

Cook County State's Attorney)
)
Motion for Stay of Commencement of)
Customer Education and Order) ICC Docket No. 01-0066
Requiring Neustar to Demonstrate that)
the 847 NPA is, in fact, Exhausted)

**MOTION FOR ISSUANCE OF SUBPOENAS DUCES TECUM
OF THE
COOK COUNTY STATE'S ATTORNEY**

NOW COME the People of Cook County, ex. rel. RICHARD A. DEVINE, State's Attorney of Cook County, pursuant to Section 10-106 of the Public Utilities Act ("the Act") and 83 Il. Adm. Code Part 200.380, and hereby move for the Hearing Examiner to issue subpoenas duces tecum in the above captioned proceeding, and state the following:

1. Section 10-101 of the Act provides that the Commission shall have power to hold investigations, inquiries and hearings concerning any matters covered by the provisions of the Public Utilities Act or by any other acts relating to public utilities. 220 ILCS 5/10-101.
2. Section 10-106 of the Act and Part 200.380 of the Commission's Rules of Practice authorizes the Hearing Examiners to issue subpoena duces tecum "in the course of an inquiry , investigation or hearing conducted under any provisions of [the] Act." 220 ILCS 5/10-106; *see also*, 83 Ill. Admin. Code Part 200.380.
3. On January 22, 2001, the SAO filed a "Motion for Stay of Commencement of Customer

Education and Order Requiring Neustar to Demonstrate that the 847 NPA is, in Fact, Exhausted" ("Motion to Stay") in ICC Docket 98-0847. The hearing examiners in Docket 98-0847, on their own Motion, severed the Motion to Stay and instituted this docket to address that motion. In their January 24, 2001 Notice of Ruling ("January 24th Notice of Ruling"), the hearing examiners, *inter alia*, ruled that "to the extent that other issues arise relating to the 847 area code or the Commissions' Order in 98-0497, this new docket will be considered appropriate for filing of such pleadings pending further action."

4. On February 16, 2001, the Commission issued an Interim Order in this docket. ("Interim Order"). In the Interim Order, the Commission ruled, *inter alia*, that the following NXX codes are to be reclassified as assignable: 219; 312; 630; 668; 708; 815; 224; 847; and 809. (Interim Order, p. 2). The Commission further ordered that docket 01-0066 should remain open as per the January 24th Notice of Ruling. (Id.)
5. On February 15, 2001, the hearing examiners issued a "Notice of Hearing Examiners' Ruling and Notice of Continuance of Hearing" in this docket. ("February 15th Notice of Ruling"). In the February 15th Notice of Ruling, the hearing examiners stated:

The Commission has directed the Hearing Examiners in this ongoing 847 area code docket to make specific determinations, to wit:

1. *Whether there are any NXX codes in possession of certified carriers that have few, or no numbers assigned to customers;*
 2. *Whether there are between 35 and 51 full NXX codes in the 847 NPA without a single working phone number;*
 3. *Whether there are 39 NXX codes for which carriers did not file utilization data, and if so, are the codes being utilized and at what rate.*
6. In the February 15th Notice of Ruling, the hearing examiners decided that "*in order to*

comply with these directives, the Hearing Examiners believe that a review of the number utilization data filed with the NANPA (Neustar, Inc.) on February 1, 2001 is necessary for the task."

7. In addition, the hearing examiners directed NANPA to file the February 1, 2001 utilization data ("NRUF Reports") with the Chief Clerk as a "Proprietary" document, which according to NANPA's February 20, 2001 letter, the NANPA has done. Finally, in the Interim Order the hearing examiners directed NANPA to respond directly to the substantive matters set forth in the Commission's questions 1-3, above, through a verified report.
8. Through this motion, the SAO seeks an opportunity to obtain the data contained and compiled within the NRUF Reports. Access to this data is necessary to enable the SAO to respond to the evidence revealed by the data on behalf of the People of Cook County in the same manner that Neustar is allowed to respond on behalf of the telecommunications industry in its role as NANPA.
9. To that end, the SAO respectfully requests that the Hearing Examiners issue subpoenas duces tecum to Neustar, as NANPA, requiring it, within two (2) business days of issuance of the subpoenas duces tecum, to produce and disclose to the Cook County State's

Attorney:

- the number utilization data that carriers holding NXX and NXX-X codes in the 847 NPA filed, or were required to file, with NANPA on February 1, 2001 as referenced in the "Notice of Hearing Examiners' Ruling and Notice of Continuance of Hearing" dated February 15, 2001 in this docket, including data submitted in the Proprietary document filed with the Commission and provided to the Hearing Examiners. To wit, the Numbering Resource Utilization Forecast ("NRUF") reports for the 847 NPA referenced in Neustar's February 20, 2001 filing in ICC Docket 01-0066.

- The aforementioned data should be produced and disclosed to the Cook County State's Attorney in the same form as it was produced and disclosed to the Hearing Examiners by NANPA.
- In addition, NANPA shall provide the Cook County State's Attorney with updated and supplemental NRUF reports relating to NXX and NXX-X code utilization as it completes them within three (3) business days of completion of such updated and supplemental NRUF reports.
- Production and disclosure of said data shall be made subject to the terms of the attached Protective Order.

ALTERNATIVE SUBPOENA DUCES TECUM TO CARRIERS

10. In the alternative, we request that the Hearing Examiners issue a Subpoena Duces Tecum to all telecommunications service providers holding NXX and NXX-X codes in the 847 NPA requiring said service providers, within two (2) business days of issuance of the subpoenas duces tecum, to produce and disclose to the Cook County State's Attorney the following material:

- All NXX and NXX-X code utilization data filed, or required to have been filed, with the NANPA on February 1, 2001 relating to the 847 NPA as referenced in the "Notice of Hearing Examiners' Ruling and Notice of Continuance of Hearing" dated February 15, 2001 in this docket. This material shall include the substantive data used by the NANPA to compile the NRUF Reports that it submitted as Proprietary documents to the Commission and the Hearing Examiners. The aforementioned data should be produced and disclosed to the Cook County State's Attorney in the same form as it was produced and disclosed to the NANPA.
- In addition, said service providers shall provide to the State's Attorney of Cook County updated and supplemental data relating to NXX and NXX-X code utilization as it produces and discloses it to NANPA within three (3) business days of disclosing such updated and supplemental data to NANPA.
- Production and disclosure of said data shall be made subject to the terms

of the attached Protective Order.

SECOND ALTERNATIVE SUBPOENA DUCES TECUM TO ICC STAFF

11. In the alternative, the SAO requests that the Hearing Examiners direct ICC Staff, within two (2) business days of issuance of the subpoenas duces tecum, to produce and disclose to the Cook County State's Attorney:

- the same NXX and NXX-X code utilization data it possesses related to the 847 area code that said service providers filed, or were required to file, with the NANPA on February 1, 2001 and which the NANPA subsequently disclosed to the Commission and the hearing examiners in this proceeding. The aforementioned data should be produced and disclosed to the Cook County State's Attorney in the same form as it was produced and disclosed to the ICC Staff and the hearing examiners.
- In addition, the ICC Staff shall provide to the Cook County State's Attorney copies of updated and supplemental data and reports relating to NPA 847 NXX and NXX-X code utilization and forecast as it receives said data and reports from the NANPA within three (3) business days of receipt of such updated and supplemental data and reports.
- Production and disclosure of said data shall be made subject to the terms of the attached Protective Order.

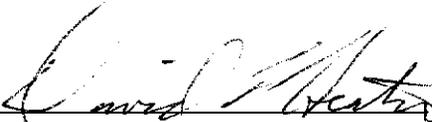
12. In support of this Motion, the State's Attorney of Cook County submits the attached Memorandum of Law.

Prayer for Relief

WHEREFORE, for the foregoing reasons and for the reasons set forth in the enclosed Memorandum of Law in Support of the Motion for Subpoenas Duces Tecum of the Cook County State's Attorney, we respectfully request that the hearing examiners grant this motion.

Respectfully Submitted,

RICHARD A. DEVINE
State's Attorney of Cook County

By: 
David L. Heaton
Assistant State's Attorney

Dated: February 28, 2001

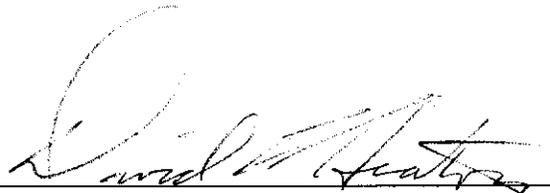
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

VERIFICATION

NOW COMES DAVID L. HEATON, first being sworn, deposes and says:

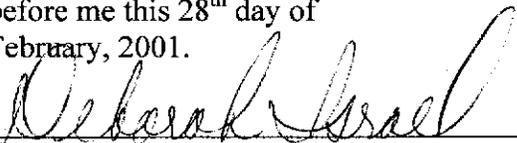
1. That he is an Assistant State's Attorney in Cook County assigned to represent the Cook County State's Attorney's Office in any proceedings in connection with ICC Docket No. 01-0066; and

2. That he has read the attached Motion for Subpoenas Duces Tecum, and Memorandum of Law in Support of the Motion for Subpoenas Duces Tecum of the Cook County State's Attorney's Office, and that the facts alleged therein are true and correct to the best of his knowledge, information, and belief.



DAVID L. HEATON

SUBSCRIBED and SWORN to
before me this 28th day of
February, 2001.



Notary Public

OFFICIAL SEAL
DEBORAH ISRAEL
NOTARY PUBLIC STATE OF ILLINOI.
MY COMMISSION EXP. DEC. 5, 2001

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

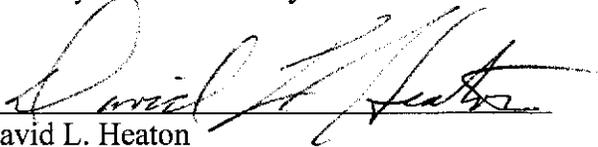
Cook County State's Attorney's)	
)	
)	Docket No. 01-0066
Motion for Stay of Commencement of Customer)	
Education and Order Requiring Neustar to)	
Demonstrate that the 847 NPA is, in Fact, Exhausted)	

NOTICE OF FILING

TO: Attached Service List.

PLEASE TAKE NOTICE that on this date, February 28, 2001, we have filed with the Chief Clerk of the Illinois Commerce Commission the enclosed documents: the Motion for Subpoenas Duces Tecum, Protective Order, and Memorandum of Law in Support of the Motion for Subpoenas Duces Tecum of the Cook County State's Attorney's Office in the above-referenced docket.

RICHARD A. DEVINE
State's Attorney of Cook County

By: 
David L. Heaton
Assistant State's Attorney
Environment and Energy Division
69 West Washington St., Suite 700
Chicago, Illinois 60602
(312) 603-8625

CERTIFICATE OF SERVICE

I, DAVID L. HEATON, hereby certify that a copy of the enclosed documents: the Motion for Subpoenas Duces Tecum, Protective Order, and Memorandum of Law in Support of the Motion for Subpoenas Duces Tecum of the Cook County State's Attorney's Office was served on all parties, on the attached list on the 28th day of February 2001, by hand delivery, Federal Express, or U. S. first class mail prepaid.


David L. Heaton
Assistant State's Attorney

SERVICE LIST

ICC DOCKET NO. 01-0066

Lee Amundsen
Prefered Networks
5210 Capitol Drive
Wheeling, IL 60090

Matthew H. Berns
Focal Communications Corporation
200 N. LaSalle Street
Chicago, IL 60601

John C. Bradley
PrimeCo Personal Communications
One Pierce Place
Suite 1100
Itasca, IL 60143

Rose Breidenbaugh
Y. Eleanor Wills-Camara
Winstar Wireless, Inc.
1615 L Street N.W., Suite 1260
Washington, D.C. 20036

Lori Brosky
Allegiance Telecom, Inc.
4 Westbrook Corporate Center, Suite 400
Westchester, IL 60154

Edward Butts
Attorney for Illinois Bell Telephone Co.
d/b/a Ameritech Illinois
1800 W. Hawthorn Lane
West Chicago, IL 60185

Sam Carter
Verizon Wireless
1600 Gold Road, Suite 100
Rolling Meadows, IL 60008

Donna M. Caton
Chief Clerk
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701

Tom Climer
Intermedia Comm
3625 Queen Palm Drive
Tampa, FL 33619

Jack A. Pace
Brian L. Crowe
Assistant Corporation Counsels
City of Chicago
30 North LaSalle Street, Suite 900
Chicago, IL 60602-2580

Tony Czech
Heartland Communications
4032 N. Nashville Avenue
Chicago, IL 60634

Janice A. Dale
Assistant Attorney General
Public Utilities Bureau
110 W. Randolph Street, 12th Floor
Chicago, IL 60601

Steven Day
Metrocall, Inc.
6677 Richmond Highway
Alexandria, VA 22036

Dennis M. Doyle
Vice President Telecommunications
Arch Communications, Inc.
1800 West Park Drive, Suite 250
Westborough, MA 01581-3912

SERVICE LIST

ICC DOCKET NO. 01-0066

Patricia Fleck
Illinois Bell Telephone Company
225 West Randolph Street, Floor 30C
Chicago, IL 60606

Patrick N Giordano
James L. Lucari
Attys. for Nextlink, Illinois
Giordano & Associates
55 East Monroe - Suite 3040
Chicago, IL 60603

J. Seamus Glynn
Associate Director
Citizens Utility Board
208 S. LaSalle Street, Suite 1760
Chicago, IL 60604

Daniel Gonos
Winstar Communications
6978 Cedar Brook
Bloomfield Hills, MI 48301

Ed Gordon
Metrocall
2235 Enterprise Drive, Suite 3506
Westchester, IL 60154

David S. Guin
Atty. for Sprint Spectrum L.P.
d/b/a Sprint PCS
Ross & Hardies
150 N. Michigan Avenue - Suite 2500
Chicago, IL 60601-7567

William Haas
Ovation Communications, Inc. d/b/a
McLeod USA Telecommunications
Services, Inc.
McLeod USA Technology Park
6400 C Street S.W.
Cedar Rapids, IA 52406

Paula Hall
Teligent
8065 Leesburg Pike, Suite 300
Vienna, VA 22812

Richard Heatter
MGC Communications
3301 N. Buffalo Drive
Las Vegas, NV 89126

Stan Henderson
O'Keefe, Ashenden, Lyons & Ward
30 N. LaSalle Street, Suite 4100
Chicago, IL 60602

Carrie J. Hightman
Schiff Hardin & Waite
6600 Sears Tower
Chicago, IL 60606

Laura Holloway
Nextel Communications, Inc.
2001 Edmund Halley Drive
Reston, VA 20191-3436

Rudy Ingram
Chatham Beper Services
8232 S. Cottage Grove
Chicago, IL 60619

SERVICE LIST

ICC DOCKET NO. 01-0066

Bryan Jones
Aerial Communications
8410 W. Bryn Mawr Avenue
Chicago, IL 60631

Frederick M. Joyce
Frederick M. Joyce, Esq.
Alston & Bird, LLP
11th Floor, North Building
601 Pennsylvania Avenue
Washington, DC 20004

Paul Koewers
Metrocall
40 Palafox
Pensacola, FL 32501

Victor Koth
Sprint PCS
5600 River Road, Suite 500
Rosemont, IL 60018

Eric D. Kurtz
Kristen Smoot
21st Century Telecom of Illinois, Inc.
350 North Orleans - Suite 600
Chicago, IL 60654

Jim Lambeth
Director of Telecom for Engineering
Metrocall, Inc.
40 South Palafox Street
Pensacola, FL 32501

James Leach
111 Pfingsten Road, Suite 400
Deerfield, IL 60015

Ken Linghini
Winstar Communications
685 3rd Ave. Fl. 10
New York, N. Y. 10017-4024

Peter J. Long
Southwestern Bell Mobile Systems, Inc.
SBC Wireless, Inc. - Great Lakes Region
2000 W. Ameritech Center Drive - 3H82
Hoffman Estates, IL 60195-5000

Karen L. Lusson
Citizens Utility Board
349 Kensington Avenue
LaGrange, IL 60525

Bob Lyons
Multi Computer Systems
817 Kay, Unit 3
Addison, IL 60101

David W. McGann
Mpower Communications Corporation
Tower 2 - 5th Floor
1701 Golf Road
Rolling Meadows, IL 60008

Daniel E. Meldazis
Focal Communications
200 North LaSalle Street
Chicago, IL 60601

Joseph D. Murphy
Dennis K Muncy
Meyer, Capel, Hirschfeld, Muncy
Jahn & Aldeen, P.C.
306 W. Church Street
P.O. Box 6750
Champaign, IL 61826-6750

SERVICE LIST

ICC DOCKET NO. 01-0066

Dillon Murchison
Paramount Wireless
225 Baronne Street, Suite 1704
New Orleans, LA 70112

Eve Moran
Hearing Examiner
Illinois Commerce Commission
160 N. LaSalle Street, Suite C-800
Chicago, IL 60601-3104

Michael J. Nighan
Frontier Local Services
180 S. Clinton Avenue
Rochester, N.Y. 14648

Steven W. Osborn
Beeper Mart, Inc.
6745 W. Johnson Road
LaPorte, IN 46350-8248

Ken Pavlowski
Source One Wireless
660 S. Federal
Chicago, IL 60605

Carol P. Pomponio
XO Illinois, Inc.
303 East Wacker Drive
Concourse Level
Chicago, IL 60601

Derrick Porter
Ameritech Cellular Services, Inc.
1515 Woodfield Road, Suite 1400
Schaumburg, IL 60173

Jacqueline Randall
Level 3 Communications
1025 El Dorado Blvd.
Broomfield, CO 80021

John Ratini
Director of Engineering-Midwest
TSR Wireless LLC
1336 N. Roselle Road
Schaumburg, IL 60194

Mary Rhodes
Adelphia Business Solutions
of Illinois, Inc.
DDI Plaza Two
500 Thomas Street, Suite 400
Bridgeville, PA 15017

Joe Richmond
Mobile Communication
1701 E. Woodfield Road, Suite 820
Schaumburg, IL 60173-5133

Thomas H. Rowland
Rowland & Moore
55 East Monroe Street - Suite 3230
Chicago, IL 60603

Roy W. Sears
Eckhart, McSwain, Silliman & Sears
One First National Plaza
21 South Clark Street, Suite 3160
Chicago, IL 60603-2006

Steven Senak
Geotek Communications
20 Craig Road
Montvale, NJ 07645

SERVICE LIST

ICC DOCKET NO. 01-0066

Boyd J. Springer
Jones, Day, Reavis & Pogue
77 West Wacker
Chicago, IL 60601-1692

Tim Thompson
Michael Stern
Nextel Communications, Inc.
400 W. Grand Avenue
Elmhurst, IL 60126

Renata Suida
Pagemart
3333 Lee Parkway, Suite 100
Dallas, TX 75206

Rebecca Sullivan
Map Mobile
840 Green Briar Circle
Chesapeake, VA 23320

Tim Szniewajs
Illinois Commerce Commission
State of Illinois Building
160 N. LaSalle Street - Suite C-800
Chicago, IL 60601-3104

Lera Thomas
Net-Tel Corporation
1023 31st N.W.
Washington, D.C. 20007-4401

Sandy Tokarek
Senior NPA Relief Planner - Central Region
Lockheed Martin IMS, NANPA
213 River Farms Dr.
West Warwick, RI 02893-1929

Darrell S. Townsley
MCI Worldcom, Inc.
205 N. Michigan Avenue, Suite 3700
Chicago, IL 60601

Bill Truscott
MetraCall
1919 S. Highland Avenue, 212C
Lombard, IL 60148

John F. Dunn
Cheryl Urbanski Hamill
Attys. for AT&T Communications
of Illinois, Inc.
& AT&T Wireless PCS, Inc.
222 West Adams Street - Suite 1500
Chicago, IL 60606

Richard Vanderwoude
One Stop Telecom
4900 Reilly Pl.
Lisle, IL 60532

Jason Vanick
Megsinct
225 W. Ohio, Suite 200
Chicago, IL 60610

Joseph Paul Weber
Christian Binnig
Kara Gibney
Mayer, Brown & Platt
190 S. LaSalle Street
Chicago, IL 60603

Nancy Wells
AT&T
913 S. 6th Street, Floor 3
Springfield, IL 62703

SERVICE LIST

ICC DOCKET NO. 01-0066

Kimberly D. Wheeler
Counsel for Lockheed Martin IMS
Morrison & Foerster LLP
2000 Pennsylvania Avenue N.W., Suite 500
Washington, D.C. 20006-1886

Mary Whitting
U.S. Xchange, LLC
20 Monroe Avenue N.W., Suite 450
Grand Rapids, MI 49503

Sherwin H. Zaban
Hearing Examiner
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, IL 60601