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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

West Coast Portability Services, LLC

Richard Scheer, Chair

795 Folsom St., Room 285
San Francisco, CA 94107

August 19, 1997

William Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N. W., Room 222
Washington, D. C. 20554

Re: Ex parte, CC Docket No. 95-116, Telephone Number Portability

Dear Mr. Caton:

This correspondence is presented to the Federal Communications Commission (FCC) on behalf of West Coast Portability Services, LLC (WCPS) and the members thereof,¹ and Perot Systems Corporation (Perot) in regard to issues associated with the allocation/recovery of costs incurred for the development, implementation and administration of the Number Portability Administration Center/Service Management System (NPAC/SMS).

On May 15, 1997, WCPS and Perot entered into an agreement whereby Perot agreed to develop, implement and administer an NPAC/SMS for the West Coast Region consisting of California, Hawaii and Nevada (the "Master Contract"). Each entity actually using the NPAC/SMS is designated a "User" and is required to enter into a User Agreement with Perot.² The Users

¹ The members of WCPS are as follows: AT&T Corp., Cox California Telcom, Inc., Electric Lightwave, Inc., GTE California Incorporated, MCImetro Access Transmission Services, Inc., Media One, Pacific Bell, Sprint United Management Company, Teleport Communications Group, Inc., TCI Telephony Services of California, Inc., Time Warner AxS of California, LP, and Worldcom.

² Additionally, a User Agreement must be signed prior to the commencement of testing with the NPAC/SMS.

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compensate Perot for the NPAC/SMS services as set forth in the Master Contract, certain provisions of which are incorporated into the User Agreement. The Master Contract specifically provides that if Perot delivers an NPAC/SMS that is available for commercial use on October 1, 1997, Perot may commence billing the Users for the NPAC/SMS on October 31, 1997. WCPS and Perot agreed that

the amount that Perot will invoice Users pursuant to each User Agreement will be determined by an allocation model provided by [WCPS] (the "Allocation Model"), that will allocate Perot's charges among the Users. [WCPS] shall provide the initial Allocation Model to Perot no later than October 29, 1997 . . .³

(Master Contract, §5.3, a copy of which is attached.)

In coming to this agreement, the parties expected that an FCC decision would provide the necessary guidance for structuring an allocation model. Each of the other regional LLCs created to cover the other 47 states face a comparable situation to that described in this letter.⁴

WCPS and Perot are aware of the FCC's statement in the First Memorandum Opinion and Order on Reconsideration (FCC 97-74) (Recon Order), wherein the FCC noted that a Second Report & Order addressing the LNP cost issues would be adopted "well before a LEC is required by the deployment schedule to commence the provision of long-term number portability to the public in the Phase I markets." (Recon Order, ¶ 146.) However, regardless of when the service providers commence the provision of long-term number portability to the public, WCPS is required by the terms of the Master Contract to deliver an allocation model to Perot so that Perot may commence billing on October 31, 1997 for availability of the NPAC/SMS as of October 1, 1997. Further, under the terms of the Master Contract, it is possible that Perot may start billing and, therefore, require an allocation model before any service provider in the West Coast Region commences commercial portability.

In light of the foregoing, WCPS and Perot submit that there is an immediate need for an FCC-determined allocation formula. Without the provision of such a formula in the immediate future, each regional LLC will be required to create an interim formula, by agreement or by arbitration, which may or may not be consistent with the FCC's decision on this issue. The creation of a separate allocation model in each Region across the country will only complicate matters, with the

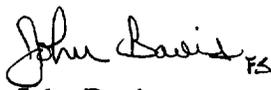
³ The members of WCPS have agreed that an interim Allocation Model would be subject to a retroactive true-up upon the issuance of a regulatory decision providing the structure for allocating NPAC/SMS costs.

⁴ The October 29, 1997, date is considerably later than the dates for delivery of an allocation model in other regions, e.g., the Maryland Carrier Acquisition Corporation is required to deliver an allocation model by September 29, 1997. Additionally, the Southeast and Western regional LLCs are prohibited by their Operating Agreements from voting on an allocation model and, therefore, the allocation model issue must be decided by an arbitrator if the FCC does not specify an allocation model on a timely basis.

likely result being multiple formulas requiring time-consuming true-ups upon issuance of the FCC's decision. Accordingly, WCPS and Perot request that the FCC issue a decision containing an allocation model prior to September 15, 1997.

Handwritten signature of Richard Scheer in cursive, with the initials "FS" written at the end.

Richard Scheer, Chair
West Coast Portability Services, LLC

Handwritten signature of John Bavis in cursive, with the initials "FS" written at the end.

John Bavis
Perot Systems Corporation

ATTACHMENT

cc: J. Schlichting
N. Fried

Section 5.3 User Billing

Perot shall bill Users monthly, in arrears, as specified in Appendix C - Pricing Schedule. Such billing shall not commence until thirty (30) days after the Performance Date as specified in Section 19.2(a); provided, however, that

- (i) if the Performance Date is delayed beyond October 1, 1997, due to the condition specified in Section 19.2(a)(ii), Perot may commence billing on October 31, 1997, and
- (ii) Perot may render bills for testing, training, POP connection fees and User logon identifications prior to the Performance Date.

For each billing period, the amount that Perot will invoice Users pursuant to each User Agreement will be determined by an allocation model provided by Customer (the "Allocation Model"), that will allocate Perot's charges among the Users. Customer shall provide the initial Allocation Model to Perot no later than October 29, 1997, and shall provide updated Allocation Models as required. Perot's invoice to each User will indicate User's allocated amount of charges due to Perot. If customer does not provide an initial Allocation Model to Perot on or before October 29, 1997, the Parties agree to submit to arbitration, pursuant to Section 30.2, the determination of an allocation model that would allocate Perot's charges among the Users. Any charges to Users resulting from an arbitrator-determined allocation model shall include an appropriate cost of money for Perot. Any such arbitrator-determined allocation model shall remain in effect until customer provides Perot an Allocation Model.

Notwithstanding the binding nature of an arbitration under Section 30.2, any arbitrator-determined allocation model shall be interim in nature and shall be replaced by an Allocation Model established by the FCC and/or a State PUC having jurisdiction. Perot's charges to Users pursuant to an arbitrator-determined Allocation Model shall be trued up to charges that would have applied under the Allocation Model had such Allocation Model been available as of October 30, 1997.