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

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Qwest Corporation Request for Assignment of Five Sequential One Thousand-Blocks	)	

ORDER

Adopted: September 17, 2003 **Released: September 17, 2003**

By the Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant Qwest Corporation's (Qwest) request, as modified, for five thousands-blocks from New Mexico's Gallup rate center.[1] The National Pooling Administrator (PA) denied Qwest's application for five thousands-blocks in New Mexico's 505 area code because Qwest failed to meet the six-month Months-To-Exhaust (MTE) requirement for obtaining additional numbering resources.[2] We find that Qwest has satisfied the requirements for the safety valve mechanism set forth in the Commission's *Numbering Resource Optimization Third Report and Order* because Qwest has demonstrated that it cannot satisfy a specific customer request from its inventory.[3]

II. BACKGROUND

2. *Commission's Numbering Resource Optimization Rules*. Section 52.15 of the Commission's rules requires, among other things, that a service provider seeking growth numbering resources (central office codes or thousand-blocks) must submit with its application: (1) a MTE worksheet that shows the utilization level for the past six months by rate center and the projected monthly utilization for the next twelve months and (2) the current utilization level for the rate center in which the service provider seeks more numbering resources.[4] To obtain approval from the PA (when requesting

[1] Initially, Qwest's petition sought permission to obtain five sequential thousands-blocks. *See Qwest Corporation Request for Assignment of Five Sequential One Thousand-Blocks*, filed October 16, 2002 (Qwest Petition). *But see* Letter from John W. Kure, Qwest, to Marlene H. Dortch, FCC, dated July 29, 2003 (explaining that the customer's request could be satisfied with five non-sequential thousands-blocks) (July 2003 Letter).

[2] Telephone numbers are assigned to carriers in one thousand-blocks by the PA where pooling has been implemented. In areas where pooling has not been implemented, the North American Numbering Plan Administrator (NANPA) assigns central office codes to carriers, which consist of ten thousand numbers per code.

[3] *See Numbering Resource Optimization,* Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, 17 FCC Rcd 252, 280 (2001) (*Numbering Resource Optimization Third Report and Order*).

[4] 47 C.F.R. § 52.15(g)(3). This requirement only applies to carriers seeking additional numbering resources. Carriers obtaining initial numbering resources only need to show that: (1) they are certified to operate in the area for (continued....)

thousands-blocks) or the NANPA (when requesting central office codes), service providers must maintain no greater than a six-month inventory of numbering resources and must have a utilization level of at least 70%[5] in the rate center in which they seek more numbering resources.[6]

3. In the *Numbering Resource Optimization Third Report and Order*, the Commission established a safety valve mechanism for those instances when carriers need numbers, but fail to satisfy the MTE or utilization requirements. The safety valve mechanism allows service providers to obtain additional numbering resources from the NANPA or the PA once carriers have demonstrated that they are experiencing rapid growth in a particular area or have received a specific customer request that cannot be satisfied from their current inventory.[7] The Commission stated that the safety valve mechanism should be used only after a service provider has pursued all other available options and has demonstrated that the safety valve mechanism was warranted in that instance. The Commission delegated to state commissions the authority to determine whether the safety valve mechanism should be applied after the NANPA or PA declines an application for numbering resources.[8] In situations where the state commissions, such as the New Mexico Public Regulation Commission, choose not to exercise their delegated authority,[9] the Commission reviews the safety valve requests.[10]

4. As noted above, the Commission determined that the safety valve mechanism is appropriate to apply when carriers experience rapid growth within a particular rate center or when carriers are unable to satisfy a specific customer's request for numbers.[11] In determining whether a particular customer request would be suitable for the safety valve mechanism, the Commission stated that requests for specific numbers, such as vanity numbers, would not be allowed, but that customers seeking contiguous blocks of numbers would be considered for the safety valve waiver.[12] The Commission stated that, for specific customer requests, the additional numbers must be activated only for that customer.[13]

5. *Qwest's Petition*. Qwest requests the Commission to direct the PA to assign it five thousands-blocks in the Gallup rate center.[14] According to Qwest, one of its customers, the Gallup-McKinley County Public Schools, requested 4,900 sequential numbers (*i.e.*, five sequential one-thousand-

(...continued from previous page)
which the numbering resources are assigned; and (2) they are or will be able to commence service within sixty days from the activation date of the assigned numbering resources. *See* 47 C.F.R. § 52.15(g)(2).

[5] This percentage increases by 5% each year in June until it reaches 75%. *See* 47 C.F.R. § 52.15(h). The utilization rate increased from 65% to 70% as of June 30, 2003. The utilization level is derived by dividing all assigned numbers by all of the numbering resources in the applicant's inventory and multiplying the result by 100. 47 C.F.R. § 52.15(g)(3)(ii).

[6] 47 C.F.R. § 52.15(g)(3)(B)(iii), (h).

[7] *See Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 279-282.

[8] *Id.* at 280.

[9] *See* Qwest Petition at 1-2. *See also* Letter from Mark A. Cessarich, New Mexico Public Regulation Commission, to Sanford Williams, FCC, dated October 29, 2002 (indicating that the New Mexico Public Regulation Commission did not have the appropriate filing and review procedures in place for these types of requests).

[10] *Id.* at 282. The Wireline Competition Bureau has delegated authority to decide petitions involving safety valve requests. *See id.*

[11] *Id.* at 281.

[12] *Id.*

[13] *Id.*

[14] Qwest Petition at 1-2.

blocks) in conjunction with Direct Inward Dialing (DID) services that it receives from Qwest.[15] The school system plans a major telecommunications upgrade to expand service to its classrooms, administrative offices and voice mailboxes.[16] Although Qwest initially asserted that the customer needed consecutive numbers to create a logical dialing pattern across its thirty-six schools,[17] Qwest clarifies that five non-sequential thousands-blocks would satisfy the customer's request.[18] Qwest asserts that it does not have five thousands-blocks in its inventory to fulfill the customer's order.[19] When Qwest applied for five thousands-blocks, the PA rejected its application because, although Qwest's 68.7% utilization rate in the Gallup rate center exceeded the 65% utilization threshold requirement, Qwest did not meet the MTE requirement.[20]

6. Qwest indicates that it has no other alternatives for obtaining five thousands-blocks.[21] When thousands-block number pooling commenced in the Gallup rate center, carriers were required to donate all thousands-blocks that were contaminated by 10% or less.[22] According to Qwest, it donated eleven uncontaminated thousands-blocks and six lightly contaminated thousands-blocks. Qwest explains that, because it donated these thousands-blocks to the PA, its current inventory of thousands-blocks is well over ten percent contaminated.[23] Consequently, Qwest is unable to donate more blocks to the PA in order to reduce its MTE and satisfy the MTE requirement. It is also unable to "swap" blocks for numbers that would fulfill the customer's request.[24]

III. DISCUSSION

7. We find that, based on the record, Qwest has satisfactorily demonstrated that it is unable to satisfy a particular customer request. We therefore allow Qwest to obtain five thousands-blocks from the PA in the Gallup rate center. As the Commission stated in the *Numbering Resource Optimization Third Report and Order*, the safety valve mechanism may be applied when a carrier has demonstrated that it is unable to satisfy a customer's request for numbers. The carrier must provide sufficient documentation of the customer's request and the current utilization data from the rate center serving the customer.[25] We find that Qwest has met this standard.

8. Qwest has demonstrated that it is unable to satisfy its customer's request for 4,900 numbers from its available inventory. According to Qwest, it donated seventeen thousand-blocks in April 2002, leaving it with only contaminated blocks from which to make the number assignments to

[15] Qwest Petition at 3; *see also* Letter from John W. Kure, Qwest, to Marlene H. Dortch, Secretary, FCC, dated March 17, 2003 at 1-2. According to Qwest, the customer is currently using 82 numbers for DID services and expects to return all but ten of those numbers. *Id.*

[16] *Id.*

[17] *See* Letter from John Kure, Qwest, to Marlene Dortch, Secretary, FCC, dated November 8, 2002 (Qwest Ex Parte).

[18] *See* July 2003 Letter.

[19] Qwest Petition at 3.

[20] Qwest Petition at 3-4.

[21] *See generally* Qwest Ex Parte.

[22] In other words, carriers could only donate blocks that had ten percent or less of the numbers assigned to customers.

[23] Qwest Ex Parte at 2.

[24] *Id.* at 2.

[25] *Numbering Resource Optimization Third Report and Order*, 17 FCC Rcd at 281.

customers.[26] Although Qwest has approximately 8,000 numbers available in the Gallup rate center, it does not have blocks with enough contiguous numbers that will allow the customer to create a logical dialing pattern with its DID service.[27] Qwest indicates that its numbers are spread across five central office codes and are interspersed throughout thirty-three thousands-blocks.[28] Because the blocks in Qwest's inventory are highly contaminated, its customer's request cannot be satisfied.

9. Qwest has also demonstrated that it is unable to reduce its current inventory by donating or swapping its thousands-blocks in order to satisfy the MTE requirement. In particular, more than half of Qwest's thousands-blocks have a 60% or greater utilization rate and only one thousand-block has a utilization rate of less than 20%.[29] Because of the 10% or less contamination limit, the PA will not accept Qwest's thousands-blocks. Thus, Qwest has no feasible means for reducing its numbering inventory in order to satisfy the MTE requirement. Accordingly, we find that Qwest has shown a verifiable need for five thousands-blocks to serve the Gallup-McKinley County Public Schools. Upon receipt of these blocks, we direct Qwest to only activate them for the customer for whom the application for numbering resources was made.

IV. ORDERING CLAUSE

10. Accordingly, IT IS ORDERED that, pursuant to authority contained in sections 1, 4(i), and 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, and the authority delegated under sections 0.91, 0.291, and 52.9(b) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 52.9(b), the petition filed by Qwest Corporation is GRANTED to the extent described herein.

FEDERAL COMMUNICATIONS COMMISSION

William F. Maher, Jr.
Chief, Wireline Competition Bureau

[26] The Numbering Resource Utilization Report for the Gallup Rate Center (Gallup Report) shows that all thousands-blocks in Qwest's inventory are contaminated. *See id.*, Attach. 1.

[27] *Id.* at 2.

[28] *Id.*

[29] According to the Gallup Report, the 505-862-0XXX thousands-block has a 15.20% utilization rate, which is the lowest utilization rate in Qwest's Gallup rate center inventory. *See* Qwest Ex Parte.