



N A R U C
National Association of Regulatory Utility Commissioners

June 22, 2018

VIA ELECTRONIC FILING

Chairman Pai
Commissioner O'Reilly
Commissioner Carr
Commissioner Rosenworcel
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Written Ex Parte Communication filed, as per 47 C.F.R. § 1.1206(b), in the Proceedings captioned: *In the Matter(s) of Nationwide Number Portability*, WC Docket No. 17-244, *Numbering Policies for Modern Communications*, WC Docket No. 13-97

Dear Chairman Pai and Commissioners O'Reilly, Carr and Rosenworcel:

The National Association of Regulatory Utility Commissioners (NARUC) is recognized by this agency, Congress¹ and the Courts² as a proper representative of State utility commissions.

NARUC's member State commissions have delegated authority to approve and implement the methodology for area code relief, including whether to require 10-digit local dialing, which might be a pre-requisite for Nationwide Number Portability (NNP).

The FCC is actively considering NNP related issues.

To reach the optimal policy in this proceeding, the FCC requires a complete record that reflects all relevant facts. To create that record, before taking any final action in these dockets, the FCC should disclose for public comment: (1) the costs to consumers to implement NNP; (2) the

¹ See 47 U.S.C. §410(c) (1971) (NARUC nominates members to Federal-State boards which consider universal service, separations, and other issues and provide recommendations the FCC must act upon; Cf. 47 U.S.C. § 254 (1996) (describing the universal service board's functions). Cf. *NARUC, et al. v. ICC*, 41 F.3d 7a21 (D.C. Cir 1994) (“[c]arriers, to get the cards, applied to [NARUC], an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued.”)

² See *United States v. Southern Motor Carrier Rate Conference, Inc.*, 467 F. Supp. 471 (N.D. Ga. 1979), aff'd 672 F.2d 469 (5th Cir. 1982), aff'd en banc on reh'g, 702 F.2d 532 (5th Cir. 1983), rev'd on other grounds, 471 U.S. 48 (1985); *Indianapolis Power and Light Co. v. ICC*, 587 F.2d 1098 (7th Cir. 1982); *Washington Utilities and Transportation Commission v. FCC*, 513 F.2d 1142 (9th Cir. 1976).

cost recovery options for NNP implementation; (3) the timeline options for implementing NNP; and (4) the impact of NNP implementation on the IP transition.³

This proceeding had its origins in a May 16, 2016 North American Numbering Council (NANC) endorsed “Report on NNP” by the Future of Numbering Working Group. The Report focused on the future of telephone numbers, including 10-digit dialing in relation to NNP. The Report found that NNP could raise concerns with respect to (i) mandated fees/surcharges assessed on services based upon a physical address; (ii) State and local sales taxes; (iii) intrastate tariffed and toll telecommunications services; (iii) tariffs and rulemaking; (iv) State coordination & collaboration; (v) 10-Digit Dialing; (vii) customer complaints; and (viii) Public Safety (911/NG911).⁴

A little over a year later, on October 26, 2017, the FCC adopted a Notice of Proposed Rulemaking and Notice of Inquiry inviting comment on steps that would lay the groundwork to achieve Nationwide Number Portability (NNP).⁵ The FCC sought comment on a variety of issues related to the deployment of NNP, in particular, four models for NNP: (1) nationwide implementation of Location Routing Numbers (“LRNs”); (2) non-geographic LRNs; (3) commercial agreements; and (4) iconnectiv’s GR-2982 CORE specification.

After the comment cycle closed on January 26, 2018, NARUC passed a resolution that focused, in part, on the concerns raised in the 2016 “Report on NNP” and on the anticipated costs and benefits of the four models.⁶ A copy of that resolution is attached as Appendix A.

On December 7, 2017 the FCC Wireline Competition Bureau directed NANC to (i) determine whether any of the four models discussed in the NOI are preferable to others in terms of feasibility, cost, and adaptability to changing markets and technologies; (ii) specify in detail the potential costs, benefits, and barriers to implementing each of these proposals; (iii) identify any likely consequences of these proposals for routing, interconnection, or public safety; (iv) recommend next steps to advance full nationwide number portability, and to transmit the report to the FCC by April 6, 2018. The FCC subsequently extended this deadline to June 7, 2018.

³ See, *Resolution on Nationwide Number Portability* (Adopted by NARUC’s Board of Directors, February 2018) <https://pubs.naruc.org/pub/E0A7286D-F44E-49DE-0E87-E9E7CD3EF7CE>

⁴ *Future of Numbering Working Group Report to the NANC Nationwide Number Portability* April 15, 2016 http://www.nanc-chair.org/docs/fon/Apr16_FoN_NNP_Final_Report.pdf

⁵ *In the Matter of Nationwide Number Portability, Numbering Policies for Modern Communications, Notice of Proposed Rulemaking and Notice of Inquiry*, Notice of Proposed Rulemaking and Notice of Inquiry, 32 FCC Rcd 8034 (Oct. 24, 2017) (NPRM)

⁶ See, “Nationwide Number Portability; Numbering Policies for Modern Communications: A Proposed Rule by the Federal Communications Commission,” 82 Federal Register 55970 (November 27, 2017) online at: <https://www.federalregister.gov/documents/2017/11/27/2017-25458/nationwide-number-portability-numbering-policies-for-modern-communications>.

The NANC transmitted the requested report.⁷ The report highlights the fact that the record is incomplete and additional work is needed before the FCC can move forward. According to the cover letter from Chair Kavulla:⁸

Regrettably, the working group was not able to conclude an especially detailed look at the costs of implementing NNP through the various approaches. There are clearly costs that would be incurred by any implementation of NNP, and the report specifies what these might be, *without engaging in a calculation of them*. Certain NNP models appear nearly inexorably linked to the larger trend of a transition to IP interconnection. Given this context, the report considers whether it is worth adopting partial NNP, with a recognition that as technology replacement proceeds, it will eventually become easier to accomplish the goal of a full NNP. *Meanwhile, the report concludes that further work should be undertaken to accomplish a clearer view of which of the NNP pathways may present a clear benefit net of its costs*. The report, while it does not endorse any single NNP model, does specify further work towards examining each of the feasible ones.

(Emphasis added)

The report is correct to the extent it concludes that “further work should be undertaken to accomplish a clearer view of which of the NNP pathways may present a clear benefit net of its costs.” Action without additional study on the costs and benefits of the four approaches – tested by public comment – is not rational. Part of that analysis must include the concerns raised in the May 2016 report from the Future of Numbering Working Group.

If you have any questions, please do not hesitate to contact me at 202.898.2207 or jramsay@naruc.org.

Sincerely,

James Bradford Ramsay
NARUC General Counsel

cc: *Jay Schwartz, Wireline Advisor, Office of Chairman Pai*
Amy Bender, Legal Advisor, Wireline, Office of Commissioner O'Reilly
Jamie Susskind, Chief of Staff, Wireline, Office of Commissioner Carr
Travis Litman, Chief of Staff and Legal Advisor, Office of Commissioner Rosenworcel
Kris Monteith, Chief, Wireline Competition Bureau

⁷ See, *Letter from Travis Kavulla, NANC Chair submitting the “Findings Related to ATIS Models on Nationwide Number Portability” to Kris Monteith, WCB Chief, filed June 7, 2018 online at: http://www.nanc-chair.org/docs/mtg_docs/Jun18_Cover_Letter_NNP_Report.pdf*; Note the text of the report is online at: http://www.nanc-chair.org/docs/mtg_docs/Jun18_NANC_NNP_Report_Final.pdf

⁸ *Id* at p. 2.

Appendix - Resolution on Nationwide Number Portability

Whereas in November 2015, the Chief of the Federal Communications Commission’s (“FCC’s”) Wireline Competition Bureau requested that the North American Numbering Council (“NANC”) evaluate the ability of a consumer to retain her or his telephone number when either physically moving or switching to another wireline or wireless service provider anywhere in the United States, which has been referred to as “nationwide number portability” (“NNP”) or “non-geographic number portability” (“NGNP”);

Whereas the Alliance for Telecommunications Industry Solutions (“ATIS”), through its Industry Numbering Committee (“INC”), previously evaluated issues related to the future of telephone numbers, including rate center consolidation and national 10-digit dialing; and in so doing identified various consumer and regulatory considerations that state and federal regulators must address (“Technical Report on Nationwide Number Portability Study”: ATIS-1000071; June 20, 2016);

Whereas the NANC endorsed a “Report on NNP” by the Future of Numbering (“FON”) Working Group (“WG”) to consider proposals related to the future of telephone numbers, including 10-digit dialing in relation to NNP; and on May 16, 2016 the NANC submitted the report to the FCC, which found certain likely impacts in the following areas: Mandated Fees and Surcharges assessed upon Telecommunications Service based upon Physical Address; Mandated State and Local Sales Taxes; Intrastate Tariffed Telecommunications Services; Intrastate Toll Telecommunications Services; Tariffs and Rulemaking; State Coordination & Collaboration; 10-Digit Dialing; Customer Complaints; and Public Safety (911/NG911);

Whereas State public utility commissions have been delegated authority by the FCC to approve and implement the methodology for area code relief, including whether to require 10-digit local dialing, which may be required for NNP;

Whereas on October 26, 2017, the FCC adopted a Notice of Proposed Rulemaking (“NPRM”) and Notice of Inquiry (“NOI”) (Docket Nos.: WC 17-244 and WC 13-97), which invite comment on steps that would lay the groundwork to achieve NNP and seek comment on a variety of issues related to the deployment of NNP, in particular, four models for NNP: (1) nationwide implementation of Location Routing Numbers (“LRNs”); (2) non-geographic LRNs; (3) commercial agreements; and (4) iconnectiv’s GR-2982 CORE specification;

Whereas on December 7, 2017 the FCC Wireline Competition Bureau directed the NANC to:

- Determine whether any of the four models discussed in the NOI are preferable to others in terms of feasibility, cost, and adaptability to changing markets and technologies;
- Specify in detail the potential costs, benefits, and barriers to implementing each of these proposals;
- Identify any likely consequences of these proposals for routing, interconnection, or public safety;
- Recommend next steps to advance full nationwide number portability; and
- Make any other recommendations it deems necessary to achieve this goal;

and to approve a written report on its findings and to transmit the report to the FCC Wireline Competition Bureau by April 6, 2018; *now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2018 Winter Policy Summit in Washington, DC, urges the FCC to carefully consider issues outlined in the North American Numbering Council's May 16, 2016 "Report on NNP," so as to avoid known concerns; and that the FCC disclose for public comment: (1) the costs to consumers to implement NNP; (2) the cost recovery options for NNP implementation; (3) the timeline options for implementing NNP; and (4) the impact of NNP implementation on the IP transition.

Sponsored by the Committee on Consumers and the Public Interest and the Committee on Telecommunications

Adopted by the NARUC Board of Directors February 14, 2018