

COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION PUBLIC SERVICE
AND REQUEST FOR EXPEDITED TREATMENT COMMISSION

In the Matter of:

Windstream Kentucky East, LLC’s Petition for)
Commission Review and Reversal of a Decision of the) Case No. 2012- 00_____
North American Number Pooling Administration)
)

PETITION FOR REVIEW, APPLICATION FOR GRANT OF NUMBERING RESOURCES,
AND REQUEST FOR EXPEDITED TREATMENT

Windstream Kentucky East, LLC, (“Windstream”) petitions the Public Service Commission of Kentucky (“Commission”) pursuant to 47 C.F.R. § 52.15(g)(4) to review and overturn a recent decision by the Pooling Administrator (“PA”) to withhold certain numbering resources from Windstream needed by the company to continue to provide reliable and adequate service to customers. In support of its Petition Windstream states:

Windstream’s Application And PA’s Denial

1. On August 29, 2012 Windstream filed a request with the PA for a single “thousands” block of numbers for an LRN to serve customers in Windstream’s Monticello rate center. A copy of the Application is attached as **EXHIBIT 1**.
2. The additional numbering resources are required to permit Windstream to provide service via a new packet switch that is being deployed to support a Broadband Stimulus project in this location. According to the applicable industry *Location Routing Number (LRN) Assignment Practices document (ATIS-0300065)* Windstream must establish a unique LRN to identify the recipient switch or POI and must establish an LRN per LATA from an assigned

NXX for the recipient switch in the number portability capable network. Thus, Windstream must obtain an LRN for this new packet switch. Also pursuant to industry guidelines, only an NXX code holder can obtain an LRN, thus necessitating Windstream's request for an NXX code, for this rate center. (It should be noted, however, that Windstream would retain only a single thousand-number-block from the new NXX code.)

3. On August 29, 2012, the PA denied Windstream's request on the grounds that Windstream had not satisfied the months-to-exhaust ("MTE") criteria established in the Central Office Code Assignment Guidelines. A copy of the PA's denial is attached as **EXHIBIT 2**.

4. Windstream has demonstrated a verifiable need due to its needs in connection with a Broadband Stimulus project upgrade to this rural exchange.

5. Windstream can not satisfy the need for numbering resources from its current inventory or in any other manner and has exhausted all other available remedies.

Basis For Commission Review And Action

6. Under federal numbering rules, a state commission may overturn the PA's decision based on the determination that the carrier has demonstrated a verifiable need for the numbering resources and has exhausted all other available remedies.¹

7. In its Third Report and Order in the Number Resource Optimization proceeding, the Federal Communications Commission ("FCC") found that "a carrier should be able to get additional number resources when there is verifiable need due to the carrier's inability to satisfy a specific customer request."² Thus, the Commission has the authority to overturn the PA's decision in this matter.

¹ 47 C.F.R. § 52.15(g)(4)

² *Number Resource Optimization*, Third Report and Order and Second Order on Reconsideration, FCC 01-362, 17 FCC Rcd 252, ¶ 64 (2001) ("*Third Report and Order*").

8. As set forth above, Windstream has demonstrated a verifiable need due to deployment of a new switch and corresponding new service in connection with a Broadband Stimulus project upgrade to this rural exchange. In other cases, the Commission has granted the requested numbering relief despite the PA's determination that the carrier did not meet the MTE or utilization thresholds.³

9. Granting Windstream's Petition will not adversely affect the numbering resources available for use by carriers throughout the state in providing telecommunications services to their customers. Granting Windstream's request is in the public interest and consistent with the FCC's rules and decisions.

Request For Expedited Treatment

10. Windstream respectfully requests that the Commission act upon this Petition within ten business days. Expedited treatment is required to meet the needs of the persons to be served through the switch and Windstream's internal business plans and schedule.

11. The FCC also has recognized the importance of timely action:

[W]e recognize that in many instances, the failure to address a request for additional numbering resources can impair a carrier's ability to stay in or expand business. We therefore direct states to act on carrier requests for a safety valve as expeditiously as possible. Although we do not establish a specific time limit for states to act on these requests, we believe that, in most instances, 10 business days from receipt of a request that the state determines to be sufficiently detailed and complete will be sufficient time to review and act upon safety valve requests.⁴

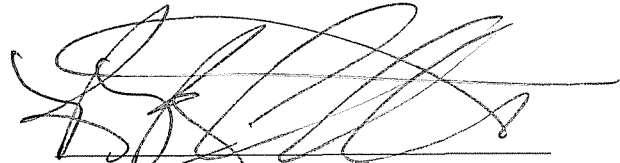
³ See, Order, Case No. 2008-00172 (Ky. P.S.C. June 12, 2008); Order, Case No. 2006-00529 (Ky. P.S.C. January 9, 2007); Order, Case No. 2005-00516 (Ky. P.S.C. January 20, 2006); Case No. 2005-00342 (Ky. P.S.C. October 7, 2005); Order, Case No. 2005-00157 (Ky. P.S.C. April 28, 2005); Order, Case No. 2005-00021 (Ky. P.S.C. February 2, 2005); Order, Case No. 2004-00521 (Ky. P.S.C. February 2, 2005.)

⁴ *Third Report and Order* at ¶66.

Therefore, Windstream respectfully requests that the Commission:

1. Overturn the Pooling Administrator's decision;
2. Direct the PA to grant Windstream's requests for numbering resources; and
3. Enter its Order doing so within ten business days, or as soon thereafter as is possible; and
4. Grant Windstream such further relief as may be appropriate.

Respectfully Submitted,



Mark R. Overstreet
R. Benjamin Crittenden
STITES & HARBISON PLLC
421 West Main Street
P.O. Box 634
Frankfort, Kentucky 40602-0634
(502) 223-3477

COUNSEL FOR WINDSTREAM
KENTUCKY EAST, LLC

EXHIBIT 1

Central Office Code (NXX) Assignment Request
Part 1 December 9, 2005

Tracking Number: **606-MONTICELLO-KY-559114**

Full
NXX:
LRN

Type of Application: New Change Delete

1.0 GENERAL INFORMATION

1.1 Contact Information:

Code Applicant:

Company/Entity Name: **WINDSTREAM KENTUCKY EAST, INC. - LEXINGTON**

Headquarters Address: **4001 Rodney Parham Rd**

City, State, Zip: **Little Rock ,AR ,72212**

Contact Name: **Paula Hustead**

Contact Address: **10005 Monroe Rd, B1F01**

City,State,Zip: **Matthews, NC, 28105**

Phone: **704-845-7489** FAX: E-
mail: **paula.hustead@windstream.com**

Code Administrator: ²

Name: **David Morgan**

Address: **46000 Center Oak Plaza**

City,State,Zip: **Sterling ,VA ,20166**

Phone: **571-434-5381** FAX:**571-434-5502**

NXX: ³ **606** LATA: **466**

1.2 NPA: **606** OCN: ⁴ **9690** Parent
Company's OCN(s) **G118**

Switching Identification(Switch Entity/POI) ⁵
MNTIKYXAPS0

Locality/City/Wire Center: Rate Center: ⁶ **MONTICELLO**

Homing Tandem Tandem Homing

Operating Co: ⁷ **WINDSTREAM** CLLI

⁸ **SMRTKYXA02T**

1.3 Dates: Date of

Application: 08/29/2012 Request Effective Date: ^{9 10}
11/05/2012

By selecting this checkbox, I acknowledge that I am requesting the earliest possible effective date the Administrator can grant. Please note that this only applies to a reduction in the Administrator's processing time, however the request will still be processed in the order received.

Request Expedited Treatment? Yes _____ No **X**

1.4 a) Type of company/entity requesting the code: **Incumbent Local Exchange Carrier (ILEC)** (LEC, IC, CMRS, Other)

b) Types of service: **Wireline** (e.g., Cellular - Type 2)

c) Code Assignment Preference (Optional) _____

d) Codes that are undesirable, if any **NO NXX-0 or NXX-9**

e) Type of change (Mark **all** that apply)

OCN-Intra-company ¹¹ Switching Id Rate Center Tandem Homing CLLI

OCN-Inter-company ¹² Effective Date LATA Extend Reservation

1.5 Type of Request (Initial, growth, etc.) **Growth**

If an initial code, attach (1) evidence of certification and (2) proof of ability to place code in service within 60 days. If a growth code, attach months to exhaust worksheet.

Pooling Indicator: ¹³ Yes
 No

1.6 NPA Jeopardy Criteria Apply: Yes No

1.7 Code request for new service (Explain): _____

1.8 It is the code applicant's responsibility to arrange input of Part 2

information into BIRRDS. The 45-calendar day nationwide minimum interval cut-over for BIRRDS will not begin until input into BIRRDS has been completed.

Comments:

Need an LRN on a new remote packet switch to support deployment of broadband Stimulus project

I hereby certify that the above information requesting an NXX code is true and accurate to the best of my knowledge and that this application has been prepared in accordance with Central Office Code (NXX) Assignment Guidelines posted to the ATIS Web Site (<http://www.atis.org/atis/clc/inc/incdocs.htm>) as of the date of this application: ¹⁴

Paula Hustead

Signature of Code Applicant

CODE
ADMINISTRATION **08/29/2012**

Title

Date

¹ Identify type and reason for change(s) in Section 1.4(e).

² A list of the current Code Administrator(s) who can provide assistance in completing this form is available upon request from NANPA.

³ The NXX field is required for any code request in which there is a change or the NXX is being returned.

⁴ Operating Company Number (OCN) assignments must uniquely identify the applicant. Relative to CO Code assignments, NECA-assigned Company Codes may be used as OCNs. Companies with no prior CO Code or Company Code assignments may contact NECA (800-228-8597) to be assigned a Company Code (s). Since multiple OCNs and/or Company Codes may be associated with a given company, companies with prior assignment should direct questions regarding appropriate OCN usage to the Telcordia TM Routing Administration (TRA) on 732-699-6700.

⁵ This is an eleven-character descriptor of the switch provided by the owning entity for the purpose of routing calls. This is the eleven-character Telcordia TM COMMON LANGUAGE CLLI TM Location Identification of the applicant's switch or POI. (Telcordia and CLLI are trademarks and COMMON LANGUAGE is a registered trademarks of Telcordia Technologies, Inc.)

⁶ Rate Center name must be a tariffed Rate Center associated with toll billing.

⁷ Applies to any code applicant connecting to the Public Switched Telephone Network via a tandem owned by a different carrier.

⁸ This is an eleven-character descriptor provided by the owning entity for the purpose of routing calls. This must be the CLLI TM Location Identification Code of the switching entity/POI, and is the same on Part 2, Form 1, Page 2 of 2.

⁹ Code applicants should request an effective date that is at least 66 calendar days from the submission of this form. It should be noted that interconnection arrangements and facilities need to be in place prior to activation of a code. Such arrangements are outside the scope of these guidelines.

¹⁰ Requests for code assignment shall not be made more than six months prior to the requested effective date.

¹¹ Select if you are the current Code Holder

¹² Select if you are not the current Code Holder

¹³ The Applicant will indicate "YES" if the NXX being requested will be used for thousands-block number pooling and will leave this field blank if it is not.

¹⁴ An incomplete form may result in delays in processing this request.

Appendix 3

May 16, 2008

MONTHS TO EXHAUST and UTILIZATION CERTIFICATION WORK SHEET - TN Level¹
(Thousands-Block Number Pooling Growth Block Request)

Tracking Number: 606-MONTICELLO-KY-559114

Date: 08/29/2012

OCN:9690

Company Name:WINDSTREAM KENTUCKY EAST, INC. - LEXINGTON

Rate Center: MONTICELLO

List all Codes NPA(s)-NXX(s) and Blocks NPA(s)-NXX-X(s):606-340-0, 1, 2, 3, 4, 5, 8, 9; 606-343; 606-348

Name of Block Applicant:Paula Hustead

Signature: Paula Hustead

Title:CODE ADMINISTRATION

Telephone No.: 704-845-7489

FAX

No.:

E-mail: paula.hustead@windstream.com

A. Available Numbers:15494

B. Assigned Numbers: 11590

C. Total Numbering Resources:28000

D. Quantity of numbers activated in the past 90 days (increments of 1,000 or 10,000) and excluded from the Utilization calculation ²:0

List
Excluded
Code(s) or
Block(s):

Month	Month	Month	Month	Month	Month	Month	Month	Month	Month	Month	Month	Month
#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	

E. Growth History -	<u>422</u>	<u>22</u>	<u>76</u>	<u>22</u>	<u>16</u>	<u>5</u>						
---------------------	------------	-----------	-----------	-----------	-----------	----------	--	--	--	--	--	--

Previous 6 months³

F. Forecast - Next 12 months⁴ 563 591 627 658 690 725 762 800 840 882 926 972

G. Average Monthly Forecast (Sum of months 1-6 (Part F above) divided by 6):642.333

H. Months to Exhaust⁵ = $\frac{\text{Numbers Available for Assignment to Customers(A)}}{\text{Average Monthly Forecast(G)}}$

<u>Block Requested</u>	<u>Available Numbers</u>	<u>Months To Exhaust</u>
1	15494	24.121

I. Utilization⁶ = $\frac{\text{Assigned Numbers(B)} - \text{Excluded Numbers (D)}}{\text{Total Numbering Resources(C)-Excluded Numbers(D)}} \times 100 =$ **41.393**

Explanation: _____

¹A copy of this worksheet is required to be submitted to the Pooling Administrator when requesting additional numbering resources in a rate center. For auditing purposes, the applicant must retain a copy of this document.

²Quantity of numbers activated in the past 90 days is based on blocks and/or codes received from the administrator and shall be reported in increments of 1,000 or 10,000 TNs (e. g.: 2 blocks received=2,000 and 1 code received =10,000).

³Net change in TNs no longer available for assignment in each previous month, starting with the most distant month as Month #1, and Month #6 as the current month.

⁴Forecast of TNs needed in each following month, starting with the most recent month as Month #1.

⁵To be assigned an additional thousands-block (NXX-X) for growth, "Months to Exhaust" must be less than or equal to 6 months. (FCC 00-104, section 52.15 (g) (3) (iii)).

⁶Newly acquired numbers may be excluded from the Utilization calculation (FCC 00104, section 52.15 (g)(3)(ii))

TBPAG Attachment 1 - March 19, 2007

Thousands-Block Application Form - Part 1A

Tracking Number: 606-
MONTICELLO-
KY-559114
Full NXX: LRN

Type of Application: New Change Disconnect
i

GENERAL APPLICATION INFORMATION**1.1 Contact Information:**Block Applicant:

Company Name: WINDSTREAM KENTUCKY EAST, INC. - LEXINGTON

Headquarters Address: 4001 Rodney Parham Rd

City, State, Zip: Little Rock, AR, 72212

Contact Name: Paula Hustead

Contact Address: 10005 Monroe Rd, B1F01

City,State,Zip: Matthews , NC , 28105

Phone: 704-845-7489 **FAX:** **E-mail:** paula.hustead@windstream.com

Pooling Administrator: ⁱⁱ

Contact Name: Genevieve Bettiga

Contact Address: 1800 Sutter St

City,State,Zip: Concord ,CA,94520

Phone: 925-363-7652 **FAX:** 925-363-7683

E-mail: genevieve.bettiga@neustar.biz

1.2 General Information:

Check one : No LRN needed LRN needed ⁱⁱⁱ X

NPA: 606 LATA: 466 OCN: ^{iv} 9690 Parent Company's OCN G118

Number of Thousands-Blocks Requested : 1

Switching Identification(Switch Entity/POI) : ^v
MNTIKYXAPS0

City or Wire Center Name : _____ Rate Center: ^{vi} MONTICELLO
Rate Center Sub Zone: _____

1.3 Dates:

Date of Application: ^{vii} 08/29/2012 Requested Block Effective Date: ^{viii} 11/05/2012

By selecting this checkbox, I acknowledge that I am requesting the earliest possible effective date the Administrator can grant. Please note that this only applies to a reduction in the Administrator's processing time, however the request will still be processed in the order received.

Request Expedited Treatment? (See Section 8.6) Yes _____ No X

1.4 Type of Service Provider Requesting the Thousands-Block :

- a) Type of Service Provider : Incumbent Local Exchange Carrier (ILEC) (LEC, IXC, CMRS, Other)
- b) Primary type of service Blocks to be used for : Wireline
- c) Thousands-Block(s) (NXX-X) assignment Preference (Optional) _____
- d) Thousands-Block(s) (NXX-X) that are undesirable for this assignment , if any NO NXX-0 or NXX-9
- e) If requesting a code for LRN purposes, indicate which block(s) you will be keeping(the remainder of the blocks will be given to the pool) 606-xxx-4,

1.5 Type of Request:

Initial block for rate center : Yes _____ If Yes , attach evidence of authorization and proof of capability to provide service within 60 days.

Growth block for rate center : Yes X If Yes , attach months to exhaust worksheet

By selecting this checkbox, I acknowledge that I am willing to accept a block in red and explicitly understand that the underlying CO code may not yet be activated in the PSTN and loaded in the NPAC on the block effective date.

Type of change(Mark **all** that apply)

OCN:Intra-company ^{ix} Switching Id Part 1B

OCN:Inter-company ^x Effective Date
 Change block : Yes _____ If Yes , list NPA-NXX-X _____

1.6 Block Return :

- a) Is this block Contaminated Yes _____ No _____
- b) If Yes how many TNs are NOT available for assignment : _____
- c) Have all new Intra SP ports been completed in the NPAC Yes _____ No _____
- d) Has this block been protected from further assignment Yes _____ No _____

Disconnect block : Yes _____ If Yes , list NPA-NXX-X _____

Remarks: **Need an LRN on a new remote packet switch to support deployment of broadband Stimulus project**

I hereby certify that the above information requesting an NXX-X block is true and accurate to the best of my knowledge and that this application has been prepared in accordance with the Thousands-Block (NXX-X) Pooling Administration Guidelines(ATIS-0300066) available on the ATIS web site (<http://www.atis.org/inc>) or by contacting inc@atis.org as of the date of this application.

Paula Husted

Signature of Block Applicant

CODE

ADMINISTRATION

Title

08/29/2012

Date

Instructions for filling out each Section of the Part 1A form:

Section 1.1 Contact information requires that Service Providers supply under "Block Applicant" the company name, company headquarters address, a contact within the company, an address where the contact person may be reached, in addition to the correct phone, fax, and e-mail address. The Pooling Administrator section also requires the Service Provider to fill in the Pooling Administrator s name, address, phone, fax and e-mail.

Section 1.2 Service Providers who need a thousands-block assignment or for an Location Routing Number (LRN) are required to fill in this section. If needed for an LRN, a CO Code Application needs to also be submitted to the PA. The Service Provider should supply the Numbering Plan Area (NPA); the Local Access Transport Area (LATA), which is a three-digit number that can be found in the Telcordia™ LERG™ Routing Guide. The Operating Company Number (OCN) assigned to the service provider and the OCN its parent company. An OCN is a four-character alphanumeric assigned by Telcordia™ Routing Administration (TRA). In addition, the number of thousands-blocks requested should be supplied. The Switch Identification as well as the city or wire center name, rate center, rate center sub zone, homing tandem and CLLI™ tandem of the facilities based provider ^{xi}. Explanations of these terms may be found in the footnotes.

Section 1.3 The date the Service Provider completes the application should be entered in this section, as well as the Effective Date of the requested thousands-block.

Section 1.4 Service Providers should indicate their type, e.g., local exchange carrier, competitive local exchange carrier, interexchange carrier, CMRS. They also indicate the primary type of business in which the numbering resource is to be used. Service Providers also may indicate their preference for a particular thousands-block, e.g., 321-9XXX, or indicate any thousands-blocks that may be undesirable, e.g., 321-6XXX.

Section 1.5 Service Providers indicate the type of request. Initial requests are for first applications for thousands-blocks in a rate center, growth for additional thousands-blocks in a rate center in which the applicant already has numbering resources, and provide the required evidence as ordered by the FCC.

Section 1.6 Service Providers must indicate the updated/current information in regards to contaminated TNs on the block they are returning to the pool. Blocks with over 10% contamination (101 TNs or more) shall not be returned to the pool unless they meet criteria outlined in section 9.1.2 of these Guidelines. If the block being returned is over 10% contaminated the PA shall seek a new block holder. If question c and/or d have a response of No, the request for return shall be denied. The thousands-block applicant certifies veracity of this form by signing their name, and providing their title and date.

Foot Notes :

ⁱ Identify the type of change(s) in Section 1.5.

ⁱⁱ The Pool Administrator is available to assist in completing these forms.

ⁱⁱⁱ A CO Code application will also need to be submitted to the PA.

^{iv} Operating Company Number (OCN) assignments must uniquely identify the applicant. Relative to CO Code assignments, NECA-assigned Company Codes may be used as OCNs. Companies with no prior CO Code or Company Code assignments should contact NECA (800 524-1020) to be assigned a Company Code(s). Since multiple OCNs and/or Company Codes may be associated with a given company, companies with prior assignments should direct questions regarding appropriate OCN usage to (TRA) (732-699-6700).

^v This is an eleven-character descriptor of the switch provided by the owning entity for the purpose of routing calls. This is the 11 character CLLITM code of the switch /POI.

^{vi} Rate Center name must be a tariffed Rate Center.

^{vii} Acknowledgment and indication of disposition of this application will be provided to applicant within seven calendar days from the date of receipt of this application. An incomplete form may result in delays in processing this request.

^{viii} Please ensure that the NPA-NXX of the LRN to be associated with this block(s) is/will be active in the network prior to the effective date of the block(s).

^{ix} Select if you are the current Block Holder.

^x Select if you are not the current Block Holder

^{xi} Telcordia, LERG Routing Guide, and CLLI are trademarks of Telcordia Technologies, Inc.

EXHIBIT 2

November 21, 2003
ATIS-0300066.at3

Attachment 3

Pooling Administrator's Response/Confirmation
TBPA Part 3

Tracking Number : 606-MONTICELLO-KY-559114

Date of Application: 08/29/2012 Effective Date: _____
 Date of Receipt: 08/29/2012 Date of Response: 08/29/2012

Service Provider Name: WINDSTREAM KENTUCKY EAST, INC. - LEXINGTON
 (Telcordia™ LERG™ Routing Guide) OCN: 9690

NPAC SOA SPID : _____

Pooling Administrator Contact Information:

Genevieve Bettiga Phone: 925-363-7652
 Signature of Pooling Administrator
Genevieve Bettiga Fax: 925-363-7683
 Name (print)
 Email: genevieve.bettiga@neustar.biz

____ NPA-NXX or NPA-NXX-X : _____

Block Assigned: _____
 Block Reserved : _____
 Block Reservation Expiration Date : _____
 Block/Code Modified : _____
 Block/Code Disconnected : _____

Block Contaminated(Yes or No) : _____
 If Yes,enter the number of TNs contaminated : _____

Switch Identification(Switch Entity/POI): ¹ MNTIKYXAPS0
 Rate Center: MONTICELLO
 Rate Center Sub Zone: _____

Form Complete, request denied.

Explanation:

DR-57: You do not meet the MTE and/or Utilization requirements, therefore this request for a new code is denied. You may proceed with requesting a State Waiver from the appropriate state commission using this Part 3 denial. If you are in disagreement with the disposition of this request, please refer to the Thousands'Block Number (NXX-X) Pooling Administration Guidelines for the appeals process.

____ Request withdrawn.

Explanation:

Assignment activity suspended by the administrator.

Explanation:

Remarks:

¹ This is an eleven-character descriptor provided by the owning entity for the purpose of routing calls. This must be the CLLI™ Location Identification code of the switching entity/POI shown on the Part 1A form (Telcordia, LERG ROUTING Guide and CLLI are trademarks of Telcordia Technologies, Inc.)