

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
BROADWING COMMUNICATIONS, LLC FOR THE)
APPROVAL OF SAFETY VALVE RELIEF TO)
OBTAIN ADDITIONAL TELEPHONE NUMBERS) PSC DOCKET NO. 13-509
(FILED DECEMBER 30, 2013))

ORDER NO. 8523

AND NOW, this 6th day of February, 2014, the Delaware Public Service Commission (the "Commission") determines and orders the following:

WHEREAS, 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"); and

WHEREAS, the FCC rules grant 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, pursuant to 47 C.F.R. § 52.15(g) (4), the Commission adopted the following procedures:

- (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 December 30, 2013, Broadwing Communications, LLC ("Broadwing") filed a safety valve relief application (the "Application"). In the Application, Broadwing requests that the Commission approve its request for an additional 10,000 telephone numbers denied by NeuStar. Broadwing represents that one of its customers has an urgent need for these telephone numbers for a significant business expansion; and

WHEREAS, Staff has reviewed the Application and recommends that the Commission grant the Application for the following reasons:

(a) Broadwing has provided a compelling, permissible, and verified need for the requested additional numbering resources because it has a specific customer request for a consecutive block of numbers and does not have current inventory to satisfy this customer's specific requirements.¹ Furthermore, failure to grant the relief requested could impair Broadwing's customer's ability to stay in or expand its business; and

(b) Broadwing will use the additional numbering resources for this specific customer only and agrees to return the numbering resources to NeuStar if the customer request is withdrawn or declined. Broadwing further agrees that it will not retain the numbering resources to serve other customers without first meeting FCC requirements; and

¹ According to the FCC 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.

(c) Broadwing has submitted written evidence that NeuStar rejected its direct request for the additional number resources; and

(d) Finally, Broadwing has stated the long-term impact to the numbering resources will be minimal and will not result in an inefficient use of numbering resources because the block of numbers requested total less than 1% of the total numbers in their Wilmington wire center. Because Broadwing has 33 wire centers in Delaware, the amount of block numbers requested are insignificant compared to the total amount of numbers available.

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

1. For the reasons set forth in this Order and the Staff Memorandum incorporated by reference herein, the Commission hereby grants the Application.

2. Pursuant to 47 C.F.R. §52.15(g)(4), the Commission directs NeuStar, Inc., as the North American Numbering Plan Administrator ("NANPA") and the National Thousands Block Numbering Pool Administrator ("PA"), to issue Broadwing an additional 10,000 consecutive DIDs solely for the purpose of serving the Broadwing customer making the request. If such customer withdraws its request for such numbers, Broadwing shall return the numbering resource to the NANPA/PA and may not retain the DIDs to serve other customers.

3. The Commission Secretary is directed to promptly send a copy of this Order to NeuStar, Inc., the Secretary of the Federal Communications Commission and Broadwing.

4. 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:

Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary