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December 19, 2005

Ms. Blanca Bayo, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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05 DEC 19 PM 4:45
COMMISSION
CLERK

Re: US LEC of Florida Inc.'s Claim of Confidentiality

Dear Ms. Bayo:

Enclosed for filing on behalf of US LEC of Florida Inc. ("US LEC") is an original and seven copies of Petition of US LEC of Florida Inc. for Expedited Review of Central Office Code Denial and Notice of Intent to Request Confidential Classification.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

Sincerely,

Martin P. McDonnell

Martin P. McDonnell

MPM/tls
Enclosures
uslec/bayo.121605

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DOCUMENT NUMBER-DATE

11729 DEC 19 05

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of US LEC of Florida)
Inc. for Expedited Review of)
Growth Codes Denial by the Number)
Pooling Administrator)
_____)

Docket No. 050924 -TX

Filed: December 19, 2005

**PETITION OF US LEC OF FLORIDA INC. FOR
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL**

US LEC of Florida Inc. ("US LEC"), pursuant to Federal Communication Commission ("FCC") Rule Section 52.9(b)¹, and Florida Public Service Commission ("PSC" or "Commission") Order No. PSC-01-1973-PCO-TL, petitions the Commission for an expedited review of the Number Pooling Administrator's ("NeuStar") denial of US LEC's request for use of central office code numbering resources in the 239, 321, 407, 561, 727, 772, 786, 813, 850, 904, 941, and 954 area codes. US LEC is submitting the safety valve request to the PSC because NeuStar has determined that US LEC had not met the utilization threshold required in each central office code (NXX), but it requires the grant of a 1,000 block not utilizing the digits 0, 1, or 9 as the third number of the NXX so that it has the appropriate numbering resources to assign numbers to meet the specific requirements of a large US LEC business customer. The limitations on the customer's telecommunications system results in the need for an NXX 1,000 block not ending in digits 0, 1, or 9 in the exchanges of Celebration, Clearwater, Kissimmee, Marco Island, New Port Richey, North Cape Coral, Sanibel Captiva Islands, Tampa North, Tampa West, Winter Park, Belle Glade, Delray Beach, Eau Gallie, Jacksonville, Melbourne, Pensacola, Perrine, Pompano Beach, Stuart, Venice, and Vero Beach (collectively, "Rate Centers"). In support of this Petition, US LEC states:

1. US LEC is a competitive local exchange carrier ("CLEC") providing telecommunications services in Florida under the jurisdiction of the Commission.

¹ 47 C.F.R. §52.9(b)

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2. NeuStar is an independent, non-governmental entity that is responsible for administering and managing numbering resources in pooling areas. *See* 47 C.F.R. §§52.13(a) and (b).

3. US LEC of Florida Inc. is affiliated with US LEC Corp. whose principal place of business is Morrocroft III, 6801 Morrison Boulevard, Charlotte, NC 28211. Pleadings, orders, notices and other papers filed in this matter should be served upon:

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4. Pursuant to a separate claim of confidentiality, being filed contemporaneously herewith, US LEC is submitting a detailed justification (Exhibits A-1 through D-21 to this Petition) that is the basis for this request. Such detailed justification contains proprietary information that US LEC does not disclose publicly and customarily guards from its competitors. US LEC respectfully requests that the Commission consider the information in Exhibits A-1 through D-21 to this Petition a part of this Petition, but in doing so treat Exhibits A-1 through D-21 as confidential pursuant to Rule 25-22.006, Florida Administrative Code, and Section 364.183, Florida Statutes.

5. On March 31, 2000, the Federal Communications Commission (“FCC”) issued a Report and Order and Further Notice of Proposed Rule Making relating to numbering resource optimization (“FCC 00-104” or the “March Order”). On December 29, 2000, the FCC issued its 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 (“FCC 00-

249” or the “December Order”). These FCC orders addressed issues and strategies relating to the efficient use of numbering resources.

6. In FCC 00-104 and FCC 00-249, the FCC announced rules and sought comments in an effort to implement uniform standards governing requests for telephone numbering resources in order to increase efficiency in the use of existing telephone numbers and to slow further exhaustion of existing numbers under the North American Numbering Plan.

7. Among other things, FCC 00-104 adopted a revised standard for assessing a carrier’s need for numbering resources by requiring carriers to report rate center based utilization data to NeuStar. The FCC further required that to qualify for access to new numbering resources, applicants must establish that existing inventory within the applicant’s rate center will be exhausted within six months of the application.

8. In addition to the months-to-exhaust (“MTE”) requirement described above, the FCC’s rules also require carriers to meet a rate center utilization threshold of 75 percent to receive additional numbering resources in a given rate center. FCC 00-249 at ¶22; FCC 01-362 ¶¶50-52. Based on the FCC’s orders, carriers must meet both the six-month MTE requirement and the utilization threshold on a rate center basis to obtain additional number resources. *Id.* ¶29.

9. Between November 14 and December 1, 2005, US LEC submitted Central Office Code (NXX) Assignment Requests to NeuStar for the assignment of specific 1,000 blocks of NXX resources in certain Rate Centers necessary to meet the telephone number needs of one of US LEC’s large business customers. A copy of these applications are attached hereto as Exhibit A-1 through A-21.

10. The requests, made on behalf of the US LEC customer, were collectively for ten (10) groups of 1,000 sequential telephone numbers in the 239, 321, 407, 561, 727, 772, 786, 813, 850,

904, 941, and 954 area codes with an NXX block in which the third digit did not end in a 0, 1, or 9. US LEC does not presently have blocks of sequential numbers that do not end with a 0, 1, or 9 in each of the identified Rate Centers as requested by, and required by, the US LEC customer. This customer requires the NPA-NXX resources to support a network upgrade to their telecommunications system.

11. Based on the individual Rate Center data that was used to calculate US LEC's MTE, US LEC's numbering resources exhaust dates ranged between 2.124 months and 29.220 months.

12. While US LEC's MTE is 2.124 to 29.220 months, US LEC is currently operating at utilization rates ranging between 2.6 % and 91.1 %. Despite this current level of utilization, US LEC is unable to provide the requested 1,000 sequential numbers in an NXX that does not end in 0, 1, or 9 through the switch that serves the US LEC customer within the identified ten Rate Centers.

13. Between November 14 and December 1, 2005, Neustar denied US LEC's requests on the grounds that US LEC had not met the utilization threshold required in the Central Office Code (NXX) Guidelines or had requested more blocks than it would exhaust within six (6) months. A copy of these decisions are attached hereto as Exhibits B-1 through B-21.

14. As a result of the denial of US LEC's requests for additional numbering resources, US LEC is unable to provide the telecommunications services requested by its customer in Florida.

15. The FCC delegated authority to state commissions to address safety valve claims when NeuStar denies a specific request for numbering resources. In Order No. PSC-01-19973-PCO-TL issued October 4, 2001 (the "PSC Order"), this Commission established an expedited process for addressing central office code denials. US LEC is filing this Petition in accordance with the PSC Order

16. Under previous procedures used by the North American Numbering Plan Administration (“NANPA”), waivers or exceptions were typically granted in any case where customer hardships could be demonstrated or where the service provider’s inventory did not have a block of sequential numbers large enough to meet the customer’s specific request. Under existing procedures, however, NeuStar looks at the MTE criteria and utilization threshold for the rate center and allows no exceptions. By refusing to consider the circumstances of each case, NeuStar’s procedure may result in decisions contrary to the public interest and decisions that do not necessarily preserve the efficient use of telephone numbers or postpone dates of exhaust.

17. US LEC’s inability to provide this large business customer with the requested numbers prevents US LEC from providing the quality of service this customer desires and expects. (Relevant correspondence from the customer is attached as Exhibit C).

18. Both the FCC Order and NeuStar’s Central Office Code (NXX) Guidelines provide that state regulatory authorities have the power and authority to review NeuStar’s decision to deny a request for numbering resources. *See* FCC 01-362, Appendix A, Final Rules, 47 C.F.R. § 15.15 (g)(4).

19. This Commission has previously received similar requests from BellSouth Telecommunications, Inc. in which BellSouth asked the PSC to overrule a decision of NANPA and NeuStar. *See* PSC Docket Nos. 030563-TP and 030590-TP. This Commission has also received a similar request from US LEC of Florida in PSC Docket No. 030937. In those dockets, the Commission granted both carriers’ requests. State commissions in Tennessee, and Louisiana have also granted such requests from BellSouth and from US LEC.


20. In reviewing previous petitions of this type, PSC staff has requested that Petitioners provide additional information concerning the Petitioners’ number utilization for the specific central

office involved in the request. This information for the requested Rate Centers is attached hereto as Exhibits D-1 through D-21.

21. US LEC seeks the Commission's review of NeuStar's decision to withhold numbering resources from it on the grounds that the Central Office Code Administration decision (1) violates the rules and orders of the FCC which grant carriers access to numbering resources to meet specific customer demands upon a sufficient showing of need and (2) interferes with US LEC's ability to serve its customers within Florida. As the FCC has stated, "Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources." FCC 00-429 at ¶ 61. By refusing to grant numbering resources sufficient to meet the new large customer's needs, the decision is preventing the customer from obtaining the service of its choice from its carrier of choice, US LEC.

For these reasons, US LEC requests that the Commission review the decision of NeuStar to deny US LEC's request for additional numbering resources and direct NeuStar to provide numbers to meet the specific requirements of US LEC's business customer in the exchanges of Celebration, Clearwater, Kissimmee, Marco Island, New Port Richey, North Cape Coral, Sanibel Captiva Islands, Tampa North, Tampa West, Winter Park, Belle Glade, Delray Beach, Eau Gallie, Jacksonville, Melbourne, Pensacola, Perrine, Pompano Beach, Stuart, Venice, and Vero Beach, Florida.

Respectfully submitted,



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