

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 24, 2007

IN RE:

PETITION FOR EXPEDITED REVIEW OF  
CENTRAL OFFICE CODE DENIAL BY THE  
NUMBER POOLING ADMINISTRATOR RELATING  
TO TSC DEPARTMENT STORES

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DOCKET NO.  
07-00004

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

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This matter came before Director Eddie Roberson, 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 January 23, 2007, for consideration of the *Petition of US LEC of Tennessee Inc. for Expedited Review of Central Office Code Denial* ("Petition") relating to Tractor Supply Company ("TSC") filed by US LEC of Tennessee, Inc. ("US LEC") on January 2, 2007.

**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."<sup>1</sup> Among other things, the FCC adopted a mandatory

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<sup>1</sup> *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").

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.<sup>2</sup> 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.<sup>3</sup>

On June 18, 2001, the FCC designated NeuStar, Inc. (“NeuStar”) as the national thousands-block number Pooling Administrator.<sup>4</sup> 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. In order to facilitate efficient telecommunications services in the Nashville Metropolitan Statistical Area, the 615 area code was converted to thousand-block number pooling on March 14, 2002. Thus, telecommunications service providers participating in number pooling in the 615 area, which includes the Brentwood Rate Center, 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.

On November 29, 2006, US LEC submitted a Central Office Code (NXX) Assignment Request to NeuStar to be assigned two (2) one thousand number blocks to meet the demands of its customer, Tractor Supply Company (“TSC” or “Company”). US LEC’s application was for a Central Office Code in the 615 NPA to fulfill TSC’s request for additional consecutive numbers

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

<sup>3</sup> 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).

<sup>4</sup> *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).

for the purpose of sustaining the growth of the Company's new departments and additional employees. US LEC did not have sufficient number resources available in the Brentwood Rate Center to fulfill the Company's request.

The Pooling Administrator, citing US LEC's failure to meet its NXX assignment guidelines, denied US LEC's request on November 29, 2006. The guidelines require that a rate center must have a 75% number utilization rate and that its estimated number exhaust date not exceed six months. US LEC met the utilization rate guideline because the Brentwood Rate Center has a 95.5% utilization rate. The second guideline was not met because the Brentwood Rate Center has a projected exhaust date of 6.6 months.

On January 2, 2007, US LEC filed with the Authority its *Petition*. US LEC asserts that its inability to supply TSC with the requested numbers prevents US LEC from providing the quality of service its customer expects.<sup>5</sup> US LEC 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 US LEC's application is authorized by the FCC.<sup>6</sup> 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

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<sup>5</sup> *Petition of US LEC of Tennessee Inc. for Expedited Review of Central Office Code Denial*, p. 5 (January 2, 2007).

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

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.<sup>7</sup>

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.<sup>8</sup>

At a regularly scheduled Authority Conference held on January 23, 2007, the panel assigned to this docket considered US LEC's *Petition*. After consideration of the record, the public interest, and this agency's responsibility to permit competition in the telecommunications industry,<sup>9</sup> the panel voted unanimously to approve US LEC's request for expedited review and to reverse the Pooling Administrator's denial of US LEC's request for additional numbering resources.

**IT IS THEREFORE ORDERED THAT:**

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

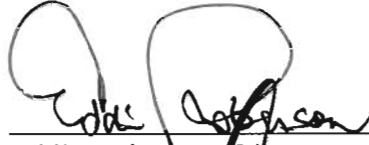
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<sup>7</sup> *Third Report and Order*, 17 FCC Rcd. at 280-281, ¶ 61.

<sup>8</sup> 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).

<sup>9</sup> See Tenn. Code Ann. § 65-4-123 (2004).

3. The Pooling Administrator is ordered to assign two (2) one-thousand number blocks to US LEC for the Brentwood Rate Center, Switch Designation BRWDTNDDDS0.

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Eddie Roberson, Director

A handwritten signature in black ink, appearing to read "Pat Miller", written over a horizontal line.

Pat Miller, Director

A handwritten signature in black ink, appearing to read "Ron Jones", written over a horizontal line.

Ron Jones, Director