

OCT 21 2011

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURIMissouri Public
Service Commission

IN THE MATTER OF THE APPLICATION OF)
 WINDSTREAM MISSOURI, INC. FOR)
 REVIEW AND REVERSAL OF THE DECISION)
 OF NEUSTAR, INC. AS THE POOLING)
 ADMINISTRATOR TO WITHHOLD)
 NUMBERING RESOURCES)

CASE NO. _____

APPLICATION AND MOTION FOR EXPEDITED TREATMENT

COMES NOW Windstream Missouri, Inc. ("Windstream") and respectfully requests that the Commission issue an Order that reviews and reverses the decision of the North American Numbering Plan Thousands-Block Pooling Administrator, NeuStar, Inc. ("NANPA") to withhold certain numbering resources from Windstream.

The requested numbering resources are necessary to support the deployment of Broadband Stimulus project.

In support of this Application, Windstream states as follows:

1. Windstream is a Missouri corporation duly authorized to conduct business in Missouri, as evidenced by the Certificate of Amendment filed on June 21, 2006 in Case No. IN-2006-0481, and incorporated by reference pursuant to Commission Rule 4 CSR 240-2.060(1)(G). Windstream's principal office is located at 4001 Rodney Parham Road, Little Rock, Arkansas 72212. Windstream is a local exchange telecommunications company" and a "public utility," and is duly authorized to provide "telecommunications service" within the State of Missouri as each of those phrases is defined in Section 386.020, RSMo 2000.

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

Edward Cadieux
 Director – Regulatory Counsel
 Windstream Missouri
 12400 Olive Blvd, Suite 430
 Saint Louis, MO 63141

3 This Application is prompted by the need to serve customers in its Bolivar, Doniphan, Myrtle, Morrisville and Oxly exchanges via new packet switches that are being deployed to support a broadband Stimulus project in those locations, Windstream is installing new Class 5 type packet switches, each with their own point code and trunking/circuits, in the Bolivar, Doniphan and Myrtle, Missouri rate centers. Windstream's Morrisville and Oxly rate centers are also included in this Broadband Stimulus project, as they are remotes served under the Bolivar and Doniphan switches, respectively. Windstream does not have any NXX codes that could be moved for the purpose of establishing an LRN, nor does it have clean one thousand number blocks that could be intra-service provider ported to the new switches. According to the applicable industry *Location Routing Number (LRN) Assignment Practices document (ATIS-0300065)* Windstream must establish a unique LRN to identify each recipient switch or POI and must establish one LRN per LATA from an assigned NXX for each recipient switch in the number portability capable network. Thus, Windstream must obtain separate LRNs for each of these three new packet switches. Also pursuant to industry guidelines, only an NXX code holder can obtain an LRN, thus necessitating Windstream's request for three separate NXX codes, one each for the Bolivar, Doniphan and Myrtle rate centers. (It should be noted, however, that Windstream would retain only single thousand-number-blocks from each of these new NXX codes.) Additional single thousand-number blocks were requested each for Morrisville (a remote under the Bolivar switch) and Oxly (a remote under the Doniphan switch), which areas are, as noted above, also included in this Broadband Stimulus upgrade.

4. Given the need described above, on October 11, 2011, Windstream submitted Applications for the LRNs, NXX codes and thousand number blocks required for this Broadband Stimulus Project to NeuStar, acting as the NANPA . (A copy of Windstream's Applications are attached hereto and incorporated by reference herein as Exhibits A-E, respectively.)

5. NeuStar subsequently denied Windstream's request on the grounds that it failed to meet the months-to-exhaust criteria and/or the utilization criteria established by the FCC. (Copies of both NeuStar's denial and Windstream's current utilization of numbering resources are attached hereto and incorporated by reference herein as Exhibits F-J, respectively.) As a result of NeuStar's denial,

Windstream has been unable to obtain the LRNs, NXX codes and thousand number blocks it requested and which are required for deployment of this Broadband Stimulus Project.

6. Under existing procedures, NeuStar, as the NANPA, is required to accept or reject an application for numbering resources based solely on FCC criteria, which require that an applicant establish that its existing numbers inventory within the rate center will exhaust within six months of the application and sets a rate center utilization threshold of seventy-five percent.¹ However, as the Commission is aware, the FCC has adopted a safety valve mechanism to allow carriers that do not meet the months-to-exhaust and utilization criteria in a given rate center to obtain additional numbering resources. In establishing the safety valve, the FCC recognized that conditions that could give rise to a need for additional numbering resources "might include situations where a carrier has multiple switches within a rate center but it is unable to readily share numbering resources among those switches."² The FCC makes clear that through the safety valve mechanism a carrier may challenge a numbering resource denial by the NANPA before the appropriate state regulatory commission and that the state commission has jurisdiction to affirm or overturn the NANPA's decision to withhold numbering resources.

7. Windstream seeks the Commission's reversal of NeuStar's decision, acting as NANPA, and requests the Commission to direct NeuStar to assign three LRNs and three NXXs (one each for its new packet switches in the Bolivar, Doniphan and Myrtle rate centers)³ and a one thousand block of numbers each for the associated remotes serving the Morrisville and Oxly rate centers. The FCC permits such direction in order to meet specific customer demands and specifically grants state commissions

¹ *Second Report and Order, Order on Reconsideration* in CC Docket No. 96-98 and CC Docket No. 99-200 and *Second Further Notice of Proposed Rulemaking* in CC Docket No. 99-200, In the Matter of Numbering Resource Optimization, Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717, FCC 00-419 (rel. December 29, 2000), at ¶ 29.

² *Third Report and Order and Second Order on Reconsideration* in CC Docket No. 96-98 and CC Docket No. 99-200, In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and the Telephone Number Portability, FCC 01-362, (rel. December 28, 2001), ¶¶ 58, 61 and 65.

³ Again, Windstream would retain only single thousand-number-blocks from each of these new NXX codes, but requires the codes because it requires the LRNs for the new switches and only a code holder in the rate center can obtain an LRN.

"flexibility to direct the NANPA or pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances."⁴ Windstream has demonstrated a verifiable need due to its needs in connection with a Broadband Stimulus project upgrade to these rural exchanges. Windstream cannot satisfy this request from its current inventory or in any other manner.

8. Windstream respectfully requests that the Commission act upon this Application within ten (10) business days. The FCC has recognized the importance of timely action:

[W]e 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.⁵

9. This Application complies with the Commission's applicable rule, 4 CSR 240-37.040. Windstream has attached hereto its "Months to Exhaust Worksheets" indicating the utilization of the covered rate centers encompassing both the preceding six months and projected monthly utilization for the next twelve months. 4 CSR 240-37.040(1)(A)1. *See*, Exhibits K-O, respectively, attached hereto and incorporated by reference. Windstream has also attached hereto its most recently-filed FCC Form U1 OF Form 502 covering these rate centers. 4 CSR 240-37.040(1)(A)2. *See*, Exhibit P(HC), respectively, attached hereto and incorporated by reference. Additionally, Windstream has attached copies of its originally-filed requests to NANPA and NANPA's denial of those requests. 4 CSR 240-37.040(1)(A)3. *See*, Exhibits A-E, respectively. These materials and the instant Application demonstrate a verifiable need for the numbering resources requested herein. Windstream has exhausted all other available remedies designed to conserve numbering resources as related to this request.

10. Granting Windstream's Application will not adversely affect the numbering resources available for use by carriers throughout the state in providing telecommunications services to their

⁴ FCC 01-362 at ¶61.

⁵ *Id.* at ¶66.

customers. Granting Windstream's request is in the public interest and consistent with the FCC's rules and decisions.

11. Windstream has no final unsatisfied judgments or decisions against it from any state or federal agency or court which involve Missouri retail customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this Application, nor does Windstream have any pending action against it in Missouri, brought by end-user customers, which involves retail customer service or rates.

12. Windstream does not have any annual report or assessment fees that are overdue in Missouri.

WHEREFORE, Windstream respectfully requests that the Commission overturn and reverse NeuStar's previous determination as the NANPA; direct NeuStar to grant Windstream's applications regarding its request for the numbering resources included in those applications and as described herein; act within ten (10) business days as suggested by the FCC or as soon thereafter as is possible; instruct NeuStar acting as NANPA to release the numbering resources as specified herein; and grant all other proper relief to which Windstream may be entitled.

Respectfully submitted,

Windstream Missouri, Inc.

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VERIFICATION

STATE OF NORTH CAROLINA)
COUNTY OF Mecklenburg) SS

I, PAULA HUSTEAD, of lawful age, being first duly sworn upon my oath, state that I am the Code Administrator, and that I am authorized to make this verification on behalf of Windstream Missouri, Inc.; and that the facts set forth in the foregoing pleading are true to the best of my knowledge, information and belief.

Paula Hustead

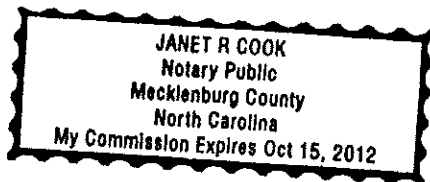
(Name)

Subscribed and sworn to before me this 19 day of October 2011.

Janet R. Cook
Notary Public


My Commission expires:

10-15-2012



CERTIFICATE OF SERVICE

Copies of this document and all attachments thereto were served on the following by e-mail on October 20, 2011.


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