

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

December 4, 2006

IN RE:

**PETITION FOR EXPEDITED REVIEW OF
CENTRAL OFFICE CODE DENIAL BY THE
NUMBER POOLING ADMINISTRATOR RELATING
TO ST. JUDE CHILDREN'S RESEARCH HOSPITAL**

**DOCKET NO.
06-00270**

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

This matter came before Chairman Sara Kyle, Director Eddie Roberson, 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 November 20, 2006, for consideration of the *Petition for Expedited Review of Central Office Code Denial* relating to St. Jude Children's Research Hospital filed by BellSouth Telecommunications, Inc. ("BellSouth") on October 27, 2006.

BACKGROUND

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain expanding geographic areas, 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 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

¹ *Numbering Resource Optimization*, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rule Making*, 15 FCC Rcd. 7574, 7578, ¶ 2, 7658, ¶ 183, 7661-7662, ¶ 191 (2000) (hereinafter "*First Report and Order*"); see also 47 U.S.C. § 251(e)(1) (2004) (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").

numbers efficiently.² Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration ("NANPA") "or another entity or entities, 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, which is also serving as the NANPA, currently administers thousands-block number pooling 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. On June 10, 2002, thousands-block number pooling was implemented in the Memphis Metropolitan Statistical Area, which is in the 901 NPA. Since then, telecommunications service providers participating in number pooling in that area are required to submit their requests for additional numbering resources to the Pooling Administrator. The projected exhaust date for the 901 NPA is the Third Quarter of 2020.

On October 20, 2006, BellSouth submitted a Central Office Code (NXX) Assignment Request to NeuStar to be assigned a complete central office code to meet the demands of its customer, St. Jude Children's Research Hospital ("St. Jude"). BellSouth's application was for a Central Office Code in the 901 NPA to fulfill St. Jude's request for a new NXX code consisting of 10,000 numbers. St. Jude's request was based on the addition of new facilities and continued hospital expansion. BellSouth did not have sufficient number resources available in the Memphis Rate Center to fulfill St. Jude's request.

The Pooling Administrator, citing BellSouth's failure to meet its central office code assignment guidelines, denied BellSouth's request on October 20, 2006. The guidelines require that a rate center must have a 75% number utilization rate and that its estimated number exhaust date not

² See *First Report and Order*, 15 FCC Rcd. at 7594, ¶¶ 40-41, 7609-7610, ¶ 84, 7615, ¶¶ 97-98.

³ See 47 C.F.R. § 52.15(a) (2004); see also *First Report and Order*, 15 FCC Rcd. at 7647-7640, ¶¶ 143-48 (providing background on the development of the pooling administrator).

⁴ *Numbering Resource Optimization*, CC Docket No. 99-200, *Third Report and Order and Second Order on Reconsideration*, 17 FCC Rcd. 252, 258 ¶ 11 (2001) (hereinafter "*Third Report and Order*"); see also 47 C.F.R. § 52.15(a) (2004).

exceed six (6) months. The guidelines were not met because the Memphis Rate Center has a 68.2% number utilization rate and the projected exhaust date is one hundred and seven (107) months.

On October 27, 2006, BellSouth filed with the Authority its *Petition for Expedited Review of Central Office Code Denial*. BellSouth asserts that its inability to supply St. Jude with the requested numbers prevents BellSouth from providing the quality of service its customer expects.⁵ BellSouth 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 Pooling Administrator's denial of BellSouth'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 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

⁵ *Petition for Expedited Review of Central Office Code Denial*, p. 5 (October 27, 2006).

⁶ *Third Report and Order*, 17 FCC Rcd. at 280-281, ¶ 61; see also 47 C.F.R. § 54.15(g)(3)(iv) (2004).

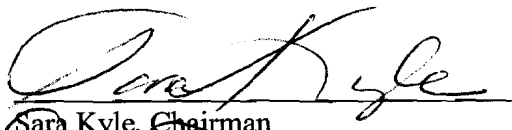
⁷ *Third Report and Order*, 17 FCC Rcd. at 280-281, ¶ 61.

⁸ See, e.g., *Numbering Resource Optimization*, CC Docket No. 99-200, *Order*, 16 FCC Rcd. 15842, 15847, ¶ 8 (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 FCC Rcd. 18502 (2001).

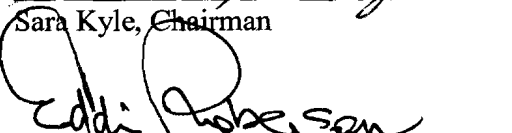
At a regularly scheduled Authority Conference held on November 20, 2006, the panel assigned to this docket considered BellSouth's *Petition for Expedited Review of Central Office Code Denial*. After consideration of the record, the public interest, and this agency's responsibility to permit competition in the telecommunications industry,⁹ the panel voted unanimously to approve BellSouth's request for expedited review and to reverse the Pooling Administrator's denial of BellSouth's request for additional numbering resources.

IT IS THEREFORE ORDERED THAT:

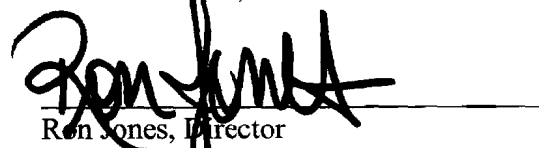
1. The *Petition for Expedited Review of Central Office Code Denial* filed by BellSouth is granted.
2. The Pooling Administrator's decision to deny BellSouth's request for additional numbering resources is reversed as stated herein.
3. The Pooling Administrator is ordered to assign one NXX or 10,000 consecutive telephone numbers to BellSouth for the Memphis Rate Center, Switch Designation MMPHTNMADS0.



Sara Kyle, Chairman



Eddie Roberson, Director



Ron Jones, Director

⁹ See Tenn. Code Ann. § 65-4-123 (2004).