

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
VERIZON DELAWARE INC., TO OBTAIN)
ADDITIONAL NUMBERING RESOURCES IN) PSC DOCKET NO. 05-002
THE WILMINGTON RATE CENTER)
(FILED FEBRUARY 15, 2005))

IN THE MATTER OF THE DELAWARE PUBLIC)
SERVICE COMMISSION'S CONSIDERATION OF)
WHETHER TO EXERCISE THE FUNCTIONS) PSC DOCKET NO. 02-392
DELEGATED TO STATE COMMISSIONS BY THE)
FEDERAL COMMUNICATIONS COMMISSION IN)
THE "NUMBERING RESOURCE OPTIMIZATION")
PROCEEDINGS (OPENED NOVEMBER 19, 2002))

ORDER NO. 6600

This 5th day of April, 2005, the Commission determines and Orders the following:

A. Commission Consideration of "Safety Valve"
Applications Under 47 C.F.R. § 52.15(g)(4)

1. By the late-1990's, many feared that the continued inefficient use (or even hoarding) of "numbering resources" - and, in particular, central office code telephone numbers ("NXX") - by both old and new carriers would cause more disruptive "area code exhaustions" and require, sooner - rather than - later, the costly expansion of the entire North American Numbering Plan. Consequently, in a series of "Numbering Resource Optimization" orders, the Federal Communications Commission ("FCC") introduced nationwide rules to impose efficiencies, and conservation, in the allocation and utilization of NXX (and similar) codes and numbers. See 47 C.F.R.

§§ 52.15.¹ As part of its efforts, the FCC gave State utility commissions the opportunity to participate in enforcing (and tweaking) various aspects of this numbering resource regime, including providing carriers with what is now known as "safety valve" relief. See PSC Order No. 6064 at ¶ 3 (Nov. 19, 2002) (describing, with citations, the FCC's delegations of enforcement authority to State utility commissions). Under the "safety valve" mechanism, a State commission may, upon a carrier's petition, direct the NANPA or the Pooling Administrator to provide additional "growth" numbering resources to the petitioning carrier even though the carrier might not then be able to surmount the general "months-to-exhaust" and "utilization" prerequisites for obtaining such additional numbers. 47 C.F.R. § 52.15(g)(4).²

2. This Commission initially declined the FCC's offer for it to participate in the numbering resource regime, including entertaining "safety valve" applications. See PSC Order No. 6064 (Nov. 19, 2002). In doing so, the Commission expressed doubt, given state law dictates for decision-making at announced open meetings coupled with its limited power of delegation, that it could finally act on such "safety valve" applications within the ten business day turn-around period strongly suggested by the FCC.³

¹The Numbering Resource Optimization order particularly relevant to this matter is the Third Report and Order and Second Order on Reconsideration in CC Dckt. No. 96-98 and CC-Dckt. No. 99-200, 17 FCC Rcd. 252 (FCC 2001) ("Third Report").

²See Third Report at ¶¶ 57-66.

³See Third Report at ¶ 66. See also PSC Order 6064 at ¶ 7 & n. 5.

3. Then, in 2003, Verizon Delaware Inc. (VZ-DE) filed a "safety valve" application with this Commission. The carrier sought a Commission over-ride in order to obtain specific additional numbering resources to meet the particular needs of a specific State-agency customer. In its application, VZ-DE alleged, and this Commission later found no reason to question, that if the particular application was funneled to the FCC then that federal agency would not act on such application within anything close to its own suggested time deadline. See PSC Order No. 6238 at ¶¶ 4-5, 8 (Aug. 5, 2003). Given that, this Commission chose to act as the "safety valve" forum for such particular application and granted VZ-DE's request for the specific additional growth numbering resources. Id. at ¶¶ 9-10. The Commission also announced that it might re-examine its earlier decision not to entertain future "safety valve" rulings. Id.

4. VZ-DE has now filed another safety valve application here. In its current application, VZ-DE seeks a Commission order directing the Pooling Administrator ("PA") to allocate to VZ-DE a new NXX, with an attendant block of one thousand numbers. That NXX and block of numbers is to be used to establish a "Location Routing Number" ("LRN") to be assigned to a new IP software "packet" switch that VZ-DE intends to introduce in the Wilmington rate center and the 228 LATA. This new switch - planned for introduction in July 2005 (and which would not replace any current "circuit-switched" switch) - is an element of VZ-DE's move to create a managed IP-network to serve its customer base. In particular, as VZ-DE builds out its "Fiber to the Premises" network in this rate area, customers who then subscribe to VZ-DE's high-speed

Internet services will have their voice services moved from current circuit-switched switches to this new packet switch.

5. In this matter, just as with the application entertained in 2003, there is nothing to suggest that the FCC is geared-up to act promptly if this Commission would not tell VZ-DE to take its NXX/additional numbers plea to the federal Commission. In light of that, this Commission will not only entertain this particular "safety valve" application but also now decides to accept future "safety valve" applications from telecommunications carriers subject to the supervision of this Commission.⁴ In now altering somewhat the course chosen in Order No. 6064, the Commission emphasizes two things. First, the choice to now entertain "safety valve" applications should not be seen as any promise to meet the suggested ten business day turnaround scenario suggested by the FCC in its Third Report. The impediments under state law which make that goal unachievable (as identified in both Orders Nos. 6064 and 6238) still prevail. Instead the change now to allow applications to be filed here is simply an acknowledgement that a decision from this Commission may, in most cases, come more quickly than one from the FCC if the applications would continue to be funneled there. Second, the Commission (and its Staff) still do not pretend to be experts in the "numbering" field"

⁴The Commission does not now decide whether it should, or indeed holds the authority under state law to, entertain federal "safety valve" applications from cellular, CMRS providers, or other entities not subject to this Commission's jurisdiction. Similarly, the Commission does not here decide whether it will now accept the other delegations set forth in 47 C.F.R. § 52.15. Such determinations will be made when a particular delegated action is needed, or sought. Here, the Commission simply announces that it will going-forward accept "safety valve" applications from public telecommunications utilities subject to the regulatory supervision of this Commission.

and this small Commission still has only very limited resources to commit to considering "numbering resource" issues. Currently, this State has the luxury of a somewhat abundant supply of still available numbering resources - with exhaustion of the single area code not now forecast to occur until 2018. But that is a situation that this Commission wishes to have continue. Thus, in later "safety valve" applications submitted here, the Commission expects the applying carrier to fully set forth the compelling need for the requested additional numbering resources and also describe why the granting of the particular application will not start down a slope where numbering resources will be inefficiently used. In short, an applicant should include a picture of what would be the long-term impact to numbering resources if the particular request is granted.

B. VZ-DE's Present Application

6. As noted earlier, VZ-DE's present application seeks a Commission override of the NAPA's decision to withhold a NXX and attendant numbers.⁵ The NXX and the accompanying thousand block of numbers would be used by VZ-DE to establish a new separate LRN for the new packet switch which VZ-DE will install in the Wilmington rate center.

7. In its Third Report, the FCC alluded to the issue of "safety valve" applications for additional growth numbering resources premised on the addition of a "new switch" in the relevant rate

⁵According to VZ-DE, the PA, Neustar, Inc., denied its initial application for a new NXX and thousand block of numbers because VZ-DE's current resources did not satisfy the "Months to Exhaust" and "Utilization" requirements for the Wilmington rate center.

center. In doing so, the FCC recognized that new numbering resources are used by carriers to activate new switches, but encouraged carriers to pursue other alternatives, such as pooling, as a means to activate new switches, rather than potentially stacking numbers for individual switches with the effect of stranding numbering resources. However, the FCC announced that States could consider requests from carriers with multiple switches in a given rate center to determine, on a case-by-case basis, whether the requested additional numbering resources relief is indeed warranted.⁶

8. Here, VZ-DE seeks the new NXX code and additional numbering resources to activate its new packet switch - to give that switch the LRN needed under the "number portability" regime. This new switch will be a part of VZ-DE's efforts to upgrade its network to a managed IP network. In particular, the new packet switch will eventually work in conjunction with VZ-DE's new fiber to the premises build-outs to offer a network capable of supporting a wider range of communications services. And, until those upgrades are operational and the more advanced services become available, the new packet switch will be used to more efficiently support present telephone services. Moreover, VZ-DE will release nine blocks of numbers from the new NXX code after the new LRN and NXX is established.

9. In these circumstances, the Commission finds that VZ-DE's request for the additional numbering resources (NXX code and thousand block numbers) to create an LRN for its new packet switch in this particular rate center should be granted. It is not apparent that the

⁶Third Report at ¶ 66.

granting of such a request will result in numbers being "stranded" behind either the present circuit switched switches or the new packet switch. Second, the new switch is a key step in VZ-DE's efforts to provide a network able to support more advanced communications services within this State. Third, the drain on numbering resources will be relatively slight, and thus insufficient to override the benefits from VZ-DE offering a network capable of carrying advanced services.⁷ VZ-DE has demonstrated that its request for additional resources is a reasonable one, with the numbering resources it seeks needed to meet an immediate need.

Now, therefore, **IT IS ORDERED:**

1. That, for the reasons set forth in the body of this Order, the Commission accepts the delegation of authority conferred by 47 C.F.R. § 52.15(g)(4) in order to entertain the request for additional numbering resources filed by Verizon Delaware Inc., on February 15, 2005.

2. That, for the reasons set forth in the body of this Order, the Commission will accept the delegation of authority conferred by 47 C.F.R. § 52.15(g)(4) to entertain "safety valve" requests for additional numbering resources filed hereafter by telecommunications utilities subject to the regulatory jurisdiction of this Commission.

3. That, for the reasons set forth in the body of this Order, the Commission now grants the request for additional numbering

⁷There does not appear to be a problem that the packet switch NXX will be a "service specific" in the sense that persons purchasing advanced services will be assigned the "service specific" numbers from this NXX.

resources as set forth in the application filed by Verizon Delaware Inc., on February 15, 2005.

4. That, pursuant to 47 C.F.R. § 52.15(g)(4), the Commission directs the North American Numbering Plan Administrator or the National Pooling Administrator to issue to Verizon Delaware Inc., a new NXX central office code with one thousand block of numbers to establish an LRN in a new packet switch to be activated in the Wilmington rate center. If, in implementation of the new NXX, Verizon Delaware Inc., is initially assigned a ten thousand block of associated numbers, Verizon Delaware Inc. shall return for polling purposes nine, one thousand blocks of such numbers after the NXX (and LRN) becomes effective.

5. That the Secretary shall promptly send a copy of this Order to NeuStar, Inc., and the Secretary of the Federal Communications Commission.

6. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Jaymes B. Lester
Commissioner

PSC Dockets Nos. 05-002 & 02-392,
Order No. 6600 Cont'd.

/s/ Joann T. Conaway
Commissioner

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary