



August 15, 2013

Mr. Gary Widerburg  
Commission Administrator  
Public Service Commission of Utah

Mr. Widerburg:

AT&T respectfully submits this application of the "safety valve" for NXX-X acquisition in the state of Utah. By this letter, AT&T requests that the Public Service Commission ("Commission") of Utah overturn a denial by NeuStar, Inc. ("NeuStar", "Pooling Administrator" or "PA") of AT&T's application for 3 blocks of numbers and that the Commission specifically authorize the PA to immediately release the requested block to AT&T so that AT&T may serve its customer.

This request 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 ("TBPA") and the Central Office Code (NXX) Assignment Guidelines published by the Industry Numbering Committee ("INC").

A Utah customer of AT&T has requested that AT&T provide 2500 numbers for its place of business in the Ogden rate center.<sup>1</sup> AT&T has developed a communications plan that the customer will implement, and consequently, the customer will assign the numbers within 180 days of the numbers being made available by AT&T to the customer's enterprise. The Ogden rate center, in the 801/385 area code, converted to Number Pooling on March 1, 2001 as authorized by the Commission and the FCC. Consequently, normal numbering resource acquisition by a Number

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<sup>1</sup> AT&T considers the customer's name proprietary and trade secret information. Accordingly, AT&T asks that the Commission not reveal the name of the customer beyond these discussions. See attached Company-Proprietary customer letter.

Pooling carrier, such as AT&T, is gained through an interface with the PA<sup>2</sup>. On August 14, 2013, AT&T submitted a "Thousand Block Application Form Part 1A", and a "Months to Exhaust and Utilization Certification Worksheet - TN Level" ("MTE and Utilization") to the PA<sup>3</sup> for 3 thousand blocks. AT&T received a denial from the PA denying the request.<sup>4</sup> The denial indicated that AT&T failed to meet the utilization threshold and MTE thresholds. Typically the PA will apply the FCC rules and related INC Guidelines. These rules and guidelines require that a block or code holder requesting growth resources demonstrate that existing resources within the rate center will both exhaust within 6 months, and meet the 75% utilization level. The PA denial was for both of those conditions.

Although AT&T has an adequate supply of telephone numbers to satisfy incremental requests for numbers without receiving new blocks of numbers, AT&T's existing telephone resources cannot satisfy its customer's need for 2500 numbers.

In setting its policy for the assignment of telephone numbers, the FCC designated NANPA and the PA to handle numbering resource administration.<sup>5</sup> 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

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<sup>2</sup> The federal rules in 47 C.F.R. 52.15 generalize responsibilities of NANPA and the PA under the heading "Central office code administration".

<sup>3</sup> Copies of the Part 1A and the MTE and Utilization worksheet are attached. AT&T asks the Commission to treat the information contained as confidential by the Commission.

<sup>4</sup> A copy of the Part 3 denial is attached. AT&T asks the Commission to treat the information contained as confidential by the Commission.

<sup>5</sup> 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."

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)

In addition, the FCC through the INC Guidelines provides that appropriate regulatory authorities may review the PA's decision to deny a request for numbering resources. See INC TBPA Sections 3.7 and 12(c).

The FCC also clarified in the text of a recent NRO Order<sup>6</sup> that carriers may now appeal to states using a "safety valve" mechanism (paragraphs 57-66). As is noted in the following, 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 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. States may not accommodate requests for specific numbers (i.e., vanity numbers), but may grant requests for customers seeking contiguous blocks of numbers. Any numbering resources granted for this reason may be initially activated only to serve the requesting customer for whom the application was made. If the customer request is withdrawn or declined, the requesting carrier must return the numbering resources to the NANPA or Pooling Administrator, and may not retain the numbering resources to serve other

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<sup>6</sup>*In the Matter of Numbering Resource Optimization, et al.*, CC Docket Nos. 99-200 and 96-98, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 ("Third NRO").

customers without first meeting our growth numbering resource requirements.<sup>7</sup>

An essential aspect of the "safety valve" provision is the accelerated response needed to comply according to 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 a possible."<sup>8</sup>

AT&T respectfully requests that the Commission overturn the PA's decision expeditiously in the interest of our customer, as we are unable to satisfy the numbering needs of this customer without such an exception. Any correspondence with the PA in this matter may be brought to the attention of the Pooling Administrator who denied the AT&T request:

Ms. Dora Wirth  
Pooling Administrator  
NeuStar, Inc.  
1800 Sutter Street  
Concord, CA94502  
925-363-7653

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<sup>7</sup>*Id.* at ¶ 64.

<sup>8</sup>*Id.* at ¶ 66.

Respectfully submitted,

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