

resources.<sup>240</sup>

### 3. Discussion

85. In order to promote the efficient use of numbering resources, we conclude that it is important for the North American Numbering Plan Administrator and the local number portability administrators to be able to share numbering information. The NANC, however, has not recommended how the North American Numbering Plan Administrator and the local number portability administrators should share numbering information. We acknowledge and applaud the steps already taken by the NANC to coordinate its efforts with those of the Industry Numbering Committee to develop a work plan and guidelines to implement number pooling,<sup>241</sup> and we direct the NANC to continue to work with the Industry Numbering Committee and any other industry bodies it deems appropriate in developing numbering information sharing guidelines. We also direct the NANC to address the needs of CMRS providers to ensure that number conservation efforts do not unfairly discriminate against such carriers.<sup>242</sup> We further direct the NANC to make recommendations to the Commission as necessary to develop guidelines for numbering information sharing, consistent with the procedures set forth in ¶ 128, *infra*.

86. The NANC is currently responsible for selecting both the North American Numbering Plan Administrator to handle area code and central office code number administration and local number portability administrators to handle regional number portability administration.<sup>243</sup> As the Commission pointed out in the *First Report & Order*, there are important functional similarities between local number portability administration and the administration of central office codes.<sup>244</sup> Both rely heavily on the use of databases, and both involve administration of North American Numbering Plan resources. Administration of number portability data is essentially the administration of telephone numbers (as opposed to NXX codes) moving between different carriers. The NANC's expertise concerning the functioning of both the North American Numbering Plan Administrator and the local number portability administrators make the NANC well-suited to develop procedures by which the North American Numbering Plan Administrator and the

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<sup>240</sup> *See id.*

<sup>241</sup> *See Industry Numbering Committee, Status Report on Issue 105 -- Number Pooling (June 10, 1997).*

<sup>242</sup> *See CTIA Comments at n.11.*

<sup>243</sup> *See First Report & Order*, 11 FCC Rcd at 8401, ¶¶ 93-94.

<sup>244</sup> *Id.*

local number portability administrators can share numbering information in order to foster efficient use of numbering resources and effective number portability and central office code administration.

## D. Number Portability and CMRS Providers

### 1. Background

87. The *Working Group Report* states that the work plan executed by the Working Group and related task forces was directed primarily to the wireline portion of the industry and does not fully address wireless concerns.<sup>245</sup> Specifically, the assumptions used in the preparation of the *Architecture Task Force Report* explicitly exclude wireless operations, and the Technical & Operational Task Force did not consider concerns of CMRS providers in depth during the development of Number Portability Administration Center Service Management System requirements.<sup>246</sup> The NANC acknowledges that modifications to the Functional Requirements Specification and the Interoperable Interface Specification may be required to support number portability for CMRS providers.<sup>247</sup> The NANC states that it deferred discussion of potential impacts of number portability on wireless carriers in order to ensure completion of its recommendations for wireline local number portability implementation on a timely basis to permit compliance with the Commission's deployment schedule.<sup>248</sup>

### 2. Positions of the Parties

88. CTIA generally supports the NANC's recommendations as applied to wireline carriers, but argues that those recommendations must be refined to take into consideration concerns of the wireless industry.<sup>249</sup> CTIA further argues that the Commission should refrain from adopting any assumptions or directives recommended by the NANC that discriminate against the wireless industry.<sup>250</sup> CTIA contends that the NANC's recommendations have

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<sup>245</sup> *Working Group Report* at § 3.1.

<sup>246</sup> *Id.*

<sup>247</sup> *Id.*

<sup>248</sup> *Id.* at § 3.2.

<sup>249</sup> CTIA Comments at 1-2.

<sup>250</sup> *Id.* at 2.

"significant holes" with regard to local number portability implementation from the wireless industry's perspective.<sup>251</sup> CTIA points to the *Architecture Task Force Report* which explicitly indicates that it includes only wireline "assumptions" in its analysis and recommendations.<sup>252</sup> Additionally, the *Technical & Operational Task Force Report* does not address issues that CTIA considers crucial to the wireless industry, such as how the differences between service area boundaries for wireline versus wireless services will be accounted for, and how number portability will be implemented in a roaming environment.<sup>253</sup> As discussed above, CTIA also contends that the NANC recommendations discriminate against CMRS providers by allowing default routed calls to be blocked.<sup>254</sup>

89. CTIA argues that any work plan for implementing number portability should not be considered complete until the concerns of the wireless industry are addressed, and notes that it and other industry groups are currently addressing technical solutions for implementing number portability in a wireless environment.<sup>255</sup> CTIA asserts that it is "crucial that such solutions be incorporated into the overall [local number portability] work plan before any such plan may be considered complete."<sup>256</sup> CTIA adds that "[a] wireline solution that does not include wireless networks will not achieve the Commission's goals of interoperability and nondiscrimination."<sup>257</sup>

### 3. Discussion

90. We recognize the significant time constraints imposed on the NANC for the development of recommended standards and procedures so that wireline carriers can meet the Commission's implementation schedule, which commences October 1, 1997.<sup>258</sup> We are also aware that under our number portability deployment schedule, CMRS providers are not

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<sup>251</sup> *Id.* (citing *Working Group Report* at § 3.1).

<sup>252</sup> *Id.* (citing *Architecture Task Force Report* at § 7).

<sup>253</sup> *Id.* at 2-3 (citing *Technical & Operational Task Force Report*).

<sup>254</sup> *Id.* at 4-5. See ¶¶ 76-78, *supra*.

<sup>255</sup> CTIA Comments at 3.

<sup>256</sup> *Id.* at 3.

<sup>257</sup> *Id.*

<sup>258</sup> *First Report & Order*, 11 FCC Rcd at 8393, ¶¶ 77-78.

required to have the capability of querying number portability database systems in order to deliver calls from their networks to ported numbers until December 31, 1998<sup>259</sup> and are not required to have the ability to port numbers until June 30, 1999.<sup>260</sup> We, therefore, conclude that it was reasonable for the NANC to defer making recommendations at this time with respect to the implementation of local number portability by CMRS providers. Our adoption of the NANC's recommendations set forth in its May 1, 1997 transmittal, however, should not be viewed in any way as an indication that we believe our plan for implementing local number portability is complete. The industry, under the auspices of the NANC, will probably need to make modifications to local number portability standards and processes as it gains experience in implementing number portability and obtains additional information about incorporating CMRS providers into a long-term number portability solution and interconnecting CMRS providers with wireline carriers already implementing their number portability obligations.

91. We find that adoption of the current NANC recommendations should not be deferred pending resolution of all wireless concerns. While delaying implementation of number portability until all wireless concerns are fully addressed might result in an easier transition to a number portability environment for CMRS providers, we believe that such delay would be contrary to the public interest because a far greater number of wireline customers could not, during the period of delay, switch local providers without also changing telephone numbers. At the same time, we recognize that it will probably be necessary to modify and update the current local number portability standards and procedures in order to support wireless number portability. Thus, we direct the NANC to develop standards and procedures necessary to provide for CMRS provider participation in local number portability. We further direct the NANC to present its wireless recommendations to the Commission as soon as possible, but not later than nine months after the release of this *Second Report & Order*. CMRS providers will need clear guidelines as to how to query the Service Management System databases to determine proper call routing, as well as how to implement wireless number portability. The NANC must also consider other issues of concern to CMRS providers, such as how to account for differences between service area boundaries for wireline versus wireless services and how to implement number portability in a roaming environment. In revising local number portability standards to incorporate the concerns of the wireless industry, the NANC should remain cognizant of the goals of ensuring the interoperability of networks and nondiscrimination as applied to CMRS providers.<sup>261</sup> In

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<sup>259</sup> *Id.* at 8439-40, ¶ 165.

<sup>260</sup> *Id.* at 8440, ¶ 166.

<sup>261</sup> *Id.* at 8371, ¶ 37; NANC Charter at ¶ B.

particular, in making its recommendations, the NANC is to ensure that CMRS providers are not unfairly disadvantaged by virtue of the fact that wireline number portability is being implemented before number portability for CMRS providers.

92. CTIA reports that it and other industry groups are currently developing technical solutions for implementing wireless number portability.<sup>262</sup> We direct the NANC to monitor these industry efforts and to make recommendations to the Commission consistent with the procedures set forth in ¶¶ 128-132, *infra*, for modifications to the various technical and operational standards as necessary for CMRS providers to efficiently implement number portability and to allow CMRS providers to interconnect with a wireline number portability environment.<sup>263</sup>

#### E. Local Number Portability Oversight Procedures

##### 1. Background

93. The NANC recommends a multi-tier approach to the oversight and management of the local number portability administrators.

94. Oversight by LLCs. The NANC recommends that the regional LLCs provide initial and ongoing oversight for their respective local number portability administrators.<sup>264</sup> The NANC asserts that the LLCs will conduct their oversight activities in a neutral manner because their members include a variety of carriers (*i.e.*, incumbent LECs, competitive LECs, and interexchange carriers), and membership in the LLCs is open to any local exchange carrier intending to port numbers in the relevant region, whether or not the carrier is actually certificated to provide service in that region.<sup>265</sup> Moreover, the NANC states that LLC meetings are generally open to the public unless proprietary matters are discussed, such as the negotiation of the master contract between the LLC and the local number portability administrator.<sup>266</sup> Further, the NANC states that each LLC member possesses a single vote in all matters and adds that, while most decisions are made by a simple majority vote, some

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<sup>262</sup> CTIA Comments at 3.

<sup>263</sup> See ¶¶ 73-78, *supra*, for a discussion of CMRS provider obligations to query number portability databases.

<sup>264</sup> *Architecture Task Force Report* at §§ 12.2.1, 12.3.1, 12.5.3.

<sup>265</sup> *Working Group Report* at §§ 4.4.1, 4.4.3.

<sup>266</sup> *Id.* at § 4.4.7.

important decisions (*e.g.*, execution of the master contract, and amendment of the LLC operating agreement) must be made unanimously or by a supermajority.<sup>267</sup>

95. In addition, the NANC states that all telecommunications carriers will have nondiscriminatory access to the local number portability administrator's services, regardless of whether the carrier or entity is a member of the LLC.<sup>268</sup> These services will be provided pursuant to user agreements between the local number portability administrator and each entity that utilizes the local number portability administrator's services.<sup>269</sup> As stated above, these user agreements are based on the master contract between the local number portability administrator and the LLC and will ensure that such utilizing entities obtain service under the same terms and conditions.<sup>270</sup>

96. Finally, the NANC asserts that the LLCs, according to provisions in their internal operating agreements, must comply with any and all regulatory directives.<sup>271</sup> The NANC claims that such provisions are necessary in order to permit regulators to ensure that the LLCs' management of the local number portability administrators does not inhibit neutral number portability administration.<sup>272</sup> The NANC also points out that each LLC has established a process that provides, in part, for the resolution of disputes by an appropriate regulatory authority, although the NANC does not specify a particular regulatory authority or authorities.<sup>273</sup> The NANC contends that this aspect of the LLCs' dispute resolution process will provide further assurance that decisions with competitive implications will be decided in an impartial manner.<sup>274</sup>

97. The NANC states that the general structure and operation of limited liability companies also support allowing the regional LLCs to oversee the local number portability

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<sup>267</sup> *Id.* at § 4.4.2.

<sup>268</sup> *Id.* at § 4.4.9.

<sup>269</sup> *Id.* at § 4.4.10.

<sup>270</sup> *Id.*

<sup>271</sup> *Id.* at § 4.4.4.

<sup>272</sup> *Id.*

<sup>273</sup> *Id.* at § 4.4.6. The NANC does not describe any of the LLCs' dispute resolution processes in detail.

<sup>274</sup> *Id.*

administrators.<sup>275</sup> The NANC reports that an LLC affords its members complete statutory protection from liability, whether in tort, contract or otherwise.<sup>276</sup> All liability is assumed exclusively by the LLC, which protects itself against that liability through insurance coverage.<sup>277</sup> The NANC also submits that limited liability companies are simple organizations that are more easily established and governed than other organizational forms.<sup>278</sup> For example, the NANC reports that LLCs do not need to observe the same formalities associated with traditional corporate governance.<sup>279</sup> The NANC believes that this simplicity will allow the regional number portability LLCs to make decisions quickly and without the statutory constraints, formalities and time requirements associated with more traditional corporate forms.<sup>280</sup>

98. The NANC also submits that LLC oversight of the local number portability administrators will help promote the development of a system of regional databases that are consistent with a national number portability scheme. In particular, the NANC states that oversight of the local number portability administrator by an LLC in a specific region will facilitate the deployment of number portability on a regional basis because LLC members intend to port numbers in that BOC region.<sup>281</sup> The NANC also reports that the LLCs required potential database administrators to bid to provide service on a regional basis.<sup>282</sup> At the same time, the NANC asserts that, although the regional LLCs are established under various states' laws, they are very similar in their structure and operation, thereby ensuring

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<sup>275</sup> *Id.* at §§ 4.6.3, 4.6.1. A limited liability company is a hybrid form of ownership that combines the advantages of a limited partnership and a corporation. Like a limited partnership, profits in an LLC are passed directly through to investors and therefore are taxed only as personal income, which avoids the double taxation of corporations. However, unlike a limited partnership, LLC members may exercise management control without the threat of losing limited liability. *Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests et al.*, Further Notice of Proposed Rulemaking, MM Docket Nos. 94-150, 92-51 & 87-154 (rel. Nov. 7, 1996), Appendix B, part XI. See 61 Fed. Reg. 67255.

<sup>276</sup> *Working Group Report* at §§ 4.6.2.

<sup>277</sup> *Id.*

<sup>278</sup> *Id.* at § 4.6.4.

<sup>279</sup> *Id.*

<sup>280</sup> *Id.*

<sup>281</sup> *Id.* at § 4.5.1.

<sup>282</sup> *Id.*

substantial consistency in the oversight of the local number portability administrators across the country.<sup>283</sup>

99. Oversight by the NANC Generally. In addition to LLC management and oversight, the NANC recommends that it provide general oversight of number portability administration on an ongoing basis.<sup>284</sup> In particular, the NANC recommends that it oversee such administration (1) to ensure that local number portability administrator activities support the Commission objective of impartial operation of the local number portability administrators and (2) to ensure that national uniformity and interoperability in number portability administration are achieved.<sup>285</sup> In addition, the NANC recommends that the Commission make the NANC responsible for recommending approval of all number portability database architecture changes and for resolving any conflicts between service providers regarding number portability architecture.<sup>286</sup> The NANC reports that the LLCs, by the terms of their respective operating agreements, accept the NANC in this oversight role.<sup>287</sup> The LLCs also, according to the NANC, agree to comply with Commission directives, and the local number portability administrators are obligated to comply with such directives pursuant to the terms of the master contracts.<sup>288</sup> The NANC further recommends that its Local Number Portability Working Group be charged with developing the details of the NANC's ongoing general oversight, subject to NANC approval.<sup>289</sup> The NANC also recommends that an open industry group, such as its Technical & Operational Task Force or similar group designated by the NANC, be charged to continue to maintain ongoing technical standards for the Number Portability Administration Center Service Management Systems.<sup>290</sup> The NANC's recommendation includes development of a permanent change management process that will provide an open and neutral facility for the submission and consideration of changes requested to the Functional Requirements Specification and the Interoperable

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<sup>283</sup> *Id.* at § 4.5.2.

<sup>284</sup> *Id.* at § 7.1.1.C.

<sup>285</sup> *Id.*

<sup>286</sup> *Architecture Task Force Report* at §§ 12.3.1, 12.3.2.

<sup>287</sup> *Working Group Report* at § 7.1.1.C.

<sup>288</sup> *Id.*

<sup>289</sup> *Id.*

<sup>290</sup> *Working Group Report* at § 7.1.1.D; *see also* ¶ 68, *supra*.

Interface Specification.<sup>291</sup>

100. Oversight by Committee Chaired by Chief, Common Carrier Bureau. The NANC also recommends that a committee, comprised of members of the NANC's Local Number Portability Working Group, be created to ensure compliance with the Commission's orders during, at a minimum, local number portability deployment in the top 100 MSAs.<sup>292</sup> The NANC further recommends that this committee be chaired by the Chief of the Common Carrier Bureau, who is responsible for monitoring the progress of number portability implementation.<sup>293</sup> The NANC reasons that this committee would be patterned after the oversight committee that reviewed the successful introduction of 800 number portability.<sup>294</sup> Moreover, the NANC points out that members of its Local Number Portability Working Group are already experts in number portability implementation.

101. Oversight by State and Federal Regulators. Finally, the NANC recommends that parties not satisfied with a decision by an LLC or local number portability administrator be allowed to bring that decision to the attention of state and federal regulators.<sup>295</sup>

## 2. Positions of the Parties

102. Bell Atlantic and NYNEX jointly urge the Commission to reject the NANC's recommendation that the LLCs oversee and manage the regional local number portability administrators.<sup>296</sup> Bell Atlantic and NYNEX assert that such oversight and control, as proposed, would be inconsistent with the *First Report & Order* and with section 251(e)(1) of the Act. In particular, Bell Atlantic and NYNEX contend that the local number portability administrators cannot be impartial, as the Commission has required, if they are managed by LLCs that are controlled by competitive LECs.<sup>297</sup> For example, Bell Atlantic and NYNEX argue that the Mid-Atlantic Carrier Acquisition Company (Mid-Atlantic LLC) has interfered

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<sup>291</sup> *Working Group Report* at § 7.1.1.D.

<sup>292</sup> *Id.* at § 7.1.1.B.

<sup>293</sup> *Id.*; *First Report & Order*, 11 FCC Rcd at 8393, ¶ 78.

<sup>294</sup> *Working Group Report* at § 7.1.1.B.

<sup>295</sup> *Id.* at §§ 4.4.4 - 4.4.6.

<sup>296</sup> Bell Atlantic/NYNEX Comments at 1-2.

<sup>297</sup> *Id.*

with Bell Atlantic's efforts to work with that region's local number portability administrator and otherwise fulfill its number portability obligations. Bell Atlantic and NYNEX assert that the Mid-Atlantic LLC (1) excluded Bell Atlantic from the contract discussions between the LLC and Lockheed Martin and (2) initially prohibited Lockheed Martin from discussing test arrangements and contract terms with Bell Atlantic, thereby delaying Bell Atlantic's receipt of technical information it claims it needs.<sup>298</sup> Bell Atlantic and NYNEX also claim that the Mid-Atlantic local number portability administrator has required Bell Atlantic to sign a user agreement before Bell Atlantic could begin testing with the local number portability administrator and that testing must begin by mid-June, 1997, but the LLC has refused to provide a draft of the user agreement.<sup>299</sup>

103. Bell Atlantic and NYNEX submit that general federal and state regulatory oversight will not cure problems associated with the LLCs' oversight of the local number portability administrators because "[i]f [regulatory oversight] were sufficient to ensure neutrality (and the appearance of neutrality), there would have been no need for the Commission to put any constraints on who could be a [local number portability administrator]."<sup>300</sup> As a result, they recommend that the Commission: (1) adopt specific rules to govern the operation of the local number portability administrators; (2) delegate oversight of the local number portability administrators to an industry or standards body that operates by consensus -- a function that Bell Atlantic and NYNEX claim the NANC could not perform "because, as a federal advisory committee, [the NANC] may only provide advice to a federal government department or agency"; and/or (3) ensure that local number portability administrators act impartially by requiring them to provide services under tariff, as the Commission did with respect to 800 number service.<sup>301</sup>

104. USTA contends that the NANC's recommendations do not contain adequate safeguards to ensure "competitive neutrality" in the LLCs' administration of the regional databases.<sup>302</sup> In particular, USTA contends that the LLCs' open membership, one-vote-per-member, dispute resolution and supermajority voting policies may not suffice to enable the LLCs to resolve efficiently and evenhandedly disputes among different factions of carriers (*e.g.*, incumbent vs. competitive LECs, large vs. small LECs, LLC members vs.

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<sup>298</sup> *Id.* at 4-5.

<sup>299</sup> *Id.* at 5.

<sup>300</sup> *Id.*

<sup>301</sup> *Id.* at 6-7.

<sup>302</sup> USTA Comments at 3.

nonmembers).<sup>303</sup> USTA recommends that the Commission take steps to guarantee that all carriers are treated fairly.<sup>304</sup> Specifically, USTA urges the Commission to develop guidelines for number portability administration that ensure procedural and substantive fairness, including (at a minimum) procedures for allowing carriers to appeal actions of the LLC or local number portability administrators to the Commission.<sup>305</sup>

105. CTIA also argues that certain aspects of the NANC's recommendations would limit the participation of CMRS providers in the administration of local number portability. Specifically, CTIA argues that LLC membership should not be limited to "any new entrant into the business of local exchange service," as the NANC recommends,<sup>306</sup> because it would preclude the wireless industry from participation, as "wireless local loop" service is not yet a reality.<sup>307</sup> CTIA also argues that CMRS membership in the LLCs should not be limited to carriers that "intend to or are porting numbers," as the NANC recommends,<sup>308</sup> because many CMRS providers may not intend to port numbers for "quite some time" given that CTIA predicts small demand for ported wireless numbers and that CMRS providers need only deploy number portability in the 100 largest MSAs in which they have received a specific request at least nine months before the deadline of June 30, 1999.<sup>309</sup> CTIA submits that these LLC membership requirements would limit CMRS participation in the administration of number portability, even though CMRS providers will be impacted by such administration, as CMRS providers must complete calls to ported wireline subscribers either by establishing business arrangements with a LEC or by performing their own queries.<sup>310</sup> Thus, CTIA recommends that all CMRS providers be allowed to participate in the LLCs regardless of whether they intend to port numbers.<sup>311</sup>

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<sup>303</sup> *Id.*

<sup>304</sup> *Id.*

<sup>305</sup> *Id.* at 3-4.

<sup>306</sup> *Working Group Report* at § 4.4.1.

<sup>307</sup> CTIA Comments at 6.

<sup>308</sup> *Working Group Report* at § 4.4.3.

<sup>309</sup> CTIA Comments at 7.

<sup>310</sup> *Id.* at 7-8.

<sup>311</sup> *Id.*

106. WorldCom supports the NANC's recommendations concerning LLC management of the local number portability administrators.<sup>312</sup> At the same time, WorldCom requests that the Commission expressly require that all carriers be able to obtain the same terms and conditions in contracting with the local number portability administrators and that all carriers be prohibited from using number portability deployment to gain a competitive advantage over other carriers.<sup>313</sup> Several parties also support adoption of the NANC's recommendations in their entirety or with amendments or modifications that do not concern LLC management of the local number portability administrators.<sup>314</sup>

107. In joint reply comments, Bell Atlantic and NYNEX criticize WorldCom for supporting the NANC's recommendation that only LLC members be allowed to participate in negotiations with local number portability administrators regarding the master contracts, which would serve as the basis of individual user agreements between LLC members and non-members alike.<sup>315</sup> Bell Atlantic and NYNEX contend that excluding non-members from negotiation of the master contract would enable LLC members to set the prices for local number portability administrator services sold to non-members, which Bell Atlantic and NYNEX claim would allow LLC members to serve as "unappointed regulators."<sup>316</sup>

108. GTE states on reply that it shares USTA's concern that LLC voting rules may jeopardize the LLCs' ability to perform in an independent and impartial manner in all matters.<sup>317</sup> GTE urges the Commission to give parties aggrieved by any decision of an LLC immediate recourse to the Commission or some other entity having appropriate jurisdiction.<sup>318</sup> GTE commends the efforts of the LLCs and notes that it is an active member of five of the seven LLCs.<sup>319</sup> Nevertheless, GTE asserts that competitive LECs, which comprise a majority of LLC members, may vote in a manner that favors competitive LECs

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<sup>312</sup> WorldCom Comments at 4-5.

<sup>313</sup> *Id.* at 4.

<sup>314</sup> *See, e.g.*, AT&T Comments at 1; ALTS Comments at 1; GSA Comments at 4.

<sup>315</sup> Bell Atlantic/NYNEX Reply Comments at 2.

<sup>316</sup> *Id.*

<sup>317</sup> GTE Reply Comments at 1.

<sup>318</sup> *Id.*

<sup>319</sup> *Id.* at 1-2.

as opposed to incumbents.<sup>320</sup> GTE is concerned primarily about possible LLC decisions not achieved through consensus that implicate or require an interpretation of Commission policies, rather than decisions regarding internal LLC operating issues.<sup>321</sup> GTE also notes that at least one of the LLC operating agreements requires that any disputes resulting from a LLC decision must be subjected to arbitration (for which no written decision is required) before the LLC decision can be taken to the Commission for review.<sup>322</sup> In GTE's view such arbitration provisions will make it difficult for parties aggrieved by an LLC decision to obtain relief. In addition, GTE urges the Commission to require that the LLCs file with the Commission their final master agreements with their respective local number portability administrators to ensure that end users in all regions are treated uniformly by the local number portability administrators, especially with respect to rates for local number portability administrator services.<sup>323</sup> Finally, if the Commission does not adopt the proposal of Bell Atlantic and NYNEX that local number portability administrators tariff their services, GTE recommends that the Commission require, at a minimum, that the local number portability administrators periodically file price lists for all of their services.<sup>324</sup>

109. BellSouth states on reply that it agrees with USTA that the Commission must take steps to guarantee that all carriers will be treated equally by the local number portability administrators.<sup>325</sup> Like GTE, BellSouth commends the activities of the NANC and the LLCs to date, adding that the Southeast LLC to which BellSouth belongs "is currently functioning in a problem-free manner with no known instances of discriminatory conduct."<sup>326</sup> Nevertheless, like Bell Atlantic and NYNEX, BellSouth asserts that continued oversight of

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<sup>320</sup> *Id.* at 2.

<sup>321</sup> *Id.* at 2, 3 n.2.

<sup>322</sup> *Id.* at 2.

<sup>323</sup> *Id.* at 3-4.

<sup>324</sup> *Id.* at 4.

<sup>325</sup> BellSouth Reply Comments at 1.

<sup>326</sup> *Id.* at 1-2; *see also id.* at 3 ("As with NYNEX, however, BellSouth has not experienced the kinds of issues that Bell Atlantic has in connection with the actual governance of the LLC."); *id.* (noting BellSouth's "positive experiences" with the Southeast LLC and the NANC); *id.* at 5 ("BellSouth believes that there were compelling reasons to create regional LLCs in order to implement the Commission's number portability requirements even as the Commission went about creating NANC. These LLCs have served, and will continue to serve (at least for a limited period), important functions with respect to implementing [local number portability].").

the local number portability administrators by the LLCs does not comport with the Commission's requirement that the local number portability administrators not be aligned with any industry segment, as the LLCs include only wireline carriers and are composed primarily of competitive LECs.<sup>327</sup> BellSouth states that it is premature to establish a long-term role for LLCs, as presently constituted, in the administration of number portability.<sup>328</sup>

110. While BellSouth claims that any of the three proposals set forth by Bell Atlantic and NYNEX would solve the problem of potential LLC partiality, BellSouth recommends that the Commission delegate oversight of the regional local number portability administrators to an industry or standards body, such as the Alliance for Telecommunications Industry Solutions (ATIS), that operates by consensus under the rules of the American National Standards Institute (ANSI).<sup>329</sup> In support of this solution, BellSouth states that it agrees with Bell Atlantic and NYNEX that the NANC cannot oversee the local number portability administrators "because, as a federal advisory committee, [NANC's] charter limits its powers to providing advice to a federal government department or agency" and because NANC membership is not open to all industry parties.<sup>330</sup>

111. BellSouth proposes, in the alternative, that the Commission delegate local number portability administrator oversight to a national LLC, with membership open to all industry segments. Under either alternative, BellSouth adds, the LLCs would continue to work with local number portability administrators to implement number portability, but oversight of the local number portability administrators would be delegated to a forum such as ATIS or to a national LLC.<sup>331</sup>

112. On reply, WorldCom disputes claims by Bell Atlantic and NYNEX that the Mid-Atlantic LLC interfered with Bell Atlantic's efforts to work with Lockheed Martin.<sup>332</sup> WorldCom, which notes that Bell Atlantic is the only BOC that has refused to join the LLC for its region, claims that Bell Atlantic has attempted to negotiate an end user agreement with

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<sup>327</sup> *Id.* at 2-3.

<sup>328</sup> *Id.* at 5.

<sup>329</sup> *Id.* at 3-4.

<sup>330</sup> *Id.* at 4.

<sup>331</sup> *Id.* at 5.

<sup>332</sup> WorldCom Reply Comments at 2-3.

Lockheed Martin on terms that are more favorable than those available to other carriers.<sup>333</sup> WorldCom states that the Mid-Atlantic LLC has not prevented Bell Atlantic from obtaining information needed for number portability implementation.<sup>334</sup> WorldCom also points out that Bell Atlantic does not suggest that the LLCs have failed to be impartial in selecting local number portability administrators or in handling a variety of technical and operational issues.<sup>335</sup> Moreover, WorldCom states that, at Bell Atlantic's request, Lockheed Martin provided Bell Atlantic with confidential and proprietary technical information concerning number portability implementation.<sup>336</sup> WorldCom also submits that the Mid-Atlantic LLC acted properly in denying Bell Atlantic's requests to observe master contract negotiations between the LLC and Lockheed Martin and to obtain draft user agreements because, like any other normal business contract negotiations, the negotiations between the LLC and Lockheed Martin are confidential.<sup>337</sup> Finally, WorldCom urges the Commission to reject the proposals of Bell Atlantic and NYNEX regarding the oversight and management of local number portability administrators by the LLCs, arguing that: (1) adequate protections to ensure the impartiality of the LLCs with respect to the local number portability administrators are already in place; (2) Bell Atlantic has failed to demonstrate a compelling need for its proposed safeguards; (3) the NANC has devoted considerable effort to develop standards through industry-wide consensus; and (4) Lockheed Martin should not be required to file tariffs because it is not a common carrier.<sup>338</sup>

113. AT&T notes on reply that Bell Atlantic makes no specific proposals for additional requirements to ensure local number portability administrator impartiality.<sup>339</sup> AT&T also asserts that it is inconsistent for Bell Atlantic to demand local number portability administrator oversight by a decision-making body that operates by consensus while at the same time commending the NANC, which does not operate by consensus, for its efforts.<sup>340</sup>

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<sup>333</sup> WorldCom Reply Comments at 3. *See also* AT&T Reply Comments at 2.

<sup>334</sup> WorldCom Reply Comments at 3.

<sup>335</sup> *Id.* at 7. *See also* AT&T Reply Comments at 3.

<sup>336</sup> WorldCom Reply Comments at 3.

<sup>337</sup> *Id.* at 4.

<sup>338</sup> WorldCom Reply Comments at 6-8. *See also* AT&T Reply Comments at 4; Sprint Comments at 2-3.

<sup>339</sup> AT&T Reply Comments at 4. *See also* Sprint Reply Comments at 4.

<sup>340</sup> AT&T Reply Comments at 5.

Further, AT&T claims that the LLCs were created, in large part, to serve as a neutral party to negotiate terms and conditions with the local number portability administrator that would apply equally to all carriers using the local number portability administrator.<sup>341</sup> Finally, AT&T argues that the request of Bell Atlantic and NYNEX that the local number portability administrators be required to tariff their services is hypocritical in light of Bell Atlantic's efforts to negotiate a preferential contract with the Mid-Atlantic LLC.<sup>342</sup>

### 3. Discussion

114. We adopt, with certain modifications, the NANC's recommendations regarding the oversight and management of the local number portability administrators. Specifically, we adopt, on an interim basis, the NANC's recommendation that the LLCs provide immediate oversight and management of the local number portability administrators. The LLCs should serve in this role until the Commission concludes a rulemaking to examine the issue of local number portability administrator oversight and management including, but not limited to, the question of whether the LLCs should continue to act in this capacity. The Commission will initiate such a rulemaking no later than June 30, 1998. In addition, we adopt the NANC's recommendation that it provide ongoing general oversight of number portability administration, including oversight of the individual LLCs, subject to Commission review. We also adopt the NANC's recommendation that the Commission create a committee, chaired by the Chief of the Common Carrier Bureau, to oversee number portability deployment in the top 100 MSAs.

115. Oversight by the LLCs. We conclude that, at least in the short term, the LLCs should provide immediate oversight for the regional local number portability administrators. Specifically, we conclude that: (1) there are advantages to allowing LLCs to provide immediate oversight of the local number portability administrators; (2) we have no basis for concluding that the LLCs will not treat all carriers fairly; and (3) the record regarding local number portability administrator oversight does not permit us to conclude that other proposals would be preferable to LLC oversight.

116. We agree with the NANC that there will likely be a need to modify some requirements to permit database system enhancements and other modifications as local number portability is deployed throughout each region.<sup>343</sup> Without a single entity to oversee

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<sup>341</sup> *Id.* at 5-6.

<sup>342</sup> *Id.* at 6-7.

<sup>343</sup> *See Working Group Report* at § 7.1.1.D.

such modifications in each region, local number portability administrators would likely be faced with varied, if not conflicting, proposals from the carriers utilizing the database regarding how the modifications should be implemented. The need for the local number portability administrator to reconcile such varied proposals, in turn, could potentially delay the administrator from making necessary modifications.

117. We conclude that the LLCs are the entities that are best able to provide immediate oversight of the local number portability administrators at this time. Because the LLCs were responsible for negotiating the master contracts with their respective local number portability administrators, each LLC is the entity with the greatest expertise regarding the structure and operation of the database for its region. Therefore, with respect to each region, using an entity other than the LLC to provide immediate oversight of the local number portability administrator would waste the LLC's valuable expertise and run the risk that necessary modifications to the database system may be delayed.

118. Bell Atlantic and other parties object to LLC oversight and management of the local number portability administrators based primarily on the fact that, because new entrants will outnumber incumbent LECs in each region, the new entrants that belong to the individual LLCs will be able to outvote the incumbent LEC members if they so choose. They suggest that, with respect to decisions that do not require unanimity by the LLCs, new entrant members of an LLC could vote in ways that give new entrants competitive advantages over incumbent LECs in the provision of number portability.

119. Any decision making process that operates on the basis of majority votes runs the risk that the group will decide to take action that disadvantages some members. Requiring unanimity for all oversight decisions, however, could make such oversight a cumbersome, time-consuming process. In light of the concerns expressed by incumbent LECs, we adopt the NANC's recommendation that LLCs provide immediate oversight of the local number portability administrators, but such oversight shall be on an interim basis. Specifically, the LLCs may serve in this role only until such time as the Commission concludes further proceedings to examine the issue of local number portability administrator oversight and management in general and, in particular, the question of whether the LLCs should continue to act in this capacity. The Commission will initiate such further proceedings no later than June 30, 1998.<sup>344</sup> We note that Phase I of the Commission's long-

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<sup>344</sup> A future rulemaking regarding oversight of the local number portability administrators will permit the Commission to address, among other things, Bell Atlantic's claim that it may not be efficient to perpetuate seven separate LLCs for the purpose of overseeing the database administrators. Bell Atlantic/NYNEX Comments at 2.

term number portability implementation schedule will be completed March 31, 1998.<sup>345</sup> We believe, therefore, that initiating a proceeding no later than June 30, 1998 will enable the parties and the Commission to acquire practical experience with number portability implementation, and to determine whether problems arise as a result of oversight and management envisioned by LLCs.

120. We will permit LLC oversight, on an interim basis, for several reasons. First, the current record does not support a finding that the LLCs will act in a fashion that is not fair to all carriers. To the contrary, two incumbent LECs applaud the LLCs' efforts to date, and BellSouth states affirmatively that the LLCs have remained neutral during the administrator selection and contracting phases of number portability deployment.<sup>346</sup> None of the commenting parties offers any specific instances of procedural irregularities by any of the LLCs, with the exception of Bell Atlantic's criticisms regarding the activities of the Mid-Atlantic LLC, which other parties dispute.<sup>347</sup> We also note that the Maryland Public Service Commission, in an order regarding the conflict between Bell Atlantic and the Mid-Atlantic LLC, required Bell Atlantic to sign a non-disclosure form before it could review the LLC's standard user agreement with Lockheed Martin.<sup>348</sup> The Maryland Commission also directed the regulated members of the Mid-Atlantic LLC to secure a release from Lockheed and to furnish a copy of the proposed standard user agreement to Bell Atlantic.<sup>349</sup> Further, the Maryland Commission directed the Mid-Atlantic LLC and Bell Atlantic to negotiate to resolve any areas of disagreement regarding the user agreement.<sup>350</sup> If the parties cannot resolve their differences regarding the user agreement, the Maryland Commission has said

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<sup>345</sup> *First Order on Reconsideration* at ¶ 78.

<sup>346</sup> See GTE Reply Comments at 1-2; BellSouth Reply Comments at 1-2.

<sup>347</sup> Bell Atlantic/NYNEX Comments at 4-5. See, e.g., Letter from Frank Simone, Government Affairs Director, AT&T, to William Caton, Acting Secretary, FCC, CC Docket No. 95-116 at 1-2 (filed July 12, 1997) (AT&T July 12, 1997 *Ex Parte* Filing); WorldCom Reply Comments at 3-4.

<sup>348</sup> See Letter from Marie Breslin, Director Government Relations, Bell Atlantic, to William Caton, Acting Secretary, FCC, CC Docket No. 95-116, Attachment at 6-7 (filed June 27, 1997) (Bell Atlantic June 27, 1997 *Ex Parte* Filing) (attaching a June 24, 1997, Order of the Maryland Public Service Commission).

<sup>349</sup> See *id.*, Attachment at 7. The Maryland Commission noted that the Mid-Atlantic LLC had offered to provide Bell Atlantic a copy of the draft standard user agreement prior to being required to do so. *Id.*, Attachment at 6.

<sup>350</sup> See *id.*, Attachment at 8.

that it will resolve these differences for them.<sup>351</sup> Because the record contains no other specific allegations of anticompetitive activities by the LLCs, we are not persuaded on the basis of the current record that partiality by LLCs is likely to occur in the immediate future.

121. Second, we agree with WorldCom, Sprint and AT&T that there are significant protections to ensure fair and impartial actions by the LLCs. As the NANC states, membership in the LLCs is open to any local exchange carrier that intends to port numbers, LLC meetings are generally open to the public, and members of the LLCs have agreed to require a supermajority or unanimity with respect to voting on certain important decisions, such as execution of the master contract.<sup>352</sup> Further, the NANC explains that all carriers that need to access the database for rating, routing, or billing purposes will have the same access to the local number portability administrator's service, even if the carrier is not a member of the LLC.<sup>353</sup> We also observe that the LLCs have agreed to follow any and all directives from state and federal regulators.<sup>354</sup> In addition, we note that oversight by the NANC and by state and federal regulators provides additional protection against the possibility of partiality by the LLCs in their oversight of the local number portability administrators.<sup>355</sup>

122. Third, we reject the arguments of Bell Atlantic and NYNEX and others that permitting the LLCs to oversee the number portability database administrators would be inconsistent with the *First Report & Order* because the LLCs are not, in their view, neutral.<sup>356</sup> In the *First Report & Order*, we specified that the local number portability administrators must be "independent, non-governmental entities that are not aligned with any particular telecommunications industry segment."<sup>357</sup> Contrary to the arguments of Bell Atlantic and NYNEX, this neutrality requirement applies to number portability database administrators, not to entities that oversee the administrators. In any event, because we find

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<sup>351</sup> See *id.*

<sup>352</sup> *Working Group Report* at §§ 4.4.1 - 4.4.3. We note, however, that the LLC members may amend or modify these requirements.

<sup>353</sup> *Id.* at § 4.4.9.

<sup>354</sup> *Id.* at § 4.4.4.

<sup>355</sup> See ¶¶ 130, 131, *infra*.

<sup>356</sup> See, e.g., BellSouth Reply Comments at 2-3.

<sup>357</sup> *First Report & Order*, 11 FCC Rcd at 8400-01, ¶¶ 92-93. As stated above, we conclude that the local number portability administrators recommended by the NANC and approved in this order -- namely, Lockheed Martin and Perot Systems -- are neutral third parties.

that there is no basis in the current record for us to conclude that the LLCs will act in a fashion that is not fair to all carriers, we also cannot conclude that the LLCs' interim oversight and management of the number portability administrators will prevent the administrators from acting impartially.

123. We wish to underscore, however, that we remain committed to ensuring that number portability administration is carried out in an impartial manner. In the *First Report & Order*, we delegated authority to the Chief of the Common Carrier Bureau to monitor the progress of number portability implementation for wireline carriers and to take appropriate action to ensure compliance with the implementation schedule.<sup>358</sup> We expressly delegate authority to the Chief of the Common Carrier Bureau to monitor the activities of the carriers that comprise the LLCs and to take any action necessary to remedy possible partiality by those carriers with respect to the LLCs' oversight and management of the local number portability administrators.

124. We also decline, at this time, to grant Bell Atlantic and NYNEX's request that local number portability administrators be required to provide number portability services under tariff as a means of avoiding competitive abuses by new entrants through the LLCs.<sup>359</sup> Bell Atlantic argues that because the Commission ordered the administrator of the 800 number database to provide access to its database under tariff, the Commission must do the same with respect to local number portability databases. We find that Bell Atlantic's reliance on our decision in the 800 number database context is misplaced.<sup>360</sup> In that decision, we found that "[o]n balance . . . the better course for now" was to require that access to the 800 database be tariffed because we determined that such treatment was necessary to ensure that 800 database access was provided at reasonable rates and on nondiscriminatory terms.<sup>361</sup> We do not find the same concerns applicable to access to local number portability databases. First, section 251 of the Act requires that the cost of number portability "shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."<sup>362</sup> Thus, the method for calculating the amount any particular carrier will pay for obtaining services from a local number portability database administrator will be determined by the Commission, not by the LLC. Second, as noted above, the local number

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<sup>358</sup> *First Report & Order*, 11 FCC Rcd at 8393, ¶ 78.

<sup>359</sup> See Bell Atlantic/NYNEX Comments at 6-7.

<sup>360</sup> See *Provision of Access for 800 Service*, 8 FCC Rcd 1423 (1993).

<sup>361</sup> *Id.* at 1426, ¶ 29.

<sup>362</sup> 47 U.S.C. § 251(e)(2).

portability administrators, pursuant to the master contracts negotiated by the LLC, will offer access to their databases to all carriers on the same terms and conditions, whether or not the carrier is a member of an LLC.

125. In addition, we cannot conclude from the current record that, as a practical matter, CMRS providers will be excluded from participating in the LLCs' management and oversight activities as they affect CMRS providers. As stated above, in order to complete the tasks associated with wireline number portability in accordance with the Commission's schedule, the NANC directed its attention to developing recommendations primarily relating to the wireline portion of the industry and did not fully address wireless concerns.<sup>363</sup> Further, the NANC recognized that certain requirements, such as the FRS and IIS, must be revised to incorporate the work of CTIA and others on the technical aspects of the provision of number portability by CMRS providers.<sup>364</sup> We share CTIA's concern that number portability be administered in an impartial manner, and we strongly encourage both the NANC and the LLCs to review their policies to ensure that they have not, even inadvertently, limited the participation of CMRS providers in the LLCs or other aspects of number portability administration. While there is no evidence in the record that any CMRS provider has been denied membership in an LLC, we encourage the LLCs to make membership available to all carriers that intend to port numbers, whether those carriers intend to do so immediately or sometime in the future. We do not believe, however, that CTIA's arguments justify rejection or modification of the NANC's recommendations at this time.

126. Other proposals for local number portability administrator oversight suggested by incumbent LECs include: (1) adopting specific rules to govern the operation of the local number portability administrators; (2) delegating oversight of the local number portability administrators to an industry or standards body that operates by consensus; (3) requiring local number portability administrators to file their master agreements with the Commission; (4) delegating local number portability administrator oversight to a national LLC.<sup>365</sup> As a general matter, the parties making these proposals offer little more than bare assertions that these alternatives would be preferable to LLC oversight, without explanation or justification for their conclusions. We find that the current record does not support a finding that any of these proposals would be preferable to LLC oversight. Consequently, we lack sufficient

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<sup>363</sup> See ¶ 87, *supra*.

<sup>364</sup> *Working Group Report* at § 3.1.

<sup>365</sup> Bell Atlantic/NYNEX Comments at 6-7; GTE Reply Comments at 3-4; BellSouth Reply Comments at 5.

analysis regarding these proposals to make a reasoned decision regarding their adoption.

127. The LLCs are currently requiring that database administrators provide uniform terms and conditions to all carriers. WorldCom asks that the Commission expressly endorse the LLCs' requirement that number portability administrators provide same terms and conditions to all carriers that must provide number portability in a region, regardless of whether a particular carrier belongs to the LLC.<sup>366</sup> We agree with WorldCom that no carrier should be able to use the terms and conditions of obtaining number portability database services to gain a competitive advantage over other carriers. In the *First Report & Order*, we determined that it is in the public interest for the number portability databases to be administered by one or more neutral third parties because neutral third party administration "ensures the equal treatment of all carriers and avoids any appearance of impropriety or anti-competitive conduct."<sup>367</sup> Thus, our order expressed an expectation that a neutral administrator would ensure equal treatment of all carriers; we did not affirmatively require uniform treatment. Based on the information presently available, the LLC requirement for uniform terms and conditions appears to be reasonable. Nevertheless, given the limited record, we do not preclude further consideration of this issue if any party can demonstrate that the LLCs' requirement that database administrators provide uniform terms and conditions to all carriers is unfair to them.

128. Oversight by the NANC Generally. We adopt the NANC's recommendation that it provide general oversight of number portability administration on an ongoing basis. Specifically, we establish a procedure whereby parties may bring matters regarding number portability administration to the NANC so that it may recommend a resolution of those matters to the Commission.

129. The NANC represents a broad cross section of carriers with interests in numbering and number portability issues and has developed substantial expertise while formulating its recommendations regarding number portability implementation. Application of this expertise will be critical in addressing future issues regarding number portability deployment, including implementation of number portability by CMRS providers and coordination of number portability administration with numbering administration. Further, we find that the NANC provides a valuable forum in which carriers are able to consider, at the national level, possible ways to resolve issues that arise as number portability is deployed within each number portability region. Such issues include, but are not limited to, ensuring that the local number portability administrators operate impartially, and achieving national

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<sup>366</sup> WorldCom Comments at 4.

<sup>367</sup> *First Report & Order*, 11 FCC Rcd at 8400, ¶ 92.

uniformity and interoperability in number portability administration. In our view, such ongoing work of the NANC, especially during the early phases of deployment, will provide invaluable assistance to the Commission in ensuring timely implementation of number portability. Although the Commission retains ultimate authority over number portability matters, carriers that are not satisfied with a decision of an LLC or local number portability administrator regarding the administration of number portability, and cannot obtain relief from either of those entities, may bring their concerns before the NANC.

130. The Commission strongly encourages all parties to attempt to resolve issues regarding number portability deployment among themselves and, if necessary, under the auspices of the NANC. If any party objects to the NANC's proposed resolution, the NANC shall submit its proposed resolution of the disputed issue to the Commission as a recommendation for Commission review. In light of the parties' record of successful cooperation to implement number portability, we believe that this approach will enable the parties to resolve such issues most efficiently and effectively. Such issues may include, but are not limited to, amendments to or interpretations of the NANC's recommendations approved in this order, disputes regarding the LLCs' oversight and management of the number portability database administrators, or any other matter involving the administration of local number portability. In the interest of expediting this process, the Commission hereby establishes the following procedures to govern NANC recommendations submitted for Commission review:

- (1) Following the adoption of a recommendation regarding the administration of number portability, the NANC shall issue a written report summarizing the positions of the parties and the basis for the recommendation adopted by the NANC. The NANC Chair will transmit the written report of such recommendation to the Chief of the Common Carrier Bureau (Chief). The Chief will issue a public notice describing the report and provide a reasonable opportunity for interested parties to comment on the NANC's recommendation. Recommendations adopted by the NANC and forwarded to the Commission may be implemented by the parties pending Commission review.
- (2) Within 90 days of the conclusion of the comment cycle established by the Chief of the Common Carrier Bureau for review of a NANC recommendation, the Chief, after consultation with the Chief of the Wireless Telecommunications Bureau, may issue an order adopting, modifying or rejecting the recommendation. If the Chief does not act within 90 days of the conclusion of the comment cycle, the recommendation will be deemed to have been adopted by the Bureau.

131. We reject USTA's request that we establish direct appeal provisions for carriers that wish to contest the decisions of the LLCs or the local number portability administrators regarding the administration of number portability. As stated above, most of the commenting parties agree that the LLCs and local number portability administrators have worked efficiently and fairly to implement local number portability, and none of the commenting parties identifies with precision any future circumstances in which the LLCs and local number portability administrators would fail to work efficiently and fairly. Moreover, by this order, the Commission establishes a procedure through which aggrieved parties may have their concerns addressed in the LLCs' own dispute resolution process, by the NANC, and ultimately by the Commission. Given the success of carriers and the local number portability administrators in resolving difficult implementation issues, as well as the availability of the NANC to recommend resolutions of matters brought before it to the Commission, we decline to establish special provisions for bringing such matters before state or federal regulators.

132. Implementation Oversight Committee. We also adopt the NANC's recommendation that the Commission create a committee to monitor number portability deployment in the top 100 MSAs. We agree with the NANC that such monitoring will be especially important during the initial phase of number portability deployment, as this initial phase will involve more extensive testing and will lay the groundwork for successful deployment in later phases.<sup>368</sup> Consequently, we are creating a committee, comprised of members of the NANC's Local Number Portability Working Group, representing a broad cross-section of the telecommunications industry, and chaired by the Chief of the Common Carrier Bureau, to monitor compliance with the Commission's orders during deployment of number portability in the top 100 MSAs. This committee will not provide advice or recommendations to the Commission, but will gather information to monitor number portability deployment in the top 100 MSAs.

#### IV. ORDERING CLAUSES

133. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 4(i), 4(j), 201-205, 218, 251, and 332 of the Communications Act as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 218, 251 and 332, Part 52 of the Commission's Rules, 47 C.F.R. § 52, is AMENDED as set forth in Appendix B hereto.

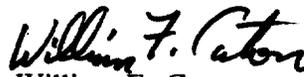
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<sup>368</sup> *First Order on Reconsideration* at ¶ 78.

134. IT IS FURTHER ORDERED that the policies, rules and requirements set forth in this *Second Report and Order* ARE ADOPTED, effective 30 days after publication of a summary of this Order in the Federal Register.

135. IT IS FURTHER ORDERED that the Secretary shall send a copy of this SECOND REPORT AND ORDER, including the final regulatory flexibility certification set forth in Appendix C, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 605(b) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et. seq.*

## FEDERAL COMMUNICATIONS COMMISSION

  
William F. Caton  
Acting Secretary