

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF)
TELEPORT COMMUNICATIONS AMERICA, LLC)
FOR THE APPROVAL OF SAFETY VALVE) PSC DOCKET NO. 13-117
RELIEF TO OBTAIN ADDITIONAL)
TELEPHONE NUMBERS IN THE NEW CASTLE)
RATE CENTER (FILED MARCH 22, 2013))

ORDER NO. 8343

AND NOW, this 9th day of April, 2013, the Delaware Public Service Commission (the "Commission") determines and orders the following:

WHEREAS, in PSC Order No. 7183, the Commission noted that, pursuant to 47 U.S.C. §251(e)(1), the Federal Communications Commission ("FCC") crafted general rules relating to the administration of telephone numbering resources, such as area codes (NPA) and central office codes (NXX). See 47 C.F.R. §§52.1 through 52.20. The FCC has designated NeuStar, Inc. ("NeuStar") as its "North American Numbering Plan Administrator" ("NANPA") and its "National Thousands Block Numbering Pool Administrator" ("PA"). In the context of NXX numbers, the FCC looks to NeuStar as its designated NANPA and PA; and

WHEREAS, as described in Order No. 7183, the FCC rules grant to state utility commissions certain monitoring and enforcing powers regarding a carrier's compliance with the federal "utilization" requirements. See 47 C.F.R. §52.15(g)(3)(iv), (g)(4), and (h) (i)(2). A state commission can also act to grant "safety valve" relief that will allow a carrier - in limited circumstances - to obtain additional NXX numbers even if the carrier might not be able to meet the

"utilization" and "months-to-exhaust" ("MTE") thresholds normally required to gain additional numbering resources. See 47 C.F.R. §52.15(g)(4); and

WHEREAS, via Order Nos. 6238 (August 5, 2003) and 6600 (April 5, 2005), the Commission has decided to exercise "safety valve" authority under the FCC rules; and

WHEREAS, the Commission has adopted the following procedures for "safety valve" applications submitted under 47 C.F.R. § 52.15(g)(4):

- (a) Any carrier seeking "safety-valve" relief under 47 C.F.R. §52.15(g)(4) shall submit an application to the Commission for the release of blocks of telephone numbers. All such applications shall set forth with specificity: (i) a compelling and permissible need for the requested additional numbering resources (with appropriate references to rules or orders of the Federal Communications Commission); (ii) a description as to why the granting of the particular application will not run the risk that numbering resources will be inefficiently used; and (iii) written evidence that the North American Numbering Plan Administrator or National Pooling Administrator has rejected the carrier's direct request for the additional number resources. An applicant shall also describe what the long-term impact to the numbering resources would be if the particular request is granted; and
- (b) Within ten business days of the receipt of an application complying with the above requirements, the Executive Director or Deputy Director (or other Staff member designated by them) shall review and investigate the numbering resource request and submit a memorandum indicating: (i) the date the application was received; (ii) Staff's findings as to the validity and strength of the applicant's request, specifically as to whether all of the requirements set forth in Paragraph (a) above are sufficiently satisfied; and (iii) whether Staff advises the requested numbers be released. Staff shall submit this memorandum to the Commission and concurrently send a copy of the same to the carrier applicant and to the North American Numbering Plan Administrator or the National Pooling Administration, as appropriate; and

- (c) Upon receipt of the Staff Memorandum, the Commission shall consider the application and Staff's recommendation at the Commission's next regularly scheduled meeting, provided the Commission's schedule so permits. If the Commission's schedule does not so permit, the application shall be formally considered and acted upon promptly at a later regularly-scheduled Commission meeting.

See Order No. 7183 (May 22, 2007), at ¶ 1; and

WHEREAS, on March 22, 2013, Teleport Communications America, LLC ("TCAL") filed with the Commission an application seeking "safety valve" relief (the "Application"). In the Application, TCAL stated that it had applied with NeuStar for 2,500¹ additional numbers for one of its Delaware business customers² located in the New Castle rate center, but on March 15, 2013, NeuStar denied its request; and

WHEREAS, TCAL asserted that the number pool for the New Castle rate center has only three contaminated blocks currently available and that its request for additional numbering resources would deplete the inventory. Hence, TCAL wanted to open a new NPA-NXX, activate three blocks in the new NPA-NXX code for its customer's use, and donate the remaining seven blocks to the number pool; and

WHEREAS, Staff reviewed the Application submitted by TCAL within the required time frame and requested additional information from TCAL to determine whether it met the four-part test established in Order No. 7183. TCAL provided such additional information by emails to Staff; and

¹ Blocks are provided in 1,000 number increments.

² TCAL claims that the name of the customer is confidential; nevertheless, the name of the customer is listed in the proprietary version of the Application and is also in an attachment to the proprietary version of the Staff memorandum dated April 2, 2013.

WHEREAS, although TCAL has an adequate supply of numbers to satisfy incremental requests without receiving a new block of numbers, TCAL's existing telephone resources cannot satisfy its customer's specific need for 2,500 numbers; and

WHEREAS, as set forth in its memorandum to the Commission dated April 2, 2013, Staff believes the Commission should grant TCAL the requested relief because of the following reasons:

(a) TCAL has provided a compelling, permissible, and verified need for the requested additional numbering resources because it has a specific customer request for 2,500 numbers and does not have current inventory to satisfy this customer's request without receiving a new block of numbers. According to the Third Report and Order and Second Order on Recon. in CC Dkt. No. 96-98 and CC Dkt. No. 99-200, at ¶¶ 61-64, 17 FCC Rcd. 252 (2001) (the "Third Order"), a state commission may grant a carrier's safety valve request when the carrier receives a specific customer request for numbering resources that exceeds the carrier's available inventory. Furthermore, if the Commission fails to grant TCAL's requested relief, this could impair TCAL's ability to stay in or expand its business (see ¶ 66 at the Third Order); and

(b) TCAL will use the additional numbering resources for this specific customer for whom the Application was made and has agreed, per supplemental information submitted to Staff, that it will return the numbering resources to NeuStar if the customer request is withdrawn or declined. TCAL further agrees that it will not retain the numbering resources to serve other customers without first meeting

the FCC's growth numbering resource requirements per ¶64 of the Third Order; and

(c) TCAL has submitted written evidence that NeuStar rejected TCAL's direct request for the additional number resources; and

(d) Finally, TCAL has stated there will be no long-term effect to the numbering resources in Delaware, and NeuStar has projected that the telephone numbers within the 302 area code will not exhaust until 2027;³

**NOW, THEREFORE, IT IS ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That, for the reasons set forth above in this Order, the Commission hereby grants the relief for additional number resources as requested by Teleport Communications America, LLC ("TCAL") in its application filed with the Commission on March 22, 2013.

2. That, pursuant to 47 C.F.R. §52.15(g)(4), the Commission directs NeuStar, Inc., as the North American Numbering Plan Administrator and the National Thousands Block Numbering Pool Administrator, to issue to TCAL an additional 3,000 consecutive telephone numbers. This additional block numbering resource granted by this Order may be initially activated only to serve the requesting customer for whom the request was made. If such customer withdraws its request for such numbers, TCAL shall return the numbering resources to NeuStar, Inc. and may not retain the numbers to serve other customers.

³ NeuStar submitted to Staff on April 3, 2013, a document entitled "2012-2 NRUF and NPA Exhaust Analysis - October 2012" which confirms this projection.

