

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

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In the Matter of)
)
Numbering Resource Optimization)
)
Petition of Guam Cellular and Paging, Inc.)
for Waiver of Section 52.15(g)(3)(i)(A))
47 C.F.R. § 52.15(g)(3)(i)(A))

CC Docket No. 99-200 / REIVED

NSD File No. L-01-156

ORDER

Adopted: November 7, 2001

Released: November 8, 2001

By the Common Carrier Bureau:

I. INTRODUCTION

1. On September 19, 2001, Guam Cellular and Paging, Inc. (Guam Cellular) requested a waiver of Section 52.15(g)(3)(i)(A), which sets forth the requirements for receiving growth numbering resources.¹ Guam Cellular requests that the Federal Communications Commission (Commission) direct the North American Numbering Plan Administrator (NANPA) to assign one growth code to it even though it does not meet the months to exhaust (MTE) criteria for a new central office (CO) or NXX code in the 671 Numbering Plan Area (NPA).² We find that Guam Cellular has demonstrated good cause for a waiver of Section 52.15(g)(3)(i)(A), and therefore direct the NANPA to assign Guam Cellular one growth NXX code in the 671 NPA.

II. BACKGROUND

2. Guam Cellular has six NXX codes in use for its wireless operations in Guam and the Northern Mariana Islands. According to Guam Cellular, it uses three NXX codes for its cellular operation and three NXX codes for its paging operation. Guam Cellular utilizes a separate switch and terminal with two separate signaling protocols for each operation, and claims that it cannot intermingle its cellular and paging operations within the same NXX.³ Guam Cellular states, however, that it has committed to consolidating its three paging NXX codes into two NXX codes by vacating one paging

¹ 47 C.F.R. § 52.15 (g)(3)(i)(A). Guam Cellular also requested a waiver of the industry guideline regarding the six months to exhaust criteria. See Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008 (September 2001).

² See In re Guam Cellular and Paging, Inc. Petition for Waiver of FCC Rule Section 52.15(g)(3)(i)(A) (filed September 19, 2001) (Guam Cellular Petition).

³ See *id.* at 3.

NXX code.⁴ Upon vacating one paging NXX code, Guam Cellular intends to return it to the NANPA for reassignment.⁵

3. Guam Cellular asserts that its MTE worksheet does not accurately reflect the fact that it will run out of numbers for its cellular operation on or about November 1, 2001.⁶ Currently, Guam Cellular's MTE worksheet shows that it meets the 60% utilization threshold but not the MTE requirement. Guam Cellular states, however, that its utilization calculation does not consider that its paging NXX blocks are "unavailable for assignment" for its cellular customers since the two services operate under a separate switch and terminal. Guam Cellular contends that, without this waiver, it will not have enough numbers available for new cellular customers. It, therefore, requests a waiver of the MTE criteria so it can receive a new NXX code in the 671 NPA.

4. Section 52.15 of the Commission's rules requires that, among other things, carriers requesting growth numbering resources submit a MTE worksheet indicating that their numbering resources will be exhausted within six months to be eligible to receive growth numbering resources in a particular rate area.⁷ Carriers requesting growth NXX codes must also meet the 60% utilization level for the rate center in which growth resources are requested.⁸ This rule seeks to ensure that existing numbering resources are used efficiently and to prevent carriers from carrying large inventories of numbers that could be used more efficiently by other carriers.

III. DISCUSSION

5. 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

⁴ Guam Cellular states that, due to attrition, it does not expect its utilization of paging numbering resources to increase. *See* Guam Cellular and Paging, Inc. Petition for Wavier of Six-Months-To-Exhaust Criteria Supplemental Letter (filed October 25, 2001) (Supplemental Letter).

⁵ *See* Supplemental Letter.

⁶ *See* Guam Cellular Petition at 2-4.

⁷ 47 C.F.R. § 52.15.

⁸ That is, carriers must demonstrate that they have assigned at least 60% of their numbering resources.

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).

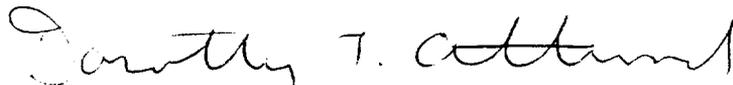
¹² *See* Northeast Cellular Telephone Company, L.P. v. FCC, 897 F. 2d 1164, 1166 (D.C. Cir. 1990).

6. We hereby grant Guam Cellular's petition for waiver of Section 52.15(g)(3)(i)(A). We find that Guam Cellular has demonstrated good cause to warrant a waiver of our rules. Specifically, Guam Cellular has established that its numbering resources for its cellular operation will exhaust in 5 months, and has shown that it intends to put forth significant efforts to consolidate its numbering resources and to utilize them efficiently. We also find that it is in the public interest to grant this waiver so that customers may continue to seek cellular service from Guam Cellular, the carrier of their choice. Granting this waiver also promotes the Commission's policies by encouraging carriers to take measures such as consolidating and returning unused numbering resources so that they can be used more efficiently. We therefore grant Guam Cellular's petition for a waiver and direct the NANPA to assign and release a new growth NXX code to Guam Cellular for the 671 NPA. We also direct Guam Cellular to return a paging NXX code to the NANPA as soon as one is vacated.

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 Guam Cellular and Paging, Inc. IS GRANTED to the extent herein described.

FEDERAL COMMUNICATIONS COMMISSION



Dorothy T. Attwood
Chief, Common Carrier Bureau