

**FARRIS MATHEWS BRANAN
BOBANGO HELLEN & DUNLAP, PLC**

ATTORNEYS AT LAW

HISTORIC CASTNER-KNOTT BUILDING
618 CHURCH STREET, SUITE 300
NASHVILLE, TENNESSEE 37219

Telephone: (615) 726-1200
Facsimile: (615) 726-1776

Charles B. Welch, Jr.
cwelch@farrismathews.com

Writers Direct Dial:
615-687-4230



January 2, 2007

Chairman Sara Kyle
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

HAND DELIVERED

07-00004

**Re: Petition of US LEC of Tennessee Inc. for Expedited Review of
Central Office Code Denial.**

Dear Chairman Kyle:

Please find an original and 14 copies of the referenced Petition enclosed herewith accompanied by the \$25.00 filing fee. Please date stamp a copy for my records.

Thank you for your assistance regarding this matter. If we can be of further assistance, please do not hesitate to contact us.

Very truly yours,

FARRIS MATHEWS BRANAN
BOBANGO HELLEN & DUNLAP, PLC

Charles B. Welch, Jr.

CBW/jrh
Enclosures
Cc: Edward Griffin

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

**IN RE: Petition of US LEC of)
Tennessee Inc. for Expedited Review of)
Growth Code Denial by the Number)
Pooling Administrator.)**

Docket No. 07-00004

**PETITION OF US LEC OF TENNESSEE INC. FOR
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL**

US LEC of Tennessee Inc. ("US LEC"), pursuant to Federal Communication Commission ("FCC") Rule Section 52.9(b)¹, petitions the Tennessee Regulatory Authority ("TRA") for an expedited review of the Number Pooling Administrator's ("NeuStar") denial of US LEC's request for use of central office code numbering resources in the 615 area code serving area. US LEC is submitting the safety valve request to the NCUC because it requires the grant of two (2) 1,000 blocks beginning with 4000 or 7000 so that it has the appropriate numbering resources to assign numbers to meet the specific requirements of a large US LEC business customer. NeuStar has determined that US LEC had not met the utilization threshold required to obtain the additional central office code (NXX) 1,000 blocks in the Nashville Rate Center ("Rate Center"). Because of changes to its business plan, the customer's needs result in US LEC's request for two NXX 1,000 number blocks in the Nashville Rate Center. In support of this Petition, US LEC states:

I. US LEC is a competitive local exchange carrier ("CLEC") providing telecommunications services in Tennessee under the jurisdiction of the TRA.

¹ 47 C.F.R. §52.9(b).

2. NeuStar is an independent, non-governmental entity that is responsible for administering and managing numbering resources in pooling areas. *See* 47 C.F.R. §§52.13(a) and (b).

3. US LEC of Tennessee Inc. is affiliated with US LEC Corp. whose principal place of business is Morrocroft III, 6801 Morrison Boulevard, Charlotte, NC 28211. Pleadings, orders, notices and other papers filed in this matter should be served upon:

Edward H. Griffin
Regulatory Manager
US LEC Corp.
6801 Morrison Blvd.
Charlotte, NC 28211
704-319-1476 (Telephone)
704-602-1476 (Telecopier)
egriffin@uslec.com (email)

Charles B. Welch, Jr., Esq.
FARRIS MATHEWS BRANAN BOBANGO
HELLEN & DUNLAP PLC
618 Church St., Suite 300
Nashville, TN 37219
(615) 726-1200 (Telephone)
(615) 726-1776 (Telecopier)
cwelch@farrismathews.com

4. Pursuant to a claim of confidentiality, US LEC is submitting a detailed justification from the customer's contractor (Exhibit E to this Petition) that is the basis for this request. Such detailed justification contains proprietary information that US LEC does not disclose publicly and customarily guards from its competitors. US LEC respectfully requests that the TRA consider the information in Exhibit E to this Petition a part of this Petition, but in doing so treat Exhibit E as confidential.

5. On March 31, 2000, the Federal Communications Commission ("FCC") issued a Report and Order and Further Notice of Proposed Rule Making relating 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.

6. In FCC 00-104 and FCC 00-249, 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.

7. 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.

8. 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 75 percent to receive additional numbering resources in a given rate center. FCC 00-249 at ¶22; FCC 01-362 ¶¶50-52. 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.* ¶29.

9. On November 29, 2006, US LEC submitted Central Office Code (NXX) Assignment Requests to NeuStar for the assignment of the 1,000 number blocks of NXX resources in the Rate Center necessary to meet the telephone number needs of one of US LEC’s large business customers. A copy of this application is attached hereto as Exhibits A (3 pages).

10. The request, made on behalf of the US LEC customer, was collectively for two groups of 1,000 telephone numbers in the Nashville Rate Center. US LEC does not presently have blocks of numbers containing the thousands blocks in the Rate Center as requested by, and

required by, the US LEC customer. This customer requires the NPA-NXX resources to support its network of telephone numbers and requires the use of certain ranges of number blocks to augment its current numbering arrangement.

11. Based on the individual Rate Center data that NeuStar used to calculate US LEC's MTE, US LEC's numbering resources exhaust date was 3.306 and 6.306 months. Copies of the application is attached hereto as Exhibits B, (Page 2 of 2).

12. While US LEC's MTE is 3.306 and 6.306 months, NeuStar calculates US LEC is currently operating at a utilization rate of 95.381 percent. A copy of the application is attached hereto as Exhibits B, (Page 2 of 2). Despite the current levels of utilization, US LEC is unable to provide the requested 1,000 number blocks in an existing NXX in the switch that serves the US LEC customer within listed Rate Center.

13. NeuStar denied US LEC's requests on the grounds that US LEC had requested more blocks than it would exhaust in six months in the Central Office Code (NXX) Guidelines. A copy of the decision is attached hereto as Exhibits C, (Page 1 of 2).

14. As a result of the denial of US LEC's requests for additional numbering resources, US LEC is unable to provide the telecommunications services requested by its customer in the State of Tennessee.

15. The FCC delegated authority to state commissions to address safety valve claims when NeuStar denies a specific request for numbering resources

16. Under previous procedures used by the North American Numbering Plan Administration ("NANPA"), waivers or exceptions were typically granted in any case where customer hardships could be demonstrated or where the service provider's inventory did not have a block of numbers large enough to meet the customer's specific request. Under existing

procedures, however, NeuStar looks at the MTE criteria and utilization threshold for the entire rate center and allows no exceptions. By refusing to consider the circumstances of each case, NeuStar's procedure may result in decisions contrary to the public interest and decisions that do not necessarily preserve the efficient use of telephone numbers or postpone dates of exhaust.

17. US LEC's inability to provide this large business customer with the requested numbers prevents US LEC from providing the quality of service this customer desires and expects. A copy of the relevant correspondence from the customer has previously been introduced as Exhibit E (confidentiality requested).

18. Both the FCC Order and NeuStar's Central Office Code (NXX) Guidelines provide that state regulatory authorities have the power and authority to review NeuStar's decision to deny a request for numbering resources. *See* FCC 01-362, Appendix A, Final Rules, 47 C.F.R. § 15.15 (g)(4).

19. In reviewing previous petitions of this type, many PSC staffs have requested that Petitioners provide additional information concerning the Petitioners' number utilization for the specific central office involved in the request. The current US LEC number utilization calculation information for the Rate Center is attached hereto as Exhibit D. Such detailed justification contains proprietary information that US LEC does not disclose publicly and customarily guards from its competitors. US LEC respectfully requests that the TRA consider the information in Exhibit D to this Petition a part of this Petition, but in doing so treat Exhibit D as confidential.

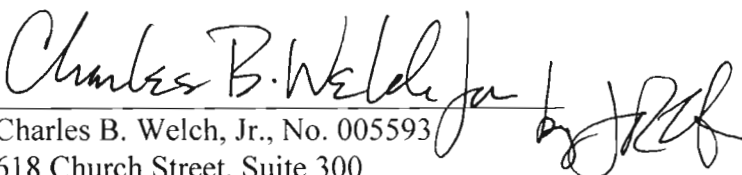
20. US LEC seeks the TRA's review of NeuStar's decision to withhold numbering resources from it on the grounds that the Central Office Code Administration decision (1) violates the rules and orders of the FCC which grant carriers access to numbering resources to

meet specific customer demands upon a sufficient showing of need and (2) interferes with US LEC's ability to serve its customers within the state of Tennessee. As the FCC has stated, "[u]nder 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 ¶ 61. By refusing to grant numbering resources sufficient to meet the new large customer's needs, NeuStar's decision is preventing the customer from obtaining the service of its choice from its carrier of choice, US LEC.

For these reasons, US LEC requests that the TRA review the decision of NeuStar to deny US LEC's request for additional numbering resources and direct NeuStar to provide numbers to meet the specific requirements of US LEC's business customer in the exchange of Nashville, Tennessee.

Respectfully submitted,

FARRIS MATHEWS BRANAN
BOBANGO HELLEN & DUNLAP, PLC

By: 
Charles B. Welch, Jr., No. 005593
618 Church Street, Suite 300
Nashville, Tennessee 37219
Telephone: 615-726-1200
Facsimile: 615-726-1776
Email: cwelch@farrismathews.com
Attorney for US LEC of Tennessee Inc.

BEFORE THE TENNESSEE REGULATORY AUTHORITY

In re: Petition of US LEC of Tennessee :
Inc. for Expedited Review of Growth : Docket No. _____
Code Denial by the Number Pooling :
Administrator :

AFFIDAVIT

I, Edward H. Griffin, being duly sworn according to law, depose and say that I am Regulatory Manager of US LEC Corp.; that I am authorized to and do make this affidavit for it; and that the facts set forth in the foregoing Petition are true and correct to the best of my knowledge, information, and belief, and I expect the said US LEC Corp. to be able to prove the same in any hearing hereof.



Edward H. Griffin
Regulatory Manager
US LEC Corp.

State of North Carolina
County of Mecklenburg

Sworn and subscribed before me
this 27th day of December, 2006.



Notary Public

My Commission expires June 1, 2009

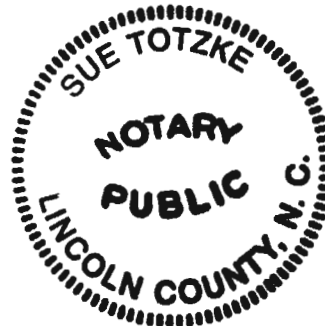


EXHIBIT A

Pooling Administration System

 bmckoy@uslec.com (SP)

Sign Out

Part 1A

Type of Application : New

1.1 Contact Information :

*Note: If any of the contact info is incorrect, edit your user profile.***Block Applicant :**Company Name **US LEC OF TN**Headquarters Address: **6801 Morrison Boulevard**City: **Charlotte**State: **NC**Zip: **28211**Contact Name **Ms Bea McKoy**Contact Address **6801 Morrison Boulevard**City **Charlotte**State **NC**Zip **28211**Telephone **(704) 319-1351**Fax **(704) 602-1351**E-mail **bmckoy@uslec.com****Pooling Administrator ⁱ:**Contact Name **Ms Genevieve Paulino**Contact Address **1800 Sutter St. Ste. 780**City **Concord**State **CA**Zip **94520**Telephone **(925) 363-7652**Fax **(925) 363-7683**E-mail **genevieve.paulino@neustar.biz**

1.2 General Information

LRN Needed ⁱⁱ **No**NPA **615**LATA * **470**OCN ⁱⁱⁱ* **8356-US LEC OF TN**Parent Company OCN * **8354**Number of Thousands-Blocks
Requested **2**Switch Identification (Switching
Identity/POI) ^{iv}* **BRWDTNDDDS0**City or Wire Center
NameRate Center ^v **NASHVILLE**

Rate Center Sub Zone

1.3 Dates

Exhibit A







Date of Application ^{vi} **Wednesday, November 29, 2006**

Requested Block Effective Date 30 ▾ Dec ▾ 2006 ▾

Request Expedited Treatment ☐ Yes ☒ No**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 ▾

<p>c) Thousands-Block(s) (NPA-NXX-X) assignment preference</p> <p>Click here to see the available blocks in the pool.</p> <p>NOTE: The blocks available list shows blocks that are available at the time a request is submitted. These same blocks may not be available at the time the request is processed. Therefore, it is recommended that you provide additional block preferences in the event those blocks are not available.</p>			
<p>d) Thousands-Block(s) (NPA-NXX-X) that are undesirable for this assignment, if any</p>			

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) **N/A****1.5 Type of Request**Initial block for rate center ☐ YesGrowth block for rate center ☒ YesChange block **N/A**Disconnect block **N/A**

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) Pooling Administration Guidelines (ATIS-0300066)

Continue

Cancel

Instructions for filling out each Section of the Part 1A form:

Section 1.1 Contact information requires that Service Providers supply under "Block Applicant" the company name, company headquarters address, a contact within the company, an address where the contact person may be reached, in addition to the correct phone, fax, and e-mail address. The Pooling Administrator section also requires the Service Provider to fill in the Pooling Administrator's name, address, phone, fax and e-mail.

Section 1.2 Service Providers who need a thousands-block assignment or for an Location Routing Number (LRN) are required to fill in this section. If needed for an LRN, a CO Code Application needs to also be submitted to the PA. The Service Provider should supply the Numbering Plan Area (NPA); the Local Access Transport Area (LATA), which is a three-digit number that can be found in the Telcordia™ LERG™ Routing Guide. The Operating Company Number (OCN) assigned to the service provider and the OCN its parent company. An OCN is a four-character alphanumeric assigned by Telcordia™ Routing Administration (TRA). In addition, the number of thousands-blocks requested should be supplied. The Switch Identification as well as the city or wire center name, rate center, rate center sub zone, homing tandem and CLLI™ tandem of the facilities based provider^{vii}. Explanations of these terms may be found in the footnotes.

Section 1.3 The date the Service Provider completes the application should be entered in this section, as well as the Effective Date of the requested thousands-block.

Section 1.4 Service Providers should indicate their type, e.g., local exchange carrier, competitive local exchange carrier, interexchange carrier, CMRS. The also indicate the primary type of business in which the numbering resource is to be used. Service Providers also may indicate their preference for a particular thousands-block, e.g., 321-9XXX, or indicate any thousands-blocks that may be undesirable, e.g., 321-6XXX.

Section 1.5 Service Providers indicate the type of request. Initial requests are for first applications for thousands-blocks in a rate center, growth for additional thousands-blocks in a rate center in which the applicant already has numbering resources, and provide the required evidence as ordered by the FCC.

The thousands-block applicant certifies veracity of this form by signing their name, and providing their title and date.

Foot Notes:

ⁱ The Pool Administrator is available to assist in completing these forms.

ⁱⁱ A CO Code application will also need to be submitted to the PA

ⁱⁱⁱ Operating Company Number (OCN) assignments must uniquely identify the applicant. Relative to CO Code assignments, NECA-assigned Company Codes may be used as OCNs. Companies with no prior CO Code or Company Code assignments should contact NECA (800 524-1020) to be assigned a Company Code(s). Since multiple OCNs and/or Company Codes may be associated with a given company, companies with prior assignments should direct questions regarding appropriate OCN usage to (TRA) (732-699-6700).

^{iv} This is an eleven-character descriptor of the switch provided by the owning entity for the purpose of routing calls. This is the 11 character CLLI™ code of the switch /POI.

^v Rate Center name must be a tariffed Rate Center.

^{vi} Acknowledgment and indication of disposition of this application will be provided to applicant within seven calendar days from the date of receipt of this application. An incomplete form may result in delays in processing this request.

^{vii} Telcordia, LERG Routing Guide, and CLLI are trademarks of Telcordia Technologies, Inc.

EXHIBIT B

Pooling Administration System

 bmckoy@uslec.com (SP)

Sign Out

Months to Exhaust and Utilization Certification Worksheet - TN Level¹

Date **Wednesday, November 29, 2006**OCN **8356**Company Name **US LEC OF TN**Rate Center **NASHVILLE**List all Codes NPA(s)-NXXs and Blocks NPA(s)-
NXX-X(s)

615-277 (entire code), 615-324 (entire code), 615-425 (5 & 7), 615-522-5, 615-574 (6 & 7), 615-564-1

Name of Block Applicant **Ms Bea McKoy**Title **user**Telephone Number **(704) 319-1351**Fax Number **(704) 602-1351**E-Mail **bmckoy@uslec.com**A. Available Numbers * **1201**B. Assigned Numbers * **24799**C. Total Numbering Resources * **26000**D. Quantity of numbers activated in the past 90
days and excluded from the Utilization
calculation * **0**

List excluded Code(s) or Block(s)

E. Growth History - Previous 6 months² *

Month 1	312	Month 2	422
Month 3	202	Month 4	1362
Month 5	531	Month 6	268

Exhibit B

F. Forecast - Next 12 months^{3 *}

Month 1	2000	Month 2	0
Month 3	0	Month 4	0
Month 5	0	Month 6	0
Month 7	0	Month 8	0
Month 9	0	Month 10	0
Month 11	0	Month 12	0

G. Average Monthly Forecast (Sum of months # 1-6 (Part F above) divided by 6) **333.333**

H. Months to Exhaust⁴ (Numbers Available for Assignment to customers (A) / Average Monthly Forecast (G))

Block Requested	A. Available Numbers	H. Months to Exhaust
1	1201	3.603
2	2201	6.603

I. Utilization⁵(Assigned Numbers (B)) / (Total Numbering Resources (C) - Excluded Numbers (D)) * 100 **95.381**

Explanation

customer needs 1 block in the 4 thousandths group and 1 in the 7 thousandths group

¹A copy of this worksheet is required to be submitted to the Pooling Administrator when requesting additional numbering resources in a rate center. For auditing purposes, the applicant must retain a copy of this document.

²Net change in TNs no longer available for assignment in each previous month, starting with the most distant month as Month #1, and Month #6 as the current month.

³Forecast of TNs needed in each following month, starting with the most recent month as Month #1.

⁴To be assigned an additional thousands-block (NXX-X) for growth, "Months to Exhaust" must be less than or equal to 6 months. (FCC 00-104, § 52.15 (g)(3)(iii)).

⁵Newly acquired numbers may be excluded from the Utilization calculation (FCC 00104, section 52.15 (g)(3)(ii))

Show Calculations

Continue

Cancel

EXHIBIT C

Pooling Administration System



bmckoy@uslec.com (SP)

Sign Out

Months to Exhaust and Utilization Certification Worksheet - TN Level (Continued)

You have requested more blocks than you will exhaust in six months.

Select One Option and Submit

- ☒ Proceed on the basis of the existing MTE and receive only 1 block(s)
- ☐ Return to the Months To Exhaust Form
- ☐ Discard all the information provided for the request and start with a fresh Part 1A
- ☐ State Waiver Option

CONFIDENTIAL

EXHIBIT D

CONFIDENTIAL

EXHIBIT E