas, the Federal Communications Commission (“FCC”) initiated a policy designed “to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers.”¹ Among other things, the FCC adopted a

¹ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Report and Order and Further Notice of Proposed Rule Making*) 15 FCC Rcd. 7574, 2000 WL 339808, ¶¶ 2, 183, 191 (March 31, 2000) (hereinafter “*First Report and Order*”); see also 47 U.S.C. § 251(e)(1) (directing the FCC to “create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis”).

mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and provide incentives to use numbers efficiently.² Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration (“NANPA”) or other entity, as designated by the Commission, for a decision as to whether to allocate the numbers.³

On June 18, 2001, the FCC designated NeuStar, Inc. (“NeuStar”) as the national thousands-block number Pooling Administrator.⁴ NeuStar, serving as the NANPA, currently administers thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. In order to facilitate efficient telecommunications services in the Nashville Metropolitan Statistical Area, the 615 area code was converted to thousands-block number pooling on March 14, 2002. Thus, telecommunications service providers participating in number pooling in the 615 area code are required to submit their requests for additional numbering resources to the Pooling Administrator. The projected exhaust date for the 615 NPA is the third quarter of 2012.

BASIS FOR THE PETITION

On May 4, 2006, NuVox submitted a Central Office Code (NXX) Assignment Request to NeuStar For an NXX code to meet the needs of its customer, David Lipscomb University. To fulfill Lipscomb’s need for ten one-thousand blocks (one NXX), NuVox requested growth codes in the 615 NPA be assigned to it to sufficiently meet the numbering needs of Lipscomb.

² See *First Report and Order*, ¶¶ 40-41, 84, 97-98.

³ See 47 C.F.R. § 52.15(a); see also *First Report and Order*, ¶¶ 143-48 (providing background on the development of the pooling administrator).

⁴ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Third Report and Order and Second Order on Reconsideration*) 17 FCC Rcd. 252, 2001 WL 1658101, ¶ 11 (Dec. 28, 2001) (hereinafter “*Third Report and Order*”); see also 47 C.F.R. § 52.15(a).

Lipscomb requested the additional numbers to facilitate the expansion of new buildings. NuVox did not have sufficient number resources available in the Nashville Rate Center to fulfill Lipscomb's requirements.

The Pooling Administrator, citing NuVox's failure to meet its NXX Assignment Guidelines, denied NuVox's request on May 11, 2004. The guidelines require that a rate center must have a 75% utilization rate and that its estimated exhaust date not exceed six months. NuVox did not meet the utilization rate guideline because the Nashville Rate Center has a 43% utilization rate. Additionally, the second guideline was not met because the Nashville Rate Center has a projected 7.53 month exhaust date.

On June 16, 2006, NuVox filed with the Authority its *Petition for Expedited Review of Central Office Code Denial*. NuVox asserts that its inability to supply Lipscomb with the requested numbers prevents NuVox from providing the quality of service its customer expects.⁵ NuVox requests that the Authority reverse the Pooling Administrator's denial of its application and order the release of numbering resources.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Review by the TRA of the NeuStar Administration's denial of NuVox's application is authorized by the FCC.⁶ According to the FCC,

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA

⁵ *Petition for Expedited Review of Central Office Code Denial*, pp. 4-5 (June 16, 2006).

⁶ *Third Report and Order*, ¶ 61; see also 47 C.F.R. § 54.15(g)(3)(iv).

or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances.⁷

State commissions conducting this review must act consistently with the FCC's policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering resources are available to all telecommunications service providers on a fair and equitable basis.⁸

At a regularly scheduled Authority Conference held on August 7, 2006, the panel assigned to this docket considered NuVox's *Petition for Expedited Review of Central Office Code Denial*. After considering the evidentiary record and policy goals required by Tenn. Code Ann. § 65-4-123 regarding this agency's responsibility to foster competition in the telecommunications industry, the panel voted unanimously to approve NuVox's request for expedited review and reverse the Pooling Administrator's denial of NuVox's request for additional numbering resources in the 615 NPA.


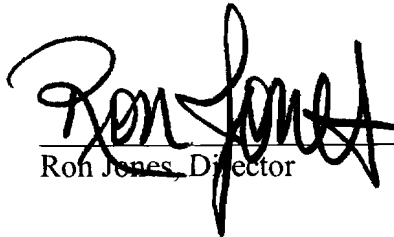
IT IS THEREFORE ORDERED THAT:

1. The *Petition for Expedited Review of Central Office Code Denial* filed by NuVox is granted.
2. The Pooling Administrator's decision to deny NuVox's request for additional numbering resources is reversed as stated herein.

⁷ *Third Report and Order*, ¶ 61.

⁸ See, e.g., *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Order*) 16 FCC Rcd. 15,842, 2001 WL 964979, ¶ 8 (Aug. 24, 2001) ("[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis; that numbering resources are made available on an efficient and timely basis; that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the state commissions not unduly favor one telecommunications technology over another."); see *FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, CC Docket No. 92-237 (*Public Notice*) 16 F.C.C.R. 18,502, 2001 WL 1222428 (Oct. 15, 2001).

3. The Pooling Administrator is ordered to assign one (1) NXX to NuVox for the Nashville Rate Center, Switch Designation NSVLTN02DSO.


Sara Kyle, Chairman
Pat Miller, Director
Ron Jones, Director