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FAX (573) 634-8224

November 4, 2003

Missouri Public Service Commission
Attn: Secretary of the Commission
200 Madison Street, Suite 100
P. O. Box 360
Jefferson City, MO 65102-0360

FILED

NOV 04 2003

Missouri Public
Service Commission


RE: Case No. _____
Allegiance Telecom of Missouri, Inc.
Application for Reversal of North American Number Plan Administrator's
Decision to Withhold Numbering Resources in the Chesterfield Rate Center

Dear Secretary:

Enclosed please find an original and five copies of the Application for Review and Reversal of NANPA Decision for filing with the Commission on behalf of Allegiance Telecom of Missouri, Inc. Thank you for assistance in the processing this filing.

Copies are being served on the Commission's General Counsel and Office of the Public Counsel. Please contact me at 634-8109 if there are any questions.

Sincerely,


Mary Ann (Garr) Young

Enclosure

cc: General Counsel
Office of the Public Counsel
Mary Albert, Allegiance

FILED

NOV 04 2003

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

In the Matter of the Application of)
Allegiance Telecom of Missouri, Inc.)
For Reversal of North American)
Number Plan Administrator's Decision)
To Withhold Numbering Resources)
in Chesterfield Rate Center)

Case No. _____

Application for Review and Reversal Of NANPA Decision

Allegiance Telecom of Missouri, Inc. ("Allegiance"),¹ by undersigned counsel, and pursuant to 4 CSR 240-2.060, 4 CSR 240-2.080(16), and 47 C.F.R. 52.15(g)(3)(iv), hereby respectfully requests that the Commission reverse the denial by Neustar, Inc. ("Neustar"), the Pooling Administrator/North American Numbering Plan Administrator ("PA/NANPA") of Allegiance's application for a block of one thousand numbers (1,000) in an NXX code assigned to the Chesterfield, Missouri rate center. Allegiance requires a block of 1,000 numbers in the Chesterfield rate center in order to provide basic local telecommunications service on a non-Metropolitan Calling Area ("MCA") basis. In support of this Application, Allegiance states as follows:

1. Allegiance Telecom of Missouri, Inc. is competitive provider of basic local and interexchange telecommunications services duly incorporated and existing under and by virtue of the laws of the State of Delaware with its principal place of business address at 9201 N. Central Expressway, Dallas, Texas 75231.

¹ As disclosed in a May 15, 2003 letter to the Commission, Allegiance filed for reorganization pursuant to Chapter 11 of the U.S. Bankruptcy Code on May 14, 2003. Allegiance anticipates emerging from bankruptcy in due course and is and will remain financially capable of providing service to existing and prospective customers.

Allegiance is authorized to do business in Missouri and has previously filed documentation evidencing its authority to conduct business in Missouri from the Secretary of State in its basic local telecommunications service application case, Case No. TA-2000-1. That documentation remains valid and is incorporated herein by reference pursuant to 4 CSR 240-2.060(1)(G). The nature of Allegiance's business is the provision of telecommunications service.

2. All correspondence, pleadings, orders, decisions, and communications regarding this proceeding should be sent to:

Mary Ann (Garr) Young
William Steinmeier, P.C.
2031 Tower Drive
Jefferson City, Missouri 65110
Tel.: (573) 634-8109
Fax: (573) 634-8224
Email: myoung0654@aol.com

with a copy to:

Mary Albert
Allegiance Telecom, Inc.
1919 M Street N.W., Suite 420
Washington, DC 20036
Tel.: (202) 464-1796
Fax: (202) 464-0762
Email: mary.albert@algx.com

3. Allegiance is required to use segregated and dedicated NXX codes to provide customers non-MCA service and optional MCA service in Chesterfield. Allegiance is not requesting an entire NXX code for its non-MCA service. Instead, it is requesting only a block of a thousand numbers in a non-MCA NXX code assigned to the Chesterfield rate center. Pursuant to the FCC's procedures, the Pooling Administrator requests numbering resources from NANPA in order to maintain a sufficient inventory of thousand number blocks for

allocation to carriers within a rate center. Carriers wanting thousand number blocks then apply to the Pooling Administrator, rather than directly to NANPA. See *In the Matter of Number Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 00-104, at ¶ 179; 47 C.F.R. § 52.20.

4. Allegiance currently has only one thousand number block in an NXX code designated for MCA customers only. Allegiance applied to the PA/NANPA for an additional thousand number block in the Chesterfield rate center in order to provide service to customers who prefer not to subscribe to optional MCA service. Because Allegiance had not met the minimum utilization and months-to-exhaust criteria for its MCA number block, it applied for its non-MCA block under the state waiver option. The PA/NANPA denied the request on the grounds that Allegiance had not submitted documentation demonstrating that it had obtained a waiver from the Missouri Public Service Commission to obtain a block of numbers in a second NXX code prior to filing its request with the PA/NANPA. The electronic message indicating denial of the request by Neustar is attached hereto as Exhibit A.

5. The Federal Communications Commission ("FCC") has granted this Commission the authority to review and overturn or waive a decision by the Pooling Administrator/NANPA to withhold numbering resources. (See attached copy of 47 C.F.R. §52.15(g)(3)(iv), Exhibit B). Allegiance submits that the unique circumstances relating to the provision of MCA service in Missouri warrant the Commission's intervention to overrule or waive the Pooling

Administrator's determination to withhold additional numbering resources from Allegiance and provide Allegiance the documentation necessary to demonstrate that the Commission has waived the minimum utilization and months-to-exhaust criteria. If the PA/NANPA's denial is not overturned Allegiance will be placed at a competitive disadvantage because it will be prevented from offering a full range of basic local services to customers in the Chesterfield exchange.

6. Allegiance is a competitive local exchange carrier serving the St. Louis metropolitan area and surrounding communities. Allegiance currently offers MCA service in the Chesterfield rate center using NPA/NXX code 636-787. Allegiance wants to offer Chesterfield consumers the option of subscribing to local non-MCA service as an alternative to the extended MCA service, but is unable to do so with the numbers in its existing NXX code. Instead, consistent with the Commission's requirement that MCA and non-MCA service be provided over segregated NXX codes, Allegiance must obtain an additional block of a thousand numbers in a non-MCA NXX code assigned to the Chesterfield rate center.

7. On November 4, 2002, Allegiance requested from the Pooling Administrator a block of a thousand numbers from an NXX code assigned to the Chesterfield rate center to support its non-MCA service. Because Allegiance did not meet the minimum utilization or months-to-exhaust threshold² for its existing Chesterfield NXX code and could not qualify for additional growth numbers on

² In November 2002, the minimum utilization threshold was 65%. 47 C.F.R. § 52.15(h). In addition to the minimum utilization threshold, applicants for growth codes must also show that their existing codes are within six months of exhaust. 47 C.F.R. § 52.15(g). Allegiance's Chesterfield MCA code is not within six months of exhaust.

that basis, it applied under the “State Waiver” option of the Pooling Administrator application form, believing that the Missouri requirement that each carrier obtain two NXX codes per rate center would be sufficient to demonstrate that a waiver of the growth code requirements was warranted. The Pooling Administrator denied the request because Allegiance was unable to submit documentation that it had actually obtained a waiver from this Commission before it filed its application. See Section 5.5. of the Pooling Administration System User Guide for Service Providers (“the State Waiver Option can only be used if you are granted permission by the state regulatory body, in which you are applying resources for, to submit a request for resources even though you do not meet Months to Exhaust and/or Utilization requirements. . . . The State Waiver Option should only be selected if you have already received WRITTEN APPROVAL from the appropriate state commission.”)

8. Section 251(e) of the Communications Act of 1934, 47 U.S.C. § 251(e), grants the FCC exclusive jurisdiction over the North American Numbering Plan and related telephone numbering issues. Section 251(e) also authorizes the FCC to delegate to the State Commissions or other entities all or any portion of that jurisdiction. The FCC has delegated to NANPA and to the Pooling Administrator the responsibility to manage numbering resources, process applications for NXX code assignments and thousand number blocks and administer NXX code databases. 47 C.F.R. §§ 52.15, 52.20. The FCC’s delegation of authority gives NANPA and the Pooling Administrator virtually no discretion in withholding additional telephone numbers from any carrier that does

not meet the minimum utilization and months-to-exhaust thresholds for its existing code. 47 C.F.R. §§ 52.15(g),(h).

9. While the Pooling Administrator/NANPA has little or no discretion to waive the minimum utilization and months-to-exhaust rules, this Commission does. The FCC has delegated jurisdiction to State Commissions to entertain challenges to adverse decisions by the Pooling Administrator/NANPA and to overturn a “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.” 47 C.F.R. § 52.15(h). The Commission should exercise that jurisdiction here and grant Allegiance the necessary waiver to secure the block of one thousand numbers it needs to provide non-MCA service in Chesterfield.

10. This Commission has acknowledged that its requirement that CLECs as well as ILECs use segregated NXX codes to distinguish between MCA customers and non-MCA customers means that each carrier must obtain two NXX codes to serve customers in a single exchange. *In the Matter of an Investigation for the Purpose of Clarifying and Determining Certain Aspects Surrounding the Provisioning of Metropolitan Calling Area Service After the Passage and Implementation of the Telecommunications Act of 1996*, Case No. TO-99-483, September 12, 2000, Report and Order at 28. The Industry Task Force formed to study the impact of the passage and implementation of the Federal Telecommunications Act on MCA service issues articulated the dilemma and competitive disadvantage that CLECs such as Allegiance face when

attempting to secure a second NXX code from NANPA so that they can offer both MCA and non-MCA service:

[I]f a carrier has not used 60%³ of the available numbers in an NXX code, the NANPA will not issue another code in the same exchange, as is required to satisfy the dialing requirements for Missouri's MCA service. While the Task Force notes that the 60% utilization standard applies equally to competitors and incumbents, of particular concern is the fact that only competitors are being denied the ability to serve new customers. This is because incumbents already had the required minimum of two NXX codes to serve an exchange when the 60% utilization guideline was established. Plainly stated, competitors are being denied the MCA codes necessary to provide MCA service in competition with incumbents.

In the Matter of a Further Investigation of the Metropolitan Calling Area Service After The Passage and Implementation of the Telecommunications Act of 1996, Case No. TO-2001-391, Final Status Report of the Industry Task Force at 21-22 (January 2002).

11. These circumstances plainly cry out for the Commission's intervention with the Pooling Administrator/NANPA to assist Allegiance in obtaining the non-MCA numbering resources it needs to provide service in Chesterfield. The FCC has made clear that "[u]nder no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources." *In the Matter of Numbering Resource Optimization*, Second Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket Nos. 99-200 and 96-98, FCC 00-429, at ¶ 61 (released December 29, 2000). If the Commission does not overturn or waive the PA/NANPA's denial of Allegiance's request for a thousand number block in a

³ Pursuant to the FCC's number utilization rules, the minimum usage to qualify for a growth code has been increased to 70% as of June 30, 2003. 47 C.F.R. §52.15(h). In addition to the minimum usage threshold, applicants for growth codes must also show that their existing codes are within six months of exhaust. *Id.*

non-MCA NXX code, consumers will be precluded from receiving non-MCA service from Allegiance in the Chesterfield rate center on native Allegiance telephone numbers. While Allegiance is able to provide local, non-MCA service on ported-in numbers when a non-MCA service customer converts from the incumbent local exchange company serving Chesterfield (Southwestern Bell Telephone, L.P., d/b/a SBC Missouri (SBC)), it is unable to fill orders for additional lines for such customers. In addition, it is unable to provide non-MCA service to its own customers who want to switch from MCA to non-MCA service, and it is unable to provide non-MCA service to any new customers who are not converting service from another local exchange carrier that has a dedicated non-MCA NXX code.

12. Allegiance's request for a block of a thousand numbers in a non-MCA NXX code in Chesterfield should be treated as a request for an "initial" code,⁴ rather than a growth code, due to the Commission's requirement that Allegiance refrain from using its existing MCA code to provide non-MCA service. There is no question that Allegiance has a verifiable need for the non-MCA numbers: it needs the numbers in order to provide non-MCA service in accordance with this Commission's requirements and absent the numbers, it cannot provide such service. Allegiance cannot meet the requirements for a growth code in the FCC's regulations and has no other choice but to come to this Commission for a waiver and numbering relief. Consistent with the FCC's mandate, the Commission must not allow "a want of numbering resources" to preclude Allegiance from being able

⁴ Allegiance meets the criteria for an initial code: (1) it is authorized to provide service in Chesterfield and (2) it is or will be capable of providing non-MCA service within 60 days of the activation of the additional numbering resources. 47 C.F.R. §52.15(g)(2).

to freely compete for Chesterfield consumers who opt for non-MCA service or to preclude Chesterfield consumers from freely choosing Allegiance as their local service provider.

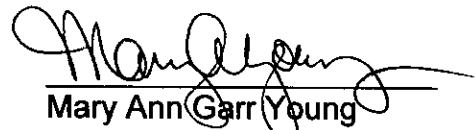
13. Applicant herein states, in accordance with 4 CSR 240-2.060(1)(K), that there are no final unsatisfied judgments or decisions against Applicant in any state or federal agency or court which involve customer service or rates for which action, judgment, or decision has occurred within three (3) years of the date of this Application. There is one informal customer complaint pending against Applicant before this Commission and there are two informal complaints pending against Applicant before the FCC. See Exhibit C.

14. Pursuant to 4 CSR 240-2.060(1)(L), Applicant hereby states that the Company does not have any overdue annual reports or assessment fees owed to the Missouri Public Service Commission.

Conclusion

For the foregoing reasons, Allegiance respectfully requests that the Commission overturn Neustar, Inc., the Pooling Administrator's/North American Numbering Plan Administrator's denial of Allegiance's application for a thousand number block in a non-MCA code in the Chesterfield rate center, or grant Allegiance a waiver of the growth code requirements such that the Pooling Administrator will approve its application for a block of a thousand numbers in a second NXX code in the Chesterfield rate center.

Respectfully submitted,



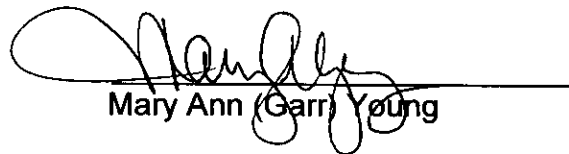
Mary Ann Garr Young
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Email: myoung0654@aol.com

Counsel for Allegiance Telecom
of Missouri, Inc.

November 4, 2003

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document has been hand delivered or mailed by first class mail, postage prepaid to the Office of Public Counsel and the General Counsel's office on this 4th day of November 2003.



Mary Ann Garr Young

EXHIBIT A

-----Original Message-----

From: andrea.velilla@neustar.biz [SMTP:andrea.velilla@neustar.biz] <[mailto:
\[SMTP:andrea.velilla@neustar.biz\]](mailto:andrea.velilla@neustar.biz)>

Sent: Friday, November 08, 2002 3:24 PM

To: thea.kwon@alox.com; edward.herr@alox.com

Subject: 636-CHESTERFLD-MO-100304: Part 3 Ready

<http://www.nationalpooling.com/pas/images/neustarlogo.gif>

Pooling Administration System

Dated 08 November 2002

Pooling Administrator's Response/Confirmation Part 3

Tracking Number 636-CHESTERFLD-MO-100304
Date of Application 11/04/2002 Block Effective Date
Date of Receipt 11/04/2002 Date of Response 11/08/2002
Service Provider Name Allegiance Telecom
(Telcordia™ LERG™ Routing Guide) OCN 3049-ALLEGIANCE TELCOM MO
NPAC SOA SPID

Pooling Administrator Contact Information :

Name Andrea Velilla

Phone (925) 363-7650 Fax (925) 363-7681

E-Mail andrea.velilla@neustar.biz

Response

☐ NPA-NXX-X 0-0-0 Block Assigned

Block Disconnected

Block Contaminated (Yes or No) null

Block Allocation Date

Switch Identification (Switching Entity / POI) STLSMOWQDS0

Rate Center CHESTERFIELD

Rate Center Sub Zone CHESTERFLD

☒ **Form Complete, block requested denied**

Explanation :

DR-3: No documentation to support the State Waiver request was received. Please resubmit your request with documentation supporting the State Waiver.

☐ **Assignment activity suspended by the administrator**

Explanation :

Further Action :

Pooling Administrator
Andrea Velilla
1800 Sutter St. Ste. 780
Concord, CA 94520
Phone: (925) 363-7650
Fax: (925) 363-7681

Tracking:

Recipient

Albert, Mary

Ahem, Joan

Herr, Edward

EXHIBIT B

and the data contained therein, software, interface specifications and supporting documentation and make such property available to whomever NANC directs free of charge. The new NANPA must specify any intellectual property it proposes to exclude from the provisions of this paragraph based on the existence of such property prior to its selection as NANPA.

[61 FR 47353, Sept. 6, 1996, as amended at 62 FR 55181, Oct. 23, 1997]

§ 52.15 Central office code administration.

(a) Central Office Code Administration shall be performed by the NANPA, or another entity or entities, as designated by the Commission.

(b) Duties of the entity or entities performing central office code administration may include, but are not limited to:

(1) Processing central office code assignment applications and assigning such codes in a manner that is consistent with this part;

(2) Accessing and maintaining central office code assignment databases;

(3) Contributing to the CO Code Use Survey (COCUS), an annual survey that describes the present and projected use of CO codes for each NPA in the NANP;

(4) Monitoring the use of central office codes within each area code and forecasting the date by which all central office codes within that area code will be assigned; and

(5) Planning for and initiating area code relief, consistent with § 52.19.

(c) Any telecommunications carrier performing central office code administration:

(1) Shall not charge fees for the assignment or use of central office codes to other telecommunications carriers, including paging and CMRS providers, unless the telecommunications carrier assigning the central office code charges one uniform fee for all carriers, including itself and its affiliates; and

(2) Shall, consistent with this subpart, apply identical standards and procedures for processing all central office code assignment requests, and for assigning such codes, regardless of the

identity of the telecommunications carrier making the request.

(d) *Central Office (CO) Code Administration functional requirements.* The NANPA shall manage the United States CO code numbering resource, including CO code request processing, NPA code relief and jeopardy planning, and industry notification functions. The NANPA shall perform its CO Code Administration functions in accordance with the published industry numbering resource administration guidelines and Commission orders and regulations at 47 CFR chapter I. Subject to the approval of the Commission, the NANPA shall develop a transition plan to transfer CO code assignment from the current administrators to itself and shall submit this plan to the Commission within 90 days of the effective date of a Commission order announcing the selection of the NANPA. The NANPA shall complete the transfer of CO code assignment functions from existing administrators to itself no more than 18 months after the NANPA has assumed all of said administrators' current NANPA function.

(e) The new NANPA shall perform the numbering administration functions currently performed by Bellcore, and the CO code administration functions currently performed by the eleven CO code administrators, at the price agreed to at the time of its selection. The new NANPA may request from NANC, with subsequent approval by the Commission, an adjustment in this price if the actual number of CO Code assignments made per year, the number of NPAs requiring relief per year or the number of NPA relief meetings per NPA exceeds 120% of the NANPA's stated assumptions for the tasks at the time of its selection.

(f) *Mandatory reporting requirements—*

(1) *Number use categories.* Numbering resources must be classified in one of the following categories:

(i) *Administrative numbers* are numbers used by telecommunications carriers to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards.

(ii) *Aging numbers* are disconnected numbers that are not available for assignment to another end user or customer for a specified period of time. Numbers previously assigned to residential customers may be aged for no more than 90 days. Numbers previously assigned to business customers may be aged for no more than 360 days.

(iii) *Assigned numbers* are numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use, or numbers not yet working but having a customer service order pending. Numbers that are not yet working and have a service order pending for more than five days shall not be classified as assigned numbers.

(iv) *Available numbers* are numbers that are available for assignment to subscriber access lines, or their equivalents, within a switching entity or point of interconnection and are not classified as assigned, intermediate, administrative, aging, or reserved.

(v) *Intermediate numbers* are numbers that are made available for use by another telecommunications carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer. Numbers ported for the purpose of transferring an established customer's service to another service provider shall not be classified as intermediate numbers.

(vi) *Reserved numbers* are numbers that are held by service providers at the request of specific end users or customers for their future use. Numbers held for specific end users or customers for more than 180 days shall not be classified as reserved numbers.

(2) *Reporting carrier.* The term "reporting carrier" refers to a telecommunications carrier that receives numbering resources from the NANPA, a Pooling Administrator or another telecommunications carrier.

(3) *Data collection procedures.* (i) Reporting carriers shall report utilization and forecast data to the NANPA.

(ii) Reporting shall be by separate legal entity and must include company name, company headquarters address, Operating Company Number (OCN), parent company OCN, and the primary type of business in which the reporting

carrier is engaged. The term "parent company" refers to the highest related legal entity located within the state for which the reporting carrier is reporting data.

(iii) All data shall be filed electronically in a format approved by the Common Carrier Bureau.

(4) *Forecast data reporting.* (i) Reporting carriers shall submit to the NANPA a five-year forecast of their yearly numbering resource requirements.

(ii) In areas where thousands-block number pooling has been implemented:

(A) Reporting carriers that are required to participate in thousands-block number pooling shall report forecast data at the thousands-block (NXX-X) level per rate center;

(B) Reporting carriers that are not required to participate in thousands-block number pooling shall report forecast data at the central office code (NXX) level per rate center.

(iii) In areas where thousands-block number pooling has not been implemented, reporting carriers shall report forecast data at the central office code (NXX) level per NPA.

(iv) Reporting carriers shall identify and report separately initial numbering resources and growth numbering resources.

(5) *Utilization data reporting.* (i) Reporting carriers shall submit to the NANPA a utilization report of their current inventory of numbering resources. The report shall classify numbering resources in the following number use categories: *assigned, intermediate, reserved, aging, and administrative.*

(ii) Rural telephone companies, as defined in the Communications Act of 1934, as amended, 47 U.S.C. 153(37), that provide telecommunications service in areas where local number portability has not been implemented shall report utilization data at the central office code (NXX) level per rate center in those areas.

(iii) All other reporting carriers shall report utilization data at the thousands-block (NXX-X) level per rate center.

(6) *Reporting frequency.* (i) Reporting carriers shall file forecast and utilization reports semi-annually on or before

February 1 for the preceding reporting period ending on December 31, and on or before August 1 for the preceding reporting period ending on June 30. Mandatory reporting shall commence August 1, 2000.

(ii) State commissions may reduce the reporting frequency for NPAs in their states to annual. Reporting carriers operating in such NPAs shall file forecast and utilization reports annually on or before August 1 for the preceding reporting period ending on June 30, commencing August 1, 2000.

(iii) A state commission seeking to reduce the reporting frequency pursuant to paragraph (f) (6)(ii) of this section shall notify the Wireline Competition Bureau and the NANPA in writing prior to reducing the reporting frequency.

(7) *Access to data and confidentiality*—States shall have access to data reported to the NANPA provided that they have appropriate protections in place to prevent public disclosure of disaggregated, carrier-specific data.

(g) *Applications for numbering resources*—(1) *General requirements*. All applications for numbering resources must include the company name, company headquarters address, OCN, parent company's OCN(s), and the primary type of business in which the numbering resources will be used.

(2) *Initial numbering resources*. Applications for initial numbering resources shall include evidence that:

(i) The applicant is authorized to provide service in the area for which the numbering resources are being requested; and

(ii) The applicant is or will be capable of providing service within sixty (60) days of the numbering resources activation date.

(3) *Growth numbering resources*. (i) Applications for growth numbering resources shall include:

(A) A Months-to-Exhaust Worksheet that provides utilization by rate center for the preceding six months and projected monthly utilization for the next twelve (12) months; and

(B) The applicant's current numbering resource utilization level for the rate center in which it is seeking growth numbering resources.

(ii) The numbering resource utilization level shall be calculated by dividing all *assigned numbers* by the total numbering resources in the applicant's inventory and multiplying the result by 100. Numbering resources activated in the Local Exchange Routing Guide (LERG) within the preceding 90 days of reporting utilization levels may be excluded from the utilization calculation.

(iii) All service providers shall maintain no more than a six-month inventory of telephone numbers in each rate center or service area in which it provides telecommunications service.

(iv) 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 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 numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state commission may affirm or overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination of compliance with the reporting and numbering resource application requirements herein.

(4) *Non-compliance*. 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 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.

(5) *State access to applications.* State regulatory commissions shall have access to service provider's applications for numbering resources. The state commissions should request copies of such applications from the service providers operating within their states, and service providers must comply with state commission requests for copies of numbering resource applications. Carriers that fail to comply with a state commission request for numbering resource application materials shall be denied numbering resources.

(h) *National utilization threshold.* All applicants for growth numbering resources shall achieve a 60% utilization threshold, calculated in accordance with paragraph (g)(3)(ii) of this section, for the rate center in which they are requesting growth numbering resources. This 60% utilization threshold shall increase by 5% on June 30, 2002, and annually thereafter until the utilization threshold reaches 75%.

(i) *Reclamation of numbering resources.*

(1) Reclamation refers to the process by which service providers are required to return numbering resources to the NANPA or the Pooling Administrator.

(2) State commissions may investigate and determine whether service providers have activated their numbering resources and may request proof from all service providers that numbering resources have been activated and assignment of telephone numbers has commenced.

(3) Service providers may be required to reduce contamination levels to facilitate reclamation and/or pooling.

(4) State commissions shall provide service providers an opportunity to explain the circumstances causing the delay in activating and commencing assignment of their numbering resources prior to initiating reclamation.

(5) The NANPA and the Pooling Administrator shall abide by the state commission's determination to reclaim

numbering resources if the state commission is satisfied that the service provider has not activated and commenced assignment to end users of their numbering resources within six months of receipt.

(6) The NANPA and Pooling Administrator shall initiate reclamation within sixty days of expiration of the service provider's applicable activation deadline.

(7) If a state commission declines to exercise the authority delegated to it in this paragraph, the entity or entities designated by the Commission to serve as the NANPA shall exercise this authority with respect to NXX codes and the Pooling Administrator shall exercise this authority with respect to thousands-blocks. The NANPA and the Pooling Administrator shall consult with the Wireline Competition Bureau prior to exercising the authority delegated to it in this provision.

(j) *Sequential number assignment.* (1) All service providers shall assign all available telephone numbers within an opened thousands-block before assigning telephone numbers from an uncontaminated thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a specific customer request. This requirement shall apply to a service provider's existing numbering resources as well as any new numbering resources it obtains in the future.

(2) A service provider that opens an uncontaminated thousands-block prior to assigning all available telephone numbers within an opened thousands-block should be prepared to demonstrate to the state commission:

(i) A genuine request from a customer detailing the specific need for telephone numbers; and

(ii) The service provider's inability to meet the specific customer request for telephone numbers from the available numbers within the service provider's opened thousands-blocks.

(3) Upon a finding by a state commission that a service provider inappropriately assigned telephone numbers from an uncontaminated thousands-block, the NANPA or the Pooling Administrator shall suspend assignment or allocation of any additional numbering

resources to that service provider in the applicable NPA until the service provider demonstrates that it does not have sufficient numbering resources to meet a specific customer request.

(k) *Numbering audits.* (1) All telecommunications service providers shall be subject to "for cause" and random audits to verify carrier compliance with Commission regulations and applicable industry guidelines relating to numbering administration.

(2) The Enforcement Bureau will oversee the conduct and scope of all numbering audits conducted under the Commission's jurisdiction, and determine the audit procedures necessary to perform the audit. Numbering audits performed by independent auditors pursuant to this section shall be conducted in accordance with generally accepted auditing standards and the American Institute of Certified Public Accountants' standards for compliance attestation engagements, as supplemented by the guidance and direction of the Chief of the Enforcement Bureau.

(3) Requests for "for cause" audits shall be forwarded to the Chief of the Enforcement Bureau, with a copy to the Chief of the Common Carrier Bureau. Requests must state the reason for which a "for cause" audit is being requested and include documentation of the alleged anomaly, inconsistency, or violation of the Commission rules or orders or applicable industry guidelines. The Chief of the Enforcement Bureau will provide carriers up to 30 days to provide a written response to a request for a "for cause" audit.

[61 FR 47353, Sept. 6, 1996, as amended at 62 FR 55182, Oct. 23, 1997; 65 FR 37707, June 16, 2000; 66 FR 9531, Feb. 8, 2001; 67 FR 6434, Feb. 12, 2002; 67 FR 13226, Mar. 21, 2002]

§ 52.16 Billing and Collection Agent.

The B&C Agent shall:

(a) Calculate, assess, bill and collect payments for all numbering administration functions and distribute funds to the NANPA, or other agent designated by the Common Carrier Bureau that performs functions related to numbering administration, on a monthly basis;

(b) Distribute to carriers the "Telecommunications Reporting Worksheet," described in § 52.17(b).

(c) Keep confidential all data obtained from carriers and not disclose such data in company-specific form unless authorized by the Commission. Subject to any restrictions imposed by the Chief of the Wireline Competition Bureau, the B & C Agent may share data obtained from carriers with the administrators of the universal service support mechanism (See 47 CFR 54.701 of this chapter), the TRS Fund (See 47 CFR 64.604(c)(4)(iii)(H) of this chapter), and the local number portability cost recovery (See 47 CFR 52.32). The B & C Agent shall keep confidential all data obtained from other administrators. The B & C Agent shall use such data, from carriers or administrators, only for calculating, collecting and verifying payments. The Commission shall have access to all data reported to the Administrator. Contributors may make requests for Commission nondisclosure of company-specific revenue information under § 0.459 of this chapter by so indicating on the Telecommunications Reporting Worksheet at the time that the subject data are submitted. The Commission shall make all decisions regarding nondisclosure of company-specific information.

(d) Develop procedures to monitor industry compliance with reporting requirements and propose specific procedures to address reporting failures and late payments;

(e) File annual reports with the appropriate regulatory authorities of the NANP member countries as requested; and

(f) Obtain an audit from an independent auditor after the first year of operations and annually thereafter, which shall evaluate the validity of calculated payments. The B&C Agent shall submit the audit report to the Commission for appropriate review and action.

[62 FR 55183, Oct. 23, 1997, as amended at 64 FR 41330, July 30, 1999; 66 FR 9532, Feb. 8, 2001; 67 FR 13226, Mar. 21, 2002]

§ 52.17 Costs of number administration.

All telecommunications carriers in the United States shall contribute on a

EXHIBIT C

Pending Informal Customer Complaints Against Allegiance Telecom of Missouri, Inc.:

Missouri PSC Case No. C200404017 filed by Greenfield Custom Interiors

FCC Case No. 03-10058064 filed by Clarkson Eyecare

FCC Case No. 03-10059071 filed by Floyd's Tire and Car Care Center