

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

In the Matter of)	
)	
Numbering Policies for Modern Communications)	WC Docket No. 13-97
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
)	

ORDER

Adopted: December 21, 2018

Released: December 21, 2018

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. Today, the Wireline Competition Bureau (Bureau) grants Altice USA, Inc.'s (Altice's) request for a waiver of the Commission's number assignment rules to enable Altice to deploy a new wireless service to consumers. Subject to the conditions established in this Order, this waiver will allow Altice to obtain numbering resources directly from the North American Numbering Plan Administrator (NANPA) and Pooling Administrator (collectively, Numbering Administrators) for this new service and, therefore, to compete more effectively in the mobile wireless services marketplace to the benefit of consumers.

II. BACKGROUND

2. Section 52.15(g)(2) of the Commission's rules sets forth a two-pronged approach for acquiring access to numbering resources. Section 52.15(g)(2) states that "[a]n applicant for initial [North American Numbering Plan (NANP)] numbering resources must include in its application evidence that the applicant is authorized to provide service in the area for which the numbering resources are requested; and that the applicant is or will be capable of providing service within sixty (60) days of the numbering resources activation date."¹ The Commission has interpreted the first prong of this rule as requiring the applicant to hold either a Commission license or a state certificate of public convenience and necessity (CPCN).²

3. Altice seeks to obtain numbering resources directly from the Numbering Administrators to offer a new mobile wireless service, which it describes as an "infrastructure-based Mobile Virtual Network Operator (iMVNO)" service, to end users.³ However, Altice does not hold a Commission license required to obtain numbers, and while it holds state CPCNs in areas where it provides broadband, voice, and video service,⁴ Altice seeks access to numbering resources as a wireless provider for its new

¹ 47 C.F.R. § 52.15(g)(2).

² *Numbering Policies for Modern Communications*, Report and Order, WC Docket No. 13-97 *et al.*, 30 FCC Rcd 6841, para. 4 (2015) (*VoIP Direct Access to Numbers Order*).

³ *Altice USA, Inc. Petition for Waiver*, WC Docket No. 13-97 and CC Docket No. 99-200, at 1-2 (filed Nov. 9, 2018) (Altice Petition). Altice "provides broadband, voice and video services to approximately 4.9 million residential and business customers in 21 states." *Id.* at 1.

⁴ Altice Petition at 1, 3, n.6.

iMVNO service.⁵ Accordingly, on November 9, 2018, Altice filed a request for waiver of section 52.15(g)(2) of the Commission's rules.⁶

4. Altice argues that it should be considered authorized to provide service in the area for which numbering resources are requested.⁷ Altice first states that it has entered into a multi-year agreement with Sprint, a Commission licensee, to deliver its iMVNO service to customers in part using Sprint's radio access network (RAN).⁸ Altice further asserts that the combination of using Sprint for its RAN, "its ownership and operation of a core network that will be used to provide its mobile service,"⁹ and its "use of network and subscriber identification modules (SIMs) easily satisfies the Commission's requirements and policy goals for access to telephone numbers, and significantly differentiates [Altice's] iMVNO platform from the typical reseller MVNO."¹⁰

5. Distinguishing itself from "a traditional wireless reseller," Altice asserts it "will use its own wireless telephone numbers from the [NANPA] to manage its mobile network, switch and route wireless calls, and compete effectively in the market to a degree not possible for a resale MVNO."¹¹ Altice states it "already has made the necessary investments to have a wireless core and facilities in place," and that it "will be capable of providing service within 60 days of the numbering resources activation date" in compliance with the facilities readiness prong of section 52.15(g)(2).¹² Altice asserts that it "is poised to launch its [iMVNO] service in 2019 and become a forceful new competitive entrant in the wireless market."¹³

6. Citing the Commission's decision to allow direct access to numbering resources for interconnected Voice over Internet Protocol (VoIP) service providers, Altice argues that, "as the Commission has recognized, allowing carriers direct access to telephone numbers will increase visibility and accuracy of number utilization, increase the transparency of call routing, and improve responsiveness in the number porting process, thereby furthering the goals of NANPA and the Commission."¹⁴ Altice claims that it "is at the cusp of launching its wireless service," and that applying section 52.15(g)(2) in a

⁵ *Id.* at 2.

⁶ *Id.*

⁷ *Id.* at 2-3.

⁸ *Id.* at 1-2.

⁹ Altice describes its own "core network" as comprised of subscriber identify modules (SIMs) and a Service Profile Management System (including Home Subscriber Server, Home Location Register, and an Authentication, Authorization, and Accounting (AAA) Server). *Id.* at 3. "This core network includes routers and switches and will enable Altice USA to control the routing of all [its] wireless customers' calls." *Id.* According to Altice, it has secured its Home Network Identifier (HNI) and International Mobile Subscriber Identity (IMSI) code components from the U.S. IMSI Administrator, its Operating Company Number (OCN) from the National Exchange Carrier Association, and its Transferred Account Data Interchange Group (TADIG) Code is registered with the GSM Association (GSMA). *Id.* at 4 (footnote omitted).

¹⁰ *Id.* at 2.

¹¹ *Id.* at 1.

¹² *Id.* at 3, 3 n.7 (Altice "has secured or is in the process of obtaining interconnection agreements as well as domestic and international roaming agreements with other providers," and "will initially begin testing the service with trials before a commercial launch"). See 47 CFR §52.15(g)(2); COCAG, Section 4.2.2; Thousands-Block Guidelines, *Central Office Code (NXX) Assignment Guidelines (COCAG)*, ATIS-0300051, Industry Numbering Committee, Alliance for Telecommunications Industry Solutions (ATIS) (rev. August 24, 2018), Section 4.2.2; *Thousands-Block Number (NXX-X) Pooling Administration Guidelines*, ATIS-0300066, Industry Numbering Committee, Alliance for Telecommunications Industry Solutions (ATIS) (rev. August 24, 2018), Section 4.3.1.2 and Appendix D.

¹³ Altice Petition at 1.

¹⁴ *Id.* at 5, 5.n.13 citing *VoIP Direct Access to Numbers Order*, 30 FCC Rcd at 6894, Appendix C, para. 7.

manner that would deny it telephone numbers would thwart competitive entry.¹⁵

7. Finally, Altice states that if its requested waiver is granted, it will continue to comply with all applicable regulatory requirements, including federal universal service fund (USF), telecommunications relay service (TRS), NANPA, and local number portability (LNP) contributions and 911 fees.¹⁶

II. DISCUSSION

8. The Commission may waive its rules when good cause is demonstrated.¹⁷ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹⁸ In doing so, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁹ Commission rules are presumed valid, however, and an applicant for waiver bears a heavy burden.²⁰ Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.²¹

9. Altice's iMVNO service is different from the traditional MVNO reseller's service in that Altice will leverage its own facilities and core network to provide the service.²² Altice states that it has a multi-year agreement with Sprint, a Commission licensee, to use Sprint's radio access network.²³ According to Altice, it will combine use of that radio access network with its own core mobile network (including subscriber identity modules, a Service Profile Management System, routers, and switches) to provide this service.²⁴ It notes that unlike a traditional reseller MVNO, Altice's own infrastructure will allow it to manage its mobile network and switch and route wireless calls "to a degree not possible for a resale MVNO."²⁵ In order to do so, Altice states that it "needs a wireless telephone number and Location Routing Number ('LRN') to properly route its wireless traffic."²⁶ We find that Altice's arrangement with Sprint coupled with the mobile network infrastructure described by Altice, distinguishes its method of providing service, including its need for direct access to numbers, from that of a traditional MVNO reseller. We therefore conclude that special circumstances exist such that granting Altice's petition for a waiver of the first prong of section 52.15(g)(2) is in the public interest, subject to the conditions established in this Order.

10. Granting this waiver is consistent with the Commission's decisions to help speed the delivery of innovative new services to consumers and businesses and to increase competition among

¹⁵ Altice Petition at 5-6.

¹⁶ *Id.* at 4.

¹⁷ 47 CFR § 1.3.

¹⁸ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

¹⁹ See also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert denied*, 409 U.S. 1027 (1972) (*WAIT Radio*); *Northeast Cellular*, 897 F.2d at 1166.

²⁰ *WAIT Radio v. FCC*, 459 F.2d 1203, 1207 (D.C. Cir. 1972), *cert, denied*, 409 U.S. 1027 (1972).

²¹ *WAIT Radio*, 418 F.2d at 1157; *Northeast Cellular*, 897 F.2d at 1166.

²² See, e.g., Altice Petition at 5. In contrast to Altice's approach, a typical MVNO purchases wireless network capacity from one or more wireless network operators at wholesale prices and resells it to end users under its own business brand(s), but does not own or operate any wireless network infrastructure for such services.

²³ *Id.* at 1-2, 3.

²⁴ *Id.* at 3.

²⁵ *Id.* at 1.

²⁶ *Id.* at 5-6.

providers of these services.²⁷ In particular, the Commission has allowed interconnected VoIP providers to obtain their own telephone numbers directly from the Numbering Administrators, rather than through intermediaries.²⁸ In its *VoIP Direct Access to Numbers Order*, the Commission noted that a number of benefits would flow from allowing VoIP providers to obtain their own telephone numbers. For example, facilitating innovative technologies and services would benefit both consumers and service providers and would further the Commission's recognized pro-consumer and pro-competition goals.²⁹ Allowing these VoIP providers direct access to numbers has enabled them to deploy innovative new services and encouraged the rapid deployment of new technologies and advanced services to the benefit of American consumers.

11. Similarly, here, as Altice notes in its petition, allowing it to obtain its own numbers will enable Altice to become a new competitive entrant in the wireless market and deploy a new wireless service to consumers.³⁰ Altice also notes that its iMVNO service is distinguishable from that of traditional wireless resellers and will leverage its own facilities and core network to bring about competitive and public interest benefits.³¹ And as discussed above, Altice will use its own numbers from the North American Numbering Plan to manage its mobile network, switch and route wireless calls, and compete effectively in the market to a degree not possible for a resale MVNO. We find that encouraging the deployment of innovative new services is pro-competitive, pro-consumer, and thus in the public interest.

12. Finally, granting Altice's waiver will not undermine the purpose of section 52.15(g)(2) of the rules. In its *Numbering Optimization Order/FNPRM*, the Commission concluded that allowing carriers to obtain numbers before they are prepared to offer service results in highly inefficient distribution of numbering resources, and is counterproductive to the Commission's goal of optimizing the use of numbering resources.³² The Commission noted, in particular, situations in which carriers obtained numbers in areas where they were neither licensed nor certified, and then never used those numbers.³³ That is not the case here, as Altice has immediate plans to use the numbers it obtains from the Numbering Administrators. Altice notes that it has already made the necessary investments to have a wireless core and facilities in place, and will be capable of providing services within 60 days of the numbering resources activation date, as required by the second prong of section 52.15(g)(2).³⁴ For all of these reasons, Altice has demonstrated that it is in the public interest to allow it to obtain numbers directly from the Numbering Administrators, and thus there is good cause for the Bureau to grant its waiver request. Accordingly, the Bureau grants Altice a waiver of the Commission's number assignment rules.

13. To ensure that the public interest is protected, however, the Bureau conditions its waiver

²⁷ See, e.g., *IP-Enabled Services*, Notice of Proposed Rulemaking, WC Docket No. 04-36, 19 FCC Rcd 4863, 4865-66, para. 3 (2004) (recognizing the "paramount importance of encouraging deployment of broadband infrastructure to the American people").

²⁸ See, generally *VoIP Direct Access to Numbers Order*. Prior to adopting rules allowing interconnected VoIP providers direct access to numbers, the Commission granted waivers of section 52.15(g)(2) to certain VoIP providers while it conducted technical trials of their use of the numbers. *Id.*, 30 FCC Rcd at 6843-44, paras. 9-12; *Numbering Policies for Modern Communications et al.*, WC Docket No. 13-97 *et al.*, Report, 29 FCC Rcd 927 (WCB 2014). Prior to that waiver grant, the Commission granted a waiver of section 52.15(g)(2) to SBC Internet Services, Inc. for its use in providing VoIP services. *Administration of the North American Numbering Plan*, CC Docket No. 99-200, Order, 20 FCC Rcd 2957 (2005).

²⁹ *VoIP Direct Access to Numbers Order*, 30 FCC Rcd at 6840-41, para. 2.

³⁰ Altice Petition at 1.

³¹ *Id.* at 1, 3, 5.

³² *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7613-14, paras. 93-96 (2000) (*Numbering Optimization Order/FNPRM*).

³³ *Id.*

³⁴ Altice Petition at 3.

on representations Altice made in its petition, and on Altice's presenting to the Numbering Administrators evidence that it:

- has an agreement with an FCC licensee to use the radio access network of the licensee to provide service in the area for which the numbering resources are being requested;³⁵
- is, or will be, capable of providing service within 60 calendar days of the numbering resources activation date;³⁶
- has an Home Network Identifier issued to it from the U.S. International Mobile Subscriber Identity Administrator;
- owns and operates core mobile network facilities (*e.g.*, switches, routers) including the service profile management system for its end-user devices (*e.g.*, Home Subscriber Server, Home Location Register, and/or Home Authentication, Authorization, and Accounting Server), and that such core mobile network facilities are located entirely within the U.S.; and
- certifies that it will comply with all applicable FCC regulations, including USF contribution obligations under 47 CFR part 54, subpart H, Telecommunications Relay Service contribution obligations under 47 CFR § 64.604(c)(5)(iii), NANP and LNP Administrator contribution obligations under 47 CFR §§ 52.17 and 52.32, obligations to pay regulatory fees under 47 CFR §1.1154, and 911 obligations under 47 CFR part 9.

III. ORDERING CLAUSE

14. IT IS ORDERED that, pursuant to sections 1, 3, 4, 201-205, 251, 303(r), 332(c) and 332(d)(1) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, 251, 303(r), and 332 (c) and (d)(1), the petition for waiver of section 52.15(g)(2) of the Commission's rules filed by Altice USA, Inc. IS GRANTED to the extent set forth herein.

FEDERAL COMMUNICATIONS COMMISSION

Kris A. Monteith
Chief
Wireline Competition Bureau

³⁵ Altice must submit the agreement in its entirety, other than financial data which may be redacted. The Numbering Administrators are required to protect the confidentiality of proprietary data and competitively sensitive information. 47 C.F.R. § 52.13(c)(7) (NANPA requirement); *Number Resource Optimization Order/FNPRM*, 15 FCC Rcd at 7598, para. 55, 7606, para. 75.

³⁶ Thus, Altice must comply with the second prong of section 52.15(g)(2), which requires that it be capable of providing service within 60 days of the numbering resources activation date.