Bell Atlantic

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Marie Breslin
Director -
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FEDERAL COMMUNICATIONS COMMISSION
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EX PARTE OR LATE FILED

July 2, 1997

EX PARTE

DOCKET FILE COPY ORIGINAL

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20554

Re: CC Docket 95-116, Telephone Number Portability

Bell Atlantic and NYNEX met jointly today with Jose Rodriguez, Thad Machcinski and Debbie Weber of the Accounting and Audits Division of the Common Carrier Bureau. The undersigned represented Bell Atlantic; David Hatton and Peter Hughes represented NYNEX. The purpose of the meeting was to discuss the estimated levels of capital and expense dollars related to deployment of Local Number Portability. A Bell Atlantic/NYNEX joint ex parte, filed April 18, 1997, was distributed during the meeting. Individual company cost estimates contained in the ex parte were reviewed with staff.

Please include a copy of this correspondence in the public record of the above-captioned proceeding.

Sincerely,

Marie Breslin

Attachment

cc: J. Rodriguez
T. Machcinski
D.Weber

No. of Copies rec'd 0+2
List ABCDE

STAMP + RETURN

NYNEX
Government Affairs
1300 I Street NW, Suite 400 West, Washington, DC 20005
Tel 202 336 7890

Alan S. Cort
Director, Federal Regulatory Matters

NYNEX

April 18, 1997

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OFFICE OF SECRETARY

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

RE: **In The Matter of Telephone Number Portability Further Notice of Proposed Rulemaking Regarding Cost and Cost Recovery of Long Term Number Portability CC Docket No. 95-116**

Dear Mr. Caton:

On Thursday, April 17, 1997, Marie Breslin of Bell Atlantic and Peter Hughes and Alan Cort of NYNEX met with Neil Fried, Lenworth Smith, Chris Barnekov, Lloyd Collier, V. Gupta and John Scott of the Common Carrier Bureau on the above noted proceeding.

A presentation on the NYNEX-Bell Atlantic position on cost recovery for long term local number portability that was the main topic of our meeting is attached. This material is consistent with the positions both companies have previously filed in this proceeding.

In addition, NYNEX discussed an alternate technical solution for local number portability. Materials used during this part of the meeting are also attached. Finally, Bell Atlantic reviewed their position regarding Limited Liability Corporations. A copy of an Ex Parte filed by Bell Atlantic on April 10, 1997 on this topic is also attached.

Number Portability Cost Recovery

Bell Atlantic & NYNEX

April 17, 1997

The Act

"The cost of establishing telecommunications ...number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." (§ 251(e)(2))

Example: TRS Fund Contributors

Industry Segments

- CAP
- Cellular
- IXC
  (Committed to N-1)
- LEC
  (Incumbent, New Entrant)
- Mobile
- OSP
- Pay Telephone
- PCS
- Reseller
- Other

Factors' effects on Industry...

ILEC	Retrofit, build, high # of nodes, lose users
Cellular	Retrofit, buy, few nodes, lose users
CLEC (w/ntk)	Start new, buy, few nodes, gain users
IXC (w/N-1)	Retrofit, buy, few nodes, maintain users
PCS	Start new, buy, few nodes, gain users
IXC (w/o N-1)	No requirement but "buy" queries
CLEC (w/o ntk)	Buy, gain users
Reseller, OSP, Payphone	No requirements

Outcome...

- Comparison on unit basis may not be credible
- Determination that bearing own costs cannot be made without proof
- Allocation of costs is the only way to ensure competitive neutrality

NYNEX's Preliminary Costs

	1997		1998		1999	
Categories	Capital	Expense	Capital	Expense	Capital	Expense
EO/Tandem	47.6	32.8	18.6	16.9	2.3	3.6
Opr Svcs	1.2	4.3	0.8	2.7	0.3	0.6
IOF	2.6	0.5				
Signaling, Db	18.0	3.8	5.7	13.2	2.4	3.9
OSS	9.8	26.2		28.0		
$'s Advanced	12.9	5.4				
LSMS/LSOA	6.1	2.3				
Total	98.2	75.3	25.1	60.8	5.0	8.1

Bell Atlantic's Preliminary Costs

	1997		1998		1999	
Categories#	Capital	Expense	Capital	Expense	Capital	Expense
EO/Tandem*	29.9	27.7	21.6	20.0	2.2	2.0
IOF	4.8	0.4	3.7	0.3	0.4	
Signaling, Db	36.0		27.0		3.0	
OSS	2.3	23.2	1.7	16.8	0.2	1.7
LSMS	0.5	2.5	0.5			
Total	73.5	53.8	54.5	37.1	5.8	3.7

Source: Bell Atlantic's Reply in Support of Its Petition for Clarification and Partial Reconsideration, October 10, 1996
\# Costs for 2000 and 2001 not displayed but total approximately $27.8 Million
* Eng & Translation included under expense in this category

Key points...

- Cost estimates are preliminary

  <u>However</u>:

- Bell Atlantic & NYNEX are pursuing an efficient, cost effective solution
- Costs are being incurred
- Need Commission action now

Possible Allocators

- Gross Revenues
  - Discarded by FCC due to "double counting"
- Gross Revenues minus Charges paid to other carriers
  - Potential exclusion of charges hurts competitive neutrality
- Retail Revenues
  - Maintains competitive neutrality without flaws

E.g. Number Portability = $500 M
(Two companies)

($ Millions)	*Carrier A*	*Carrier B*
Retail Revenue	2,000	2,000
Carrier Revenue	1,000	-
Gross Revenue	3,000	2,000

Case 1: Use Retail Revenues. Total = $4,000 million

Carrier A pays $250 million and Carrier B pays $250 million

Surcharge Retail:

Carrier A = 12.5% and Carrier B = 12.5%

Explicit and Competitively Neutral

E.g. Number Portability = $500 M
(Two companies)

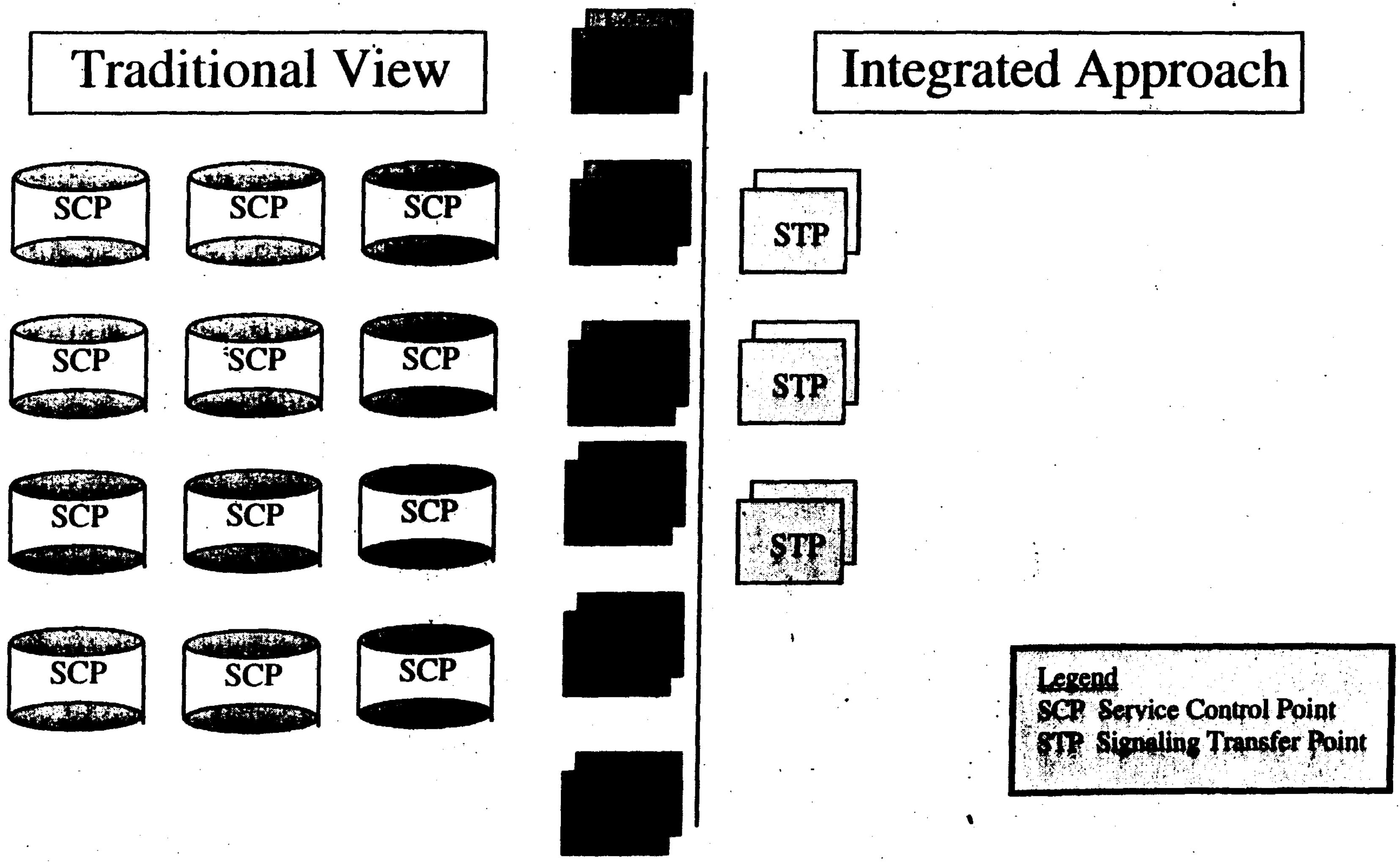
If LEC may not apply surcharge on:

- TELRIC network elements
- Wholesale charges for resale
- Access charges

then when both apply the surcharge to end users -

Carrier A = 18.75% and Carrier B = 6.25%

Alternative approach?



Bell Atlan

Bell Atlantic Network Services, Inc.
1133 Twentieth Street, N.W.
Suite 800
Washington, D.C. 20036
202 392-6990

Marie T. Breslin
Director
FCC Relations

April 10, 1997

EX PARTE

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket 95-116

At the request of Commission staff, Bell Atlantic met yesterday with Carol Mattey, Steven Teplitz and Kyle Dixon of the Common Carrier Bureau. Bell Atlantic was represented by John Goodman and the undersigned.

The purpose of the meeting was to explain Bell Atlantic's position and concerns regarding Limited Liability Corporations and the Local Number Portability Administrator related recommendations of the NANC LNP Working Group. The views expressed by Bell Atlantic are reflected in the attached documents which were distributed during the meeting.

Please call me if you have any questions concerning this filing.

Sincerely,

Marie Breslin (for)

Attachments

cc: C. Mattey
K. Dixon
S. Teplitz

The Future Role of the Regional LLCs

The Local Number Portability Administration Selection Working Group report to the NANC (with the accompanying Architecture and Administrative Plan for Local Number Portability) raises a legal issue on which the Lawyers' Group has been unable to achieve consensus. This relates to the proposal to give the various regional LLCs continuing responsibility to oversee and manage the activities of the local number portability administrators ("LNPAs"). This proposal is inconsistent with the Commission's orders and its direction to the NANC.

The report proposes that each LNPA "be established under the Regional LLC" and that the LLC "manage" the LNPA. This specifically includes "ongoing direction of the third party's activities," ensuring that the prices charged by the LNPA are consistent with Commission directives and prioritizing the LNPA's work efforts. See Arch & Admin Plan ¶¶ 12.2.1-.2.

This would appear to be inconsistent with the Commission's direction. The Commission ordered that the LNPAs must be "neutral third parties," in particular, that they must be "independent, non-governmental entities that are not aligned with any particular telecommunications industry segment." *Number Portability Order* ¶¶ 92, 93. The entities that the LLCs have selected fit this bill. However, the total arrangement is not impartial if the LNPA is "established under," is "managed" by and is accountable on a day-to-day basis to a joint venture of telecommunications carriers.

The language the Commission used to describe the impartiality of the LNPAs is the same as it had used to describe the new NANPA in paragraph 57 of the *Number Administration Order*. This indicates that the same degree of independence and freedom from industry influence is required for LNPAs as for the new NANPA. If it is not consistent with the Commission's direction (or with section 251(e)(1) of the Communications Act) if the new NANPA were "managed" by a joint venture of telecommunications carriers, then it is not consistent with the Commission's direction to establish the LNPAs in that way either.

The LNPA Working Group report (¶ 4.4) argues that the LLCs are, in fact, competitively neutral. The heart of the argument is that the LLCs are open bodies — that any LEC can join and each LEC has an equal vote. This does not cure the problem. If the end result is still an entity that is, in fact, aligned with a particular industry segment, it would fail the test of the Commission's order. While "openness" may indicate neutrality in bodies that operate by consensus, that is not the case in the "majority rules" world of LLCs.

Nor does the fact, relied on by the Working Group, that the LNPA would ultimately be subject to federal and state regulatory oversight cure this problem. This would be the case for any entity that was an LNPA, even a telecommunications carrier. If this were sufficient to ensure neutrality (and the appearance of neutrality), there would

The LLC Issue

Background

In June 1995, the Maryland PSC established a Consortium of carriers to resolve number portability issues in that State. Bell Atlantic has been an active member of the Maryland Consortium, and MCI recently characterized Bell Atlantic's participation as "valuable."

In 1996, before the Commission's *Number Portability Order*, the Maryland Consortium was preparing to draft an RFP for number portability service management system services — what the Commission's *Order* refers to as the Local Number Portability Administrator. A number of Consortium members wanted to form a limited liability corporation to issue the RFP, primarily to shield members from possible liability in connection with the RFP process. Bell Atlantic felt that such a step was unnecessary (and needlessly costly). Bell Atlantic also felt that the "one-company-one-vote" structure put it at an insuperable 5-to-1 voting disadvantage in any decision to be made by the LLC. Bell Atlantic did not join the Maryland LLC, but has continued to participate in its activities to the extent permitted by the LLC members.

The Commission's *Number Portability Order* assigned to the NANC a number of the tasks being undertaken by the Maryland LLC. In particular, the Commission's regulations provide, "The North American Numbering Council (NANC) shall direct establishment of a nationwide system of regional SMS databases for the provision of long-term database methods for number portability." 47 C.F.R. § 52.25(a). They further require the NANC to "select a local number portability administrator(s) (LNPA(s)) to administer the regional databases within seven months of the initial meeting of the NANC." *Id.* § 52.25(c). The NANC is also responsible for making other decisions that will directly effect the implementation of number portability throughout the country, including establishing technical and operational standards:

> "The NANC shall determine whether one or multiple administrator(s) should be selected, whether the LNPA(s) can be the same entity selected to be the North American Numbering Plan Administrator, how the LNPA(s) should be selected, the specific duties of the LNPA(s), the geographic coverage of the regional databases, the technical interoperability and operational standards, the user interface between telecommunications carriers and the LNPA(s), the network interface between the SMS and the downstream databases, and the technical specifications for the regional databases." *Id.* § 52.25(d).

In its order, the Commission recognized that activities were already underway in a number of States to implement number portability. These activities included writing technical and operational specifications for number portability databases and, in one case, the actual selection of a number administrator. The order recognized these activities and did not want to disrupt them. For this reason, the Commission established a process to allow an individual State to opt-out of the regional database system in favor of its own have been no need for the Commission to put any constraints on who could be an LNPA. It should also be noted that this exact same oversight did not protect Bellcore from charges that it was not impartial as NANPA.

There are alternatives to the Working Group's approach:

One model that could be used in place of the LNPA Working Group's proposal is the one already recommended by the NANC for the new NANPA. There were discussions in first meetings of the NANPA Working Group of establishing an LLC to manage the contract with a new NANPA. For a variety of reasons, this idea was rejected, and it was decided instead to establish the new NANPA under Commission regulations.

Another, more regulatory, model would be for the LNPA to tariff access to the number portability SMS. When the FCC considered a service identical to this one (the SMS for 800 service), it found that it was a common carrier communications service that had to be offered under tariff. The reasons given in that order for requiring the tariffing of 800 SMS would appear to apply to number portability SMS services. *Provision of Access for 800 Service*, CC Dkt. 86-10, Order ¶¶ 27-29 (rel. Feb. 10, 1993).

"state-specific database." 47 C.F.R. § 52.25(g). There is no provision for a multi-state region to opt out of the NANC process.

For this reason, Bell Atlantic concluded that the Commission's *Order* left no role for regional LLCs and so advised the LLC (and, when asked, State commissions in its territory).

It is important to remember that there is no requirement that a local exchange carrier join an LLC. A LEC can implement portability without joining, and the LNPA's services are available to all carriers, not just to LLC members.

The Issue Today

The NANC Number Portability Working Group is proposing to give the LLCs a continuing role even after the local number portability administrator has been selected. It is recommending to NANC that each LNPA "be established under the Regional LLC" and that the LLC "manage" the LNPA. This specifically includes "ongoing direction of the third party's activities," ensuring that the prices charged by the LNPA are consistent with Commission directives and prioritizing the LNPA's work efforts. See Arch & Admin Plan ¶¶ 12.2.1-.2.

This is inconsistent with the Commission's *Order*. The Commission directed that the LNPAs be "neutral third parties," in particular, that they must be "independent, non-governmental entities that are not aligned with any particular telecommunications industry segment." *Number Portability Order* ¶¶ 92, 93. The LNPAs selected by the LLCs fit this bill. However, the total arrangement is not impartial if the LNPA is "established under," is "managed" by and is accountable on a day-to-day basis to a joint venture of telecommunications carriers

The language the Commission used to describe the impartiality of the LNPAs is the same as it had used to describe the new NANPA in paragraph 57 of the *Number Administration Order*. This indicates that the same degree of independence and freedom from industry influence is required for LNPAs as for the new NANPA. If it would not be consistent with the Commission's direction (or with section 251(e)(1) of the Communications Act) for the new NANPA to be "managed" by a joint venture of telecommunications carriers, then it is not consistent with the Commission's direction to establish the LNPAs in that way either.

The Tariffing Issue

The LLCs have been proceeding on the assumption that the LNPAs they select will enter into contracts with the various carriers for SMS services. When the FCC considered a service identical to this one (the SMS for 800 service), it found that it was a common carrier communications service that had to be offered under tariff. The reasons given in that order for requiring the tariffing of 800 SMS apply equally to number portability SMS services:

> The service is "incidental to the provision of" a service under Commission jurisdiction and "is absolutely necessary to the provision of" that service.
>
> The entity providing the service "is under a legal compulsion to hold itself out indiscriminately to the clientele it is suited to serve."
>
> The "importance of ensuring that SMS access is provided at reasonable rates and on nondiscriminatory terms, and because of the untried nature of the proposed alternative mechanisms for achieving these goals."

Provision of Access for 800 Service, CC Dkt. 86-10, Order ¶¶ 27-29 (rel. Feb. 10, 1993).

Bell Atlantic needs access to LNPA services in Maryland to comply with that State commission's number portability implementation plan, even before we need access under the Commission's schedule. When we called the regional LNPA to begin contract negotiations, we were told that the LLC had instructed that Bell Atlantic could not begin these discussions until the LLC had finalized a "User Agreement" with the LNPA and that we would be expected to sign that Agreement. (MCI has told two state commissions that Bell Atlantic's attempt to negotiate with the LNPA "may violate the FCC's LNP Order.") If LNPA access is going to be offered on this non-negotiable basis, then it is the Commission that should oversee the terms, not a joint venture of carriers.

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

FCC 93-84

In the Matter of)
) CC Docket No. 86-10
Provision of Access)
for 800 Service)

Order

Adopted: February 10, 1993 Released: February 10, 1993

By the Commission:

I. Introduction

1. On June 19, 1992, the Competitive Telecommunications Association (CompTel) filed a petition for declaratory ruling on three issues relating to 800 data base service. We now rule that: (1) "area-of-service routing," which is the routing of 800 calls by local exchange carriers (LECs) to different interexchange carriers (IXCs) based on the local access transport area (LATA) in which the call originates, is a part of basic 800 access, rather than an optional vertical feature; (2) access to the Service Management System (SMS) by Responsible Organizations (RESPORGs) is a Title II common carrier service and shall be provided pursuant to tariff; and (3) any entity that meets appropriate financial and technical eligibility requirements may serve as RESPORG for an 800 number record at the customer's request.

II. Background

2. 800 service is an interexchange service in which a subscriber agrees in advance to pay for all calls made to its 800 number from a specified area. LECs must handle originating 800 access differently from originating access for ordinary interexchange calls because the LECs must route 800 calls to the carrier selected by the 800 service subscriber (the called party), rather than the carrier presubscribed to the originating line or chosen by the calling party.

3. LECs currently provide originating 800 access through the so-called "NXX" screening methodology. Under this system, LECs identify the IXC by reading the three digits (the NXX digits) that immediately follow the 800 prefix of the called number. Consequently, the NXX system does not permit 800 number portability — that is, 800 service subscribers cannot switch carriers without changing their 800 numbers.

4. The Bell Operating Companies (BOCs), along with the Independent Telephone Companies (ITCs), will soon replace the NXX access system with a new "data base" system of 800 access. LECs will implement this data base system by linking their common channel signaling, or SS7, networks with data

specifically addressed this issue. Moreover, AT&T's assertion that the Commission has defined basic features of 800 access as those features that are a "virtual prerequisite" to the provision of 800 service mischaracterizes the Commission's 1989 Report and Order. The discussion in that order cited by AT&T did not address whether features are basic or vertical, but, rather, whether LECs should be permitted to offer vertical features as a part of 800 access, and if so, to whom. In concluding that LECs should be permitted to offer POTS translation service to IXCs, the Commission noted that POTS translation is a virtual necessity for IXCs wishing to enter the 800 market. Indeed, the Commission's conclusion that POTS translation, a vertical feature, is a "virtual prerequisite" to the provision of 800 service is inconsistent with AT&T's claim that the Commission has defined <u>basic</u> services as those that are virtual prerequisites to providing 800 service.[27]

B. <u>SMS Access</u>

19. The SMS is the centralized data base system that provides a national coordinated system for the assignment of 800 numbers, the entry of 800 customer records, and the loading of customer records into regional data bases (SCPs) owned and operated by the LECs. The SMS is administered by the 800 Number Administration and Service Center (NASC), which Bellcore has administered since 1989.[28] In response to concerns about Bellcore's role as NASC administrator, however, the BOCs and Bellcore have agreed to transfer responsibility for the day-to-day operations of the NASC from Bellcore to a neutral third party. For each 800 number, only one entity, the RESPORG, will have authority to access the SMS in order to input or change service information with respect to that number. The BOCs and Bellcore currently plan to charge the RESPORG for this access to the SMS. The BOCs have proposed that these charges be based on a contractual relationship between the SMS administrator and each RESPORG.

1. <u>CompTel Petition</u>

20. CompTel asks the Commission to require that SMS access be tariffed.[29] CompTel states that the SMS administrator is a monopoly service provider and that access to the SMS is necessary to the provision of 800 service. CompTel also asserts that the contract proposed by Bellcore for SMS access contains numerous onerous provisions.

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27 Provision of Access for 800 Service, Report and Order, 4 FCC Rcd 2824, 2830 (1989).

28 <u>See</u> letter from Marie Breslin, Director, FCC Relations, Bell Atlantic, to Donna Searcy, Secretary, FCC, May 22, 1992. The industry uses the terms NASC administrator and SMS administrator interchangeably to refer to the same entity. Technically, the SMS is the data base system itself; the NASC is the operations center that administers the SMS on a day-to-day basis.

29 CompTel Petition at 11-13.

2. Positions of the Parties

21. Virtually all commenters other than the BOCs and AT&T support CompTel's request.[30] These parties echo the reasons cited by CompTel, arguing generally that the tariffing of SMS access is the only way the Commission can ensure that this essential service is provided on just, reasonable, and nondiscriminatory terms to all 800 service providers.

22. AT&T, however, takes the position that SMS access should be offered under contract, asserting that the contract process is more responsive to customer needs, will hold costs down, and will facilitate transfer of control of the SMS to a third party. AT&T says that the Commission's oversight responsibility will be sufficient to guard against discriminatory treatment and unreasonable charges.[31]

23. BOCs assert that the SMS administrator provides "administrative functions," not common carrier services.[32] They state that Bellcore would offer the same contract to every RESPORG and would be willing to file that contract with the FCC.[33] They also offer to establish a board of directors composed of a cross-section of industry representatives to oversee the NASC.[34] BOCs also argue that it may be impractical to file tariffs in time to meet the data base implementation deadline.[35]

24. The BOC proposal to establish an industry-based board of directors with authority over the SMS administrator does not satisfy some IXCs.[36] They express concern that some IXCs would not be adequately represented on such a board and that unless SMS access were treated as a Title II service, the Commission would be unable to address discrimination or other problems that might arise in the administration of the SMS. Some parties also argue that

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30 Ad Hoc Comments at 12-13; Allnet Comments at 8; ARINC Comments at 4-5; Cable & Wireless Comments at 4-6; ICA Comments at 5; ITN Comments at 5-6; LDDS Comments at 4; LinkUSA Comments at 2; MCI Comments at 3-4; Metromedia Comments at 2-3; Sprint Comments at 1-6; USLink Comments at 1; WilTel Comments at 5-6.

31 Ex parte letter from Karen Weis, Division Manager, Federal Regulatory Affairs, AT&T to Donna Searcy, Secretary, FCC, December 29, 1992.

32 Bell Companies Comments at 4-5; USTA Comments at 3-4.

33 Bell Companies Comments at 7.

34 Id. at 8. See also letter from Marie Breslin, Director, FCC Relations, Bell Atlantic, to Donna Searcy, Secretary, FCC, March 13, 1992.

35 Bell Companies Comments at 4; SWBT Comments at 5.

36 See, e.g., Sprint Reply at 4-5; MCI Reply at 6.

an industry board, composed of selected industry members, with authority to establish SMS policies and/or prices, would violate federal antitrust laws.

3. Discussion

25. We find that, under the current BOC plans for providing SMS access, SMS access is a Title II common carrier service that should be offered pursuant to tariff. We conclude further, based on how SMS access will be provided, that the BOCs should file the necessary tariff.

26. The determination of the jurisdictional status of SMS access hinges upon two questions: (1) is SMS access an interstate or foreign communications service under section 3(a) of the Communications Act, which defines communications services to include not only the transmission of signals by wire or radio, but also all services incidental to such transmission; and (2) if so, is it a common carrier service, under section 3(h) of the Act?

27. With regard to the first question, in view of the broad language of section 3(a), we think it is reasonable to find that access to the SMS falls under that provision. Specifically, we find that SMS access is incidental to the provision of 800 access services. The data input into the SMS derive from the provision of 800 access service. More significantly, SMS access is absolutely necessary to the provision of 800 service using the data base access system. IXCs do not have the option of providing 800 service information directly to each individual LEC or to each LEC with its own data base; the information can only be loaded through the SMS. Thus, SMS access is technically necessary to the provision of 800 access service, and is incidental to the provision of such access.[37]

28. With regard to the second question, we find that the better course at present is to treat SMS access as a common carrier service under section 3(h) of the Act. If an entity is placed under a legal compulsion to hold itself out indiscriminately to the clientele it is suited to serve, it is a common carrier under NARUC I.[38] Some parties argue that SMS access need not be treated as a common carrier service and tariffed under Title II because Bellcore will transfer administration of the SMS to a neutral third party in order to safeguard against discrimination by the SMS administrator. In addition, the BOCs argue that they have proposed to establish a board of directors composed of a cross-section of industry representatives to oversee the NASC.[39] Thus, customers may be able to represent themselves adequately

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37 See Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, Report and Order and Request for Supplemental Comment, 7 FCC 3528 (1992) (Calling Card Validation Order).

38 NARUC v. FCC, 525 F.2d 630 (D.C. Cir. 1976), cert. denied, 425 U.S. 999.

39 Bell Companies Comments at 8; GTE Comments at 3.

in dealings with the SMS service provider without requiring that SMS access be provided as a common carrier service.

29. On balance, however, we find that the better course for now is to require that SMS access be tariffed as a Title II service. We reach this conclusion in light of the importance of ensuring that SMS access is provided at reasonable rates and on nondiscriminatory terms, and because of the untried nature of the proposed alternative mechanisms for achieving these goals. While transferring administration of the SMS to a neutral third party may reduce incentives for discrimination in the day-to-day operation of the SMS, it is not clear at this point that this transfer will sufficiently reduce our concerns about possible discrimination in the provision of this monopoly service.[40] Nor does the proposal for an industry board of directors sufficiently address our concerns in this area. We note that the industry has not yet agreed on the makeup of any such board or on the powers that it would be granted. Moreover, some IXCs have expressed concern that their interests would not be well represented by an industry board and that there may be federal antitrust problems in establishing an industry board with authority to affect prices or policies. Because SMS access is necessary to the provision of 800 service under the data base system, it is essential that SMS access be provided on a nondiscriminatory basis and at reasonable rates. At this time, we believe that the service must be tariffed to ensure both these goals are met.

30. Having determined that SMS access should be tariffed, we now turn to the question of who should file those tariffs. As described above, the centralized SMS is the means by which SCP data base owners obtain the data necessary for them to provide 800 access service under the data base system. The BOCs, through Bellcore, have designed and developed the SMS for the use of the industry and will provide the SMS software, software maintenance and enhancement services, and billing and collection services. Southwestern Bell has provided the computer that will run the SMS software and the facilities in which the SMS will be housed. Bellcore, as the NASC, will initially administer the SMS on a day-to-day basis. Subsequently, however, the BOCs will subcontract NASC responsibilities to an independent third party because of the industry's desire to divorce the BOCs and Bellcore from the daily administration of the SMS. This independent third party will receive a set fee for its administrative services, which will be largely ministerial in nature. This fee will represent its only payment for its services; it will receive no share in the overall revenues from the SMS operation. The BOCs and Bellcore will retain general control over this operation, including the establishment of rates and SMS software development.[41]

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40 See Expanded Interconnection with Local Telephone Company Facilities, 7 FCC Rcd 7369 at 7443-47 (1992); Calling Card Validation Order, supra, 7 FCC Rcd at 3532.

41 See, e.g., letter from Anthony M. Alessi, Director — Federal Regulatory, Ameritech, to Donna Searcy, Secretary, FCC, January 28, 1993; letter from Marie Breslin, Director, FCC Relations, Bell Atlantic, to Donna Searcy, Secretary, FCC, March 13, 1992. See also 800 Data Base Access