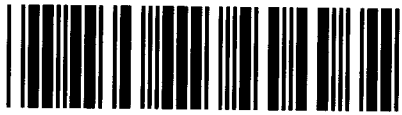


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DOCKET NO. 40177

**PETITION OF TIME WARNER
COMMUNICATIONS OF HOUSTON,
L.P. d/b/a TW TELECOM OF TEXAS
LLC FOR WAIVER OF DENIAL OF
NUMBERING RESOURCES IN THE
CONROE RATE CENTER**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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COMMISSION STAFF'S COMMENTS

The Staff (Staff) of the Public Utility Commission of Texas (Commission) files these comments regarding the application of tw telecom of texas llc f/k/a Time Warner Communication of Houston, L.P. (TWTC or Applicant) for waiver of a denial of numbering resources.

I. Background

On February 10, 2012, Applicant filed an application requesting the Commission overturn the Pooling Administrator (PA) denial of its request for one (1) thousand-block of numbers, in the Conroe rate center. The PA rejected TWTC's application based on the utilization criteria established in 47 C.F.R. § 52.15. TWTC applied for the numbering resources to provide Extended Metro Service (EMS). TWTC specifically requested assignment of EMS designated blocks.

In an order released on December 28, 2001, the Federal Communications Commission (FCC) created a "safety valve" to allow a carrier to obtain additional numbering resources under certain conditions. The FCC found that:

[A] carrier should be able to get additional numbering resources when there is a verifiable need due to the carrier's inability to satisfy a specific number request. We therefore clarify that states may also grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory. Carriers may demonstrate such a need by providing the state with documentation of the customer request and current proof of utilization in the rate center. States may not accommodate request for specific numbers (i.e., vanity numbers), but may grant requests for customers seeking contiguous blocks of numbers.¹

¹ *Numbering Resources Optimization*, CC Docket No. 99-200, Third Report and Order and Second Order on Reconsideration, FCC 01-362, ¶ 64 (rel. Dec. 28, 2001) (*NRO Order*).

Furthermore, § 52.15 of the FCC's rules provide the "[t]he state commission...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."² Ordinarily, the FCC's rules require that a carrier maintain no more than a six-month inventory of number in a rate center³ and utilize at least 75% of its inventory before seeking growth numbering resources.⁴

II. Discussion

In the present case, TWTC requested additional numbering resources to provide EMS. To properly bill and route both EMS and Non-Metro Service calls, a carrier must distinguish EMS numbers from Non-Metro Service numbers. EMS requires the use of numbering resources from an NXX dedicated for EMS purposes and Non-Metro Service requires numbers not from a Non-Metro Service-specific NXX. However, the PA denied numbering resources to TWTC based on MTE/utilization criteria because the FCC's rules do not distinguish between EMS and Non-Metro Service numbers, despite the fact that exhaustion of either EMS or Non-Metro Service numbers will prohibit the further provision of the respective service.

Staff finds that TWTC's EMS utilization actually satisfies the 75% minimum utilization level and six-month maximum MTE requirements in the Conroe rate center. TWTC's request satisfies the 75% minimum utilization level (TWTC utilized 100%) and also satisfies the six-month maximum MTE (TWTC currently does not have inventory). Accordingly, Staff recommends assignment of a single 1,000-block.

III. Conclusion

Staff recommends approval of TWTC's request for a waiver of the PA's denial of numbering resources in the Conroe rate center and recommends that the Commission order the assignment of one (1) EMS designated 1,000-block.

² 47 C.F.R. § 52.15(g)(4) (2002).

³ 47 C.F.R. § 52.15(g)(3)(B)(iii) (2002).

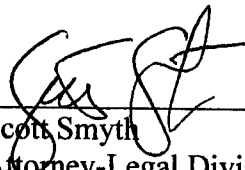
⁴ 47 C.F.R. § 52.15(h) (2002).

Dated: March 5, 2012

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director-Legal Division

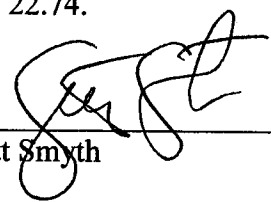
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on March 5, 2012, in accordance with P.U.C. Procedural Rule 22.74.



Scott Smyth