

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	CC Docket No. 99-200
ALLTEL Communications, Inc.)	
Emergency Request for Waiver of MTE Rules)	NSD File No. L-01-157
)	

ORDER

Adopted: October 26, 2001

Released: October 29, 2001

By the Common Carrier Bureau:

I. INTRODUCTION

1. On October 5, 2001, ALLTEL Communications, Inc. (ALLTEL), a competitive local exchange carrier (CLEC), requested an emergency waiver of Section 52.15(g)(3) of the Federal Communications Commission’s (Commission) rules, which sets forth the requirements for receiving growth numbering resources.¹ ALLTEL requests a waiver to receive a new central office (CO or NXX) code in the 501 Numbering Plan Area (NPA) in Little Rock, Arkansas to accommodate a specific request for a new system to serve an existing customer.² We find that ALLTEL has demonstrated good cause for a waiver, and therefore we direct the North American Numbering Plan Administrator (NANPA) to assign ALLTEL a new NXX code in the 501 NPA.

II. BACKGROUND

2. Section 52.15 of the Commission’s rules requires that, among other things, carriers requesting growth numbering resources submit a Months to Exhaust (MTE) worksheet indicating that a carrier’s numbering resources will be exhausted within six months for the carrier to be eligible to receive growth numbering resources in a particular rate area.³ Carriers requesting growth numbering resources must also meet the 60% minimum utilization level for the rate center in which growth resources are requested.⁴ This rule seeks to ensure that existing numbering resources are used efficiently and to

¹ 47 C.F.R. § 52.15 (g)(3).

² See ALLTEL Communications, Inc. Emergency Request for Waiver of MTE Rules (filed October 2, 2001) (ALLTEL Petition).

³ 47 C.F.R. § 52.15.

⁴ Carriers must demonstrate that they have assigned at least 60% of their numbering resources to meet the utilization threshold.

prevent carriers from carrying large inventories of numbers that could be used more efficiently by other carriers.⁵

3. ALLTEL asserts that it needs a new NXX code in the 501 NPA to accommodate a customer's request for consecutive numbers to be loaded into a PBX system.⁶ The customer has acquired a new private branch exchange (PBX) system that requires consecutive numbers to be loaded into the system. According to ALLTEL, the customer is currently using 5,100 non-consecutive numbers and requires 8,000 consecutive numbers for the new system. The 5,100 numbers the customer is currently using were ported to ALLTEL from the incumbent LEC, and these numbers will "snap back" to the incumbent LEC when relinquished by the customer. Thus, these numbers will not remain in ALLTEL's inventory.⁷ According to ALLTEL, despite the fact that it exceeds the 60% utilization threshold,⁸ it cannot meet the MTE requirement due to the low projected growth rates in the CLEC market. As a result, although ALLTEL has enough numbering resources to meet its projected growth for six months, it is unable to meet this customer's needs because it does not have the quantity of consecutive numbers required for the customer's system.

III. DISCUSSION

4. The Commission has plenary jurisdiction of those portions of the North American Numbering Plan that pertain to the United States.⁹ Section 1.3 of the Commission's rules authorizes the Commission to suspend, revoke, amend, or waive, for good cause shown.¹⁰ In demonstrating such good cause, an applicant for a waiver "faces a high hurdle even at the starting gate."¹¹ Moreover, the Commission must in its decision "explain why deviation [from its rules] better serves the public interest."¹²

5. We have reviewed ALLTEL's request and find that it has demonstrated good cause for a waiver of the MTE requirement.¹³ ALLTEL has established that it has received a specific customer

⁵ See Numbering Resource Optimization, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000).

⁶ See ALLTEL Petition at 2-4.

⁷ See generally INC Report on Number Portability, INC 96-0607-013 (July 1996).

⁸ See ALLTEL Petition at 2. ALLTEL's utilization in the rate center is 86%.

⁹ See generally 47 C.F.R. §§ 52.15 et. seq.

¹⁰ 47 C.F.R. § 1.3.

¹¹ See *WAIT Radio v. FCC*, 418 F. 2d 1153, 1157 (D.C. Cir. 1969).

¹² See *Northeast Cellular Telephone Company, L.P. v. FCC*, 897 F. 2d 1164, 1166 (D.C. Cir. 1990).

¹³ Although ALLTEL will receive a 10,000 block, its net inventory will only be increased by less than 5,000, and approximately 3,000 of those resources will be used to serve the new customer. Consequently, ALLTEL will be adding less than 2,000 numbers to its available inventory.

request for numbering resources that it cannot meet with its existing inventory. ALLTEL has also shown that it is, in general, efficient in its use of numbering resources, as indicated by its high utilization rate. Furthermore, ALLTEL's utilization percentage will not be negatively impacted by this waiver, as 5,100 numbers will be released from its inventory once they are relinquished by the customer.

6. We further find that it is in the public interest to grant this waiver because it will enable the customer to receive service from the carrier of its choice. Grant of this waiver will also promote the Commission's policy goal of using numbering resources efficiently. Therefore, we direct the NANPA to assign and release to ALLTEL a new growth NXX code in the 501 NPA to meet this specific customer request.

IV. ORDERING CLAUSE

7. Accordingly, IT IS ORDERED, pursuant to 4(i), 10, and 251(e) of the Communications act of 1934, as amended, 47 U.S.C. §§ 154(i), 160, 251(e), and sections 0.91, 0.291, and 1.3 of the Commissions regulations, 47 C.F.R. §§ 0.91, 0.291, 1.3, that the petition filed by ALLTEL Communications, Inc. IS GRANTED to the extent herein described.

FEDERAL COMMUNICATIONS COMMISSION

Dorothy T. Attwood
Chief, Common Carrier Bureau