carriers will not), or else pay those RBOCs for performing a service that is both pointless and contrary to the Commission's policies.

The only possible justification for requiring queries to be performed for every NXX designated as portable is to increase the potential revenues for LNP query services. N-1 carriers that deliver traffic to an NXX on an unqueried basis, in full accord with the NANC process flows adopted by the Commission, should not be required to pay for this utterly superfluous "service."

III. THE COMMISSION'S PRIOR ORDERS MAKE CLEAR THAT QUERY CHARGES SHOULD BE BASED ON INCREMENTAL, NOT FULLY DISTRIBUTED, COSTS

The Designation Order also seeks comment as to "whether carriers may include a fully distributed cost annual charge factor in query charges."[19] The Commission's First Report and Order in its LNP docket unequivocally held that incremental costs, not fully distributed costs, are the proper measure of interim LNP costs: "The costs of currently available number portability are the incremental costs incurred by a LEC to transfer numbers initially and subsequently forward calls to new service providers using existing RCF, DID, or other comparable measures."[20] Neither Ameritech nor Bell Atlantic even attempts to distinguish this prior finding, or to explain why the Commission's

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19 Designation Order, ¶ 9.

20 First Report and Order and Further Notice of Proposed Rulemaking, Telephone Number Portability, CC Docket No. 95-116, FCC 96-286, released July 2, 1996, ¶ 129; see also, e.g., id., ¶¶ 130 ("states may apportion the incremental costs of currently available [LNP] measures among relevant carriers"), 136 (approving New York scheme to allocate "incremental costs of currently available number portability measures" and similar proposal in Illinois).

cost recovery standards for interim portability are not fully applicable to permanent LNP in this regard.

As a preliminary matter, Ameritech argues at page 9 of its direct case that it "did not use a fully distributed cost methodology to develop its query service rates." However, line 3 of Exhibit 3 to the Description and Justification filed with Ameritech's Transmittal No. 1123 is an "FDC annual charge factor," and so Ameritech's assertion cannot be credited.

In its Direct Case, Ameritech attempts to argue that LNP query service "is not the number portability required to be provided by LECs under Section 251(b)(2) ... [and] its costs are thus not subject to the 'competitively neutral cost recovery' requirement of Section 251(e)(2)."[21] Ameritech then asserts that LNP query service is "a call-related database query service," and makes a passing citation to the Commission's LNP Second Report and Order as purported support for its claim.[22]

In fact, nothing in any Commission order suggests that query service is anything other than an integral part of local number portability. Contrary to Ameritech's unelaborated suggestion that § 251(b)(2) somehow excludes query service from the scope of LNP, that section requires LECs to provide local number portability "in accordance with requirements prescribed by the Commission." The Commission has explicitly required LECs to provide query service for default-routed calls, making plain that that

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21 Ameritech Direct Case, pp. 9-10.

22 Id., p. 10.

service is an essential aspect of LNP, without which that system would be far less reliable and stable.

The RBOCs' use of fully distributed costs ("FDC") simply cannot be justified. Ameritech and Bell Atlantic presumably already are recovering their full costs for "overhead" in their other rates -- to permit them to spread portion of those costs over query services would authorize a double recovery. Moreover, even if an FDC methodology were appropriate for LNP query services (which it is not), the FDC factors used in the instant tariffs are patently unreasonable. Ameritech's FDC factor increases its proposed rates by over 77%, while Bell Atlantic uses fully distributed loading of 60%.[23] Recent state proceedings in Bell Atlantic's territory to determine overhead loading factors for unbundled network elements have used a figure of approximately ten percent.

IV. BELL ATLANTIC'S CHARGES IMPROPERLY INCLUDE COSTS OF SS7, OSS AND BILLING SYSTEMS THAT ARE NOT DIRECTLY RELATED TO LNP QUERY SERVICES

Paragraph 9 of the Designation Order seeks comment on whether costs to modify SS7, OSS and billing systems "are costs not directly related to providing local number portability, and therefore are not properly included in query charges." As discussed above, Ameritech states that its rates include SS7, OSS and billing systems costs "only to the extent they were necessary for the provision of query service," and so did not include costs attributable to other aspects of LNP.[24] In fact, Ameritech concludes that

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23 Ameritech Transmittal No. 1123, D&J Exhibit 3; Bell Atlantic Transmittal No. 1009, D&J Workpaper 7-5.

24 Ameritech Direct Case, p. 5.

"most costs are required for LNP generally, but are not used to provide or bill the Query Service."[25]

Ameritech's observations point out what should be axiomatic: costs such as modifications to provisioning systems that will be used to process requests to port numbers, or to enable Bell Atlantic's internal billing and maintenance systems to identify customers by LRN rather than by telephone number, should not be attributed to LNP query services. N-1 carriers that purchase queries do not cause such costs, and do not benefit from them (at least not in their role as N-1 carriers). The proper costs for inclusion in query charges are those that an N-1 carrier would incur to perform queries on its own behalf -- that is, for example, the costs that a carrier that served only as an IXC would bear. Plainly, many of the costs Bell Atlantic seeks to build into its query charges fail this test, and so must be excluded.

V. AMERITECH'S PROPOSED NONRECURRING CHARGES ARE FACIALLY UNREASONABLE

Paragraph 14 of the Designation Order finds that "[i]n general, carriers have failed to justify" their proposed nonrecurring charges. Ameritech's Transmittal No. 1123 indicates that RBOC estimated that it will require seven hours per account per month simply to establish an account for billing default LNP queries.[26] This "nonrecurring" charge will be levied on an N-1 carrier in each and every month that it delivers default traffic to Ameritech's network.

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25 Id., p. 6 (emphasis added).

26 Ameritech Transmittal No. 1123, D&J Exhibit 2.

Ameritech's direct case offers only that this charge is justified because its employees will have to "manually investigate[] and bill[] an N-1 carrier for Default Traffic."[27] Its seven-hour estimate is radically overstated, however, for a task which should require little more than determining the appropriate carrier and entering a billing name and address in a computer system. Further, all or virtually all customers of Ameritech's "default query" service will also be purchasing exchange access from that ILEC on a regular basis in order to terminate interexchange calls in its territory. Ameritech therefore in most cases already will have established an account with those carriers, and therefore should not need to impose <u>any</u> non-recurring charges relating to billing.

Moreover, there is no basis for Ameritech's proposal to impose this so-called "nonrecurring" charge on a monthly basis. After a carrier has been billed during one month for default LNP query service, Ameritech cannot plausibly contend that it will require seven hours to set up billing in each subsequent month. In contrast, Bell Atlantic does not propose any such explicit "non-recurring" charge for default queries.

VI. AMERITECH AND BELL ATLANTIC FAIL TO PROVIDE ADEQUATE JUSTIFICATION FOR THEIR QUERY DEMAND FORECASTS

The Commission also sought comment on whether carriers' query demand forecasts are reasonable, and how they should treat their own demand. Query demand levels are critical to LNP query service rates, as that figure determines how widely the overall costs of queries will be spread, and thus the ultimate cost of that service.

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[27] Ameritech Direct Case, p. 17.

Bell Atlantic's direct case does nothing more than refer to its previously filed Description and Justification (which the Designation Order already found lacking), and state that it included its own queries in its calculations and that these queries constituted 99.3617% of its total query demand.[28] That RBOC provides no information of any kind as to how it actually determined its total query volume. The information Bell Atlantic does provide, however, raises serious questions about its methodology.

First, Bell Atlantic's forecasted queries are based on the first year of LNP implementation ("year 1"). If year 1 costs were also used to determine Bell Atlantic's per query charge (it is impossible to determine this from the data Bell Atlantic submitted), then that practice would tend to inflate the tariffed rates. According to the attachment to the Bell Atlantic's direct case, its LNP costs for year 1 are the highest of the years covered by its projections. At the same time, it is also reasonable to assume that year 1 query volumes will be the lowest of the years covered by Bell Atlantic's figures, because the porting of telephone numbers will just be beginning. Thus, using year 1 figures to derive the per query rate would tend to make the numerator (costs) in the per query costs equation larger, while decreasing the denominator (number of queries), and thereby overstating the per query charge.

Further, based on the information Bell Atlantic's direct case gives as to query volumes, its investment per query appears to be significantly overstated. Bell Atlantic states at page 4 of its direct case that it estimated that its own traffic will account

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28 Bell Atlantic Direct Case, p. 4.

for 99.3617% of its total query volume. Workpaper 7-6 of its Transmittal No. 1009 shows that non-Bell Atlantic queries were estimated at 550.228 million. Therefore, the total number of queries Bell Atlantic expects should be 550.228 million / .006383, or 86.202 billion queries. Workpaper 7-2 states that investment per query is $0.002885. Therefore, Bell Atlantic's total investment is 86.202 billion x $0.002885 = $248.7 million. However, according to the attachment to Bell Atlantic's direct case, its total 5-year investment is $90.7 million.

Ameritech states at page 15 of its direct case that it estimates that 15% of its queries will be for carriers other than itself. This figure is many orders of magnitude greater than Bell Atlantic's estimated .006383% queries for carriers other than itself, and serves to highlight the uncertainty of the entire enterprise of predicting LNP query volumes. Such forecasts are, however derived, no more than "best guesses" as to how fast local competition will develop and how many customers will choose to port their numbers -- issues which telecommunications industry participants, investors, and federal and state government officials would readily agree defy confident prediction.

Ameritech's proposed requirement that carriers requesting prearranged query service provide 3-month rolling estimates of their traffic volumes would add little, if any, additional certainty to query demand forecasts, as N-1 carriers are unlikely to have significantly greater insight into the future of local competition than does Ameritech. Further, any marginal added accuracy that Ameritech's proposal might yield is greatly outweighed by its anticompetitive aspects. It is readily foreseeable that requiring carriers to report expected call volumes at each end office and tandem could provide Ameritech with valuable competitive intelligence about its direct competitors. It should be sufficient

for carriers to report whether or not they intend primarily to utilize their own or another carrier's query services, or to use Ameritech's.

Given the radical uncertainty surrounding query demand forecasting, and the fact that the number of queries one assumes is a major determinant of per query charges, the Commission should approve tariffs for LNP query rates only on a yearly basis, and direct that subsequent year's tariffs be adjusted to reflect over- or undercharging from the previous year. By this means, the charges carriers pay over a period of years will tend to more closely reflect the actual costs of LNP query service than could be achieved by attempting multi-year demand forecasts.

VII. AMERITECH'S PROPOSED BLOCKING STANDARDS VIOLATE THE COMMISSION'S PRIOR LNP ORDERS

Ameritech proposes to block prearranged queries that exceed carriers' forecast volumes by more than 125% when that traffic "threatens to disrupt operation of its network and impair network reliability."[29] The Commission should reject this proposal on two grounds: First, as AT&T has shown, Ameritech should not be permitted to require carriers that seek to prearrange queries to submit forecasts of their anticipated query volumes. Because Ameritech should not be allowed to require such forecasts, it accordingly may not block carriers' LNP queries on the grounds that their forecasts fail to meet a particular accuracy threshold. Moreover, even if Ameritech's proposed 125% blocking standard were otherwise permissible, its direct case offers no justification for that arbitrary cut-off. Although Ameritech describes its intention to comply with industry

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[29] See Ameritech Direct Case, p. 24; Ameritech Transmittal No. 1130, § 6.4.2(C)(3).

standards regarding its SCP capacity utilization,[30] it nowhere explains how it derives its tariffed 125% figure from this analysis.

Ameritech's proposal also should be rejected on the grounds that the Commission's LNP Second Report and Order does not permit carriers to block prearranged queries. That order adopted a NANC recommendation that the Commission "permit carriers to block 'default routed calls' coming into their networks."[31] The NANC recommendation made no provision for blocking prearranged queries, providing only that:

> Unless specified in business arrangements, carriers may block default routed calls incoming to their network in order to protect against overload, congestion, or failure propagation that are caused by the defaulted calls.[32]

Nothing in the LNP Second Report and Order suggests that LECs may block prearranged queries in addition to default routed calls. In fact, that order urges CMRS providers, who are not responsible for querying calls until December 31,1998, "to make arrangements with LECs as soon as possible to ensure that their calls are not blocked."[33] As that order recognizes, the NANC's LNP architecture recommendations "represent industry consensus" and were not challenged by any party when the Commission sought public

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30 Ameritech Direct Case, pp. 20-21.

31 LNP Second Report and Order, ¶ 76; see also id. ("we will allow LECs to block default routed calls, but only in specific circumstances when failure to do so is likely to impair network reliability") (emphasis added).

32 North American Numbering Council, Local Number Portability Administration Selection Working Group, LNPA Technical & Operational Requirements Task Force Report, April 25, 1997, § 7.10 (emphasis added).

33 LNP Second Report and Order, ¶ 78.

comment on that document.[34] Ameritech should not now be permitted to seek to modify the terms on which all carriers and the Commission have agreed LNP should be administered.

CONCLUSION

For the foregoing reasons, the Commission should reject the Ameritech and Bell Atlantic LNP query service tariffs under investigation in this proceeding.

Respectfully submitted,

AT&T CORP.

By /s/ James H. Bolin, Jr.
Mark C. Rosenblum
Peter H. Jacoby
James H. Bolin, Jr.

Its Attorneys

Room 3247H3
295 North Maple Avenue
Basking Ridge, NJ 07920
(908) 221-4617

February 20, 1998

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[34] Id., ¶ 71.

CERTIFICATE OF SERVICE

I, Terri Yannotta, do hereby certify that on this 20th day of February, 1998, a copy of the foregoing "Opposition To Direct Cases" was mailed by U.S. first class mail, postage prepaid, to the parties listed below:

John M. Goodman, Esq.
Michael E. Glover, Esq.
Bell Atlantic Telephone Companies
1300 I Street, N.W.
Washington, DC 20005

Larry A. Peck, Esq.
Ameritech
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Room 4H86
Hoffman Estates, IL 60196-1025

/s/ Terri Yannotta
Terri Yannotta

February 20, 1998

AT&T Exhibit 2

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September 25, 1997

RECEIVED

SEP 25 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. 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:

Today, Albert Lewis, Harry Sugar and I, all of AT&T, met with Kathy Franco, Legal Advisor to Commissioner Chong. The purpose of the meeting was to discuss AT&T's position on the allocation of and recovery of local number portability implementation costs as previously expressed in its comments in the above-referenced proceeding. The attached documents were used as a discussion guide.

Two copies of this Notice are being submitted to the Secretary of the FCC, in accordance with Section 1.1206(a)(1) of the Commission's rules.

Sincerely,

ATTACHMENT

cc: K. Franco

Recycled Paper

CC Docket No. 95-116, FNPRM
Telephone Number Portability Cost Recovery

The Record

The record in this proceeding supports the following Commission action:

- Recognizing that the pooling and allocating of number portability costs rewards inefficent behavior and requiring each carrier to bear its own costs

  Ameritech: "A mechanism involving pooling is administratively expensive and may incent and reward inefficiency."

  PacTel: "Type 2 costs should not be pooled and allocated. Rather, each carrier should bear its own costs."

  SBC: "Each carrier recovers its own costs: ... This arrangement better ensures that carriers will deploy more efficiently."

- Supporting a 5-year recovery period for number portability implementation costs

- Recognizing Type 3 costs as general network upgrades and, therefore, not part of this proceeding

CC Docket No. 95-116, FNPRM
Telephone Number Portability Cost Recovery

Remaining Issues

- We remain concerned that ILEC Type 2 cost estimates improperly include Type 3 costs
  - — For example, many ILECs have included the cost of accelerated switch replacements as Type 2 costs

- ILEC number portability costs should not be passed through to other carriers as local interconnection rates or access rates.

  "Application of the 'competitively neutral' standard requires each provider of telephone exchange service -- incumbent or facilities-based entrant -- to recover its number portability costs from its own end-user customers and not from other facilities-based carriers." US West Comments, August 18, 1997.

- If the Commission agrees that ILEC recovery of number portability implementation costs through charges to other carriers is inappropriate and/or not competitively neutral, then it should directly assign these costs to the intrastate jurisdiction as part of the separations process.

  - — Absent direct assignment to the intrastate jurisdiction, AT&T estimates that approximately 15% of the number portability costs would be allocated to the interstate jurisdiction with only interstate access charges to IXCs as a recovery mechanism

  - — This sets the stage for state commissions to allow number portability cost recovery via intrastate interconnection and access charges to other carriers

AT&T Exhibit 3

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RECEIVED
JAN 7 '98
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 7, 1998

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N. W. – Room 222
Washington, D. C. 20554

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

Dear Ms. Roman Salas:

The attached letter was hand delivered to Mr. Metzger's office today. Please include a copy of this letter in the record of the above-referenced proceeding.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(1) of the Commission's rules.

Sincerely,

F S Simone

ATTACHMENT

cc: T. Power
J. Casserly
K. Dixon
P. Gallant
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Recycled Paper

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January 7, 1998

Mr. A. Richard Metzger, Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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

Dear Mr. Metzger,

In its Second Report and Order in the Local Number Portability docket, the Commission concluded that the "N-1" carrier would be responsible for performing queries to identify the Location Routing Number ("LRN") required to route calls to the proper end office after implementation of permanent local number portability ("LNP").[1] That order held further that "if the N-1 carrier does not perform the query, but rather relies on some other entity to perform the query, that other entity may charge the N-1 carrier, in accordance with guidelines the Commission will establish to govern long-term number portability cost allocation and recovery."[2]

AT&T has recently learned that some ILECs have announced plans to perform LNP-related queries for every call that they terminate to a central office (NXX) code that has been designated as LNP-capable, whether or not any telephone numbers have in fact been ported in that NXX. Such queries are both unnecessary and contrary to the Inter-Service Provider LNP Operations Flows-Code Opening Processes recommended by the North American Numbering Council (NANC) and approved by the Commission in the Second Report and Order.[3] Indeed, the sole purpose of performing queries for such calls can only be to generate revenue for the ILEC that terminates them, as these queries are completely unnecessary to the proper functioning of LRN-based LNP, and are not contemplated by the NANC's Technical and

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[1] Second Report and Order, Telephone Number Portability, CC Docket No. 95-116, FCC 97-289, released August 18, 1997, ¶¶ 73-75 ("Second Report and Order"). As defined in that order, the N-1 carrier is the carrier that transfers a call to the "N" carrier -- that is, the carrier that terminates that call to the end-user. See id., ¶ 73, n.207.

[2] Id., paragraph 75.

[3] North American Numbering Council, Local Number Portability Administration Selection Working Group, LNPA Technical & Operational Requirements Task Force Report Appendix B, Figure 9, April 25, 1997.

Recycled Paper

Operations Task Force Report, as is explained below. Accordingly, in its upcoming LNP cost-recovery order the Commission should make clear that an entity performing queries on behalf of an N-1 carrier may not charge that carrier for queries made for calls to NXXs in which no number has yet been ported.

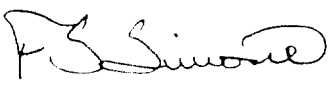
The operations flows for the code opening process were agreed to by the members of the NANC Technical and Operations Task Force, approved by the LNP Administration Working Group, and then endorsed by the full NANC and forwarded to the Commission as part of its recommendations on LNP implementation. The Commission then released the NANC recommendations for public comment. No party offered any objections to the proposed operations flows, and the Commission subsequently approved them in the Second Report and Order.[4]

The operations flows for the code opening process describe a two-step procedure. First, the NXX code holder notifies the NPAC/SMS that a specified NPA-NXX is to be opened for portability. The NPAC/SMS then provides advance notification to the carriers. In the second step, when the first telephone number ports in the NPA-NXX the NPAC/SMS notifies carriers, which then must complete the process of opening the code for LNP. The carriers have 5 days to activate the LNP trigger so that queries will be performed for calls terminating to numbers in the affected NPA-NXX. If no numbers have yet been ported in that NPA-NXX, there is simply no reason to perform LNP-related queries -- indeed, this is the reason behind the design of the LNP trigger described above.

The intent of this two-step procedure is to avoid unnecessary queries on calls to numbers in NPA-NXXs in which no number has yet ported. In this process, query volumes will increase gradually over time, rather than in one huge single step when LNP implementation is completed in an MSA.

AT&T does not believe that the Commission should dictate to carriers how they should introduce LNP into their networks. However, at a minimum, the Commission should clearly state in its upcoming order that if a carrier opts to perform queries on calls to numbers in NPA-NXXs in which no numbers have yet ported, that carrier may not charge the N-1 carrier for such queries.

Sincerely,



cc: T. Power
J. Casserly
K. Dixon
P. Gallant
K. Martin
J. Schlichting
N. Fried

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[4]See Second Report and Order, ¶ 54

AT&T Exhibit 4

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March 18, 1998

RECEIVED

MAR 1 8 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas, 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 Ms. Roman Salas:

The attached letter was delivered to Mr. Metzger's office today. Please include a copy of this letter in the record of the above-referenced proceeding.

Two copies of this Notice are being submitted to the Secretary of the Federal Communications Commission in accordance with Section 1.1206(a)(1) of the Commission's rules.

Sincerely,

F. S. Simone

ATTACHMENT

cc: T. Power
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March 18, 1998

Mr. A. Richard Metzger, Jr., Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. – Room 500
Washington, D.C. 20554

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

In its March 12, 1998 *ex parte* letter in the above-captioned proceeding,[1] SBC continues to argue that because it plans to perform unnecessary LNP queries for calls to NXXs as soon as they have been opened for portability, it therefore should be permitted to charge N-1 carriers for this utterly pointless "service." SBC is, of course, free to perform unneeded queries within its own network, if it chooses to do so. However, the Commission's LNP orders do not permit it to charge N-1 carriers for such queries.

As AT&T and other parties have shown in several recent pleadings,[2] the NANC Process Flows, which the Commission adopted in the LNP Second Report and Order, provide that queries need only be performed when at least one number has been ported from an NXX.[3] That is, N-1 carriers are not required to perform queries before delivering a call to an NXX unless at least one number in that NXX actually has been ported.

Figure 9 of the NANC Process Flows, a copy of which is attached to this letter, plainly shows two distinct timelines: The first timeline, captioned "NPA-NXX Code Opening," depicts the process by which an NXX holder makes that NXX available for porting and

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1 Letter from Lincoln E. Brown, Director, Federal Regulatory, SBC Telecommunications, Inc., to Magalie Roman Salas, Secretary, Federal Communications Commission, March 12, 1998.

2 See, e.g., Comments of AT&T Corp., filed March 9, 1998, pp. 10-14 in SBC Companies Petition for Waiver Under 47 C.F.R. § 52.3(d) And Petition For Extension Of Time Of The Local Number Portability Phase I Implementation Deadline, CC Docket No. 95-116, NSD File No. L-98-16.

3 See North American Numbering Council, Local Number Portability Administration Selection Working Group, LNPA Technical & Operational Requirements Task Force Report, April 25, 1997, Appendix B, Figure 9, (adopted by the Commission in Telephone Number Portability, CC Docket No. 95-116, Second Report and Order, FCC 97-289, released August 18, 1997, ¶ 52 ("LNP Second Report and Order")).

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notifies the NPAC/SMS that it has done so. A second, separate timeline in Figure 9, captioned "First TN Ported In NPA-NXX," indicates that after the first number is ported in an NXX, the NPAC/SMS broadcasts a "heads-up" notification to service providers, which then "complete the opening for the NPA-NXX code for porting in all switches." As a matter of simple logic, if SBC were correct that the NANC Process Flows require N-1 carriers to conduct queries for all calls to an NXX as soon as it is designated as portable, there would be no need for the second timeline in Figure 9. The requirement that service providers "complete the opening" of an NXX can only mean that they must then begin conducting queries for calls. Any other interpretation renders the NPAC's 'heads-up" notification superfluous, as it would merely alert N-1 carriers to continue doing what SBC asserts they should have been doing along, namely querying calls to that NXX.

Perhaps the most fundamental problem with SBC's approach to LNP queries is that it would require queries to be performed for no purpose whatsoever. The bottom line is this: until a number actually ports in an NXX, no LNP query is necessary to properly route any call to that NXX. The Commission implicitly recognized this fact in the LNP Second Report and Order, when it defined a "default routed call":

A 'default routed call' situation would occur in a Location Routing Number system as follows: when a call is made to a telephone number in an exchange with any ported numbers, the N-1 carrier (or its contracted entity) queries a local Service Management System database to determine if the called number has been ported.[4]

A LEC may only charge an N-1 carrier for querying a default-routed call when a call is placed to an NXX for which there exists some need to confirm the identity of the local carrier to which a particular number is assigned -- indeed, a "default-routed call" only occurs in that circumstance.

SBC's *ex parte* goes on to argue that activating LNP queries on an NXX-by-NXX basis would be "burdensome," and could create routing errors. This claim cannot be credited in light of the fact that Ameritech has made clear that it only intends to charge for LNP queries for calls to an NXX in which at least one number has ported.[5] But even accepting SBC's claims *arguendo*, they demonstrate nothing more than the fact that SBC has not planned its PLNP implementation in a manner that comports with the Commission's requirements. Carriers that have designed their LNP processes to perform queries only after they receive the NPAC "heads up" notification in accordance with the NANC Process Flows should not be penalized because SBC has designed its network processes differently. SBC states in its *ex parte* that "No carrier indicated that NXX's [sic] in a given switch would require LNP activation at any time other than the initial deployment of LNP in that switch." Given the clear requirements of the NANC Process Flows and the LNP Second Report and Order, there was simply no need for

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[4] LNP Second Report and Order, ¶ 76 (emphasis added)

[5] See Reply Comments of Ameritech, filed February 27, 1998, p. 14 ("Ameritech clarifies that it will only bill the Query Service rate on calls to a telephone number within a central office code (NXX) from which at least one number has been ported.") in Number Portability Query Services, CC Docket No. 95-116, CCB/CPD 97-46.

any carrier to so indicate. As AT&T stated above, if SBC believes that the manner in which it has chosen to implement LNP makes it necessary to query every call to an NXX that is open for portability (as Ameritech does not), it is free to do so. However, SBC may not charge N-1 carriers for unnecessary queries merely because it has elected to perform them.

SBC also attempts to argue that the dispute regarding its LNP query practices will not actually effect the amount it recovers in query charges. The March 12th *ex parte* contends that SBC's costs related to LNP query service will not be affected by the number of queries for which it can charge, and therefore that lowering the number of queries for which it can charge will simply make each query more expensive.

As a preliminary matter, this argument necessarily concedes a crucial point: SBC admits that performing queries only for calls to NXXs in which at least one number has been ported will not affect its costs. Accordingly, its protests that querying only such calls will require it to endure a "burdensome" process of activating each NXX for portability individually cannot be taken seriously, as by its own reckoning, any added "burden" will be so insubstantial that it will not cause any additional expense.

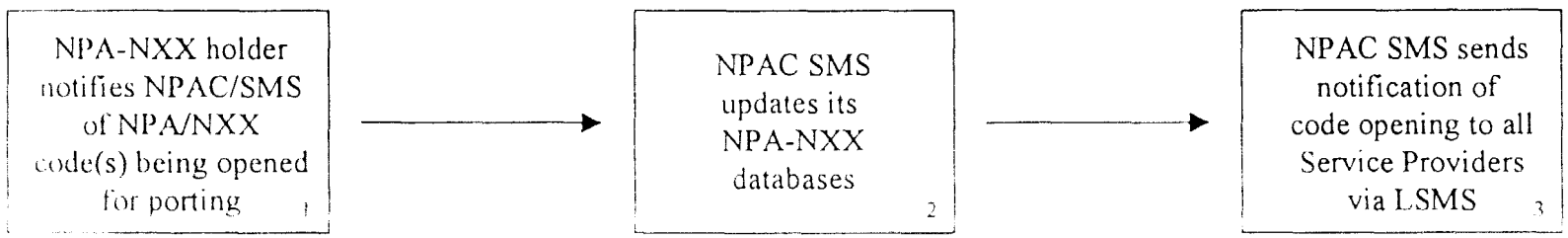
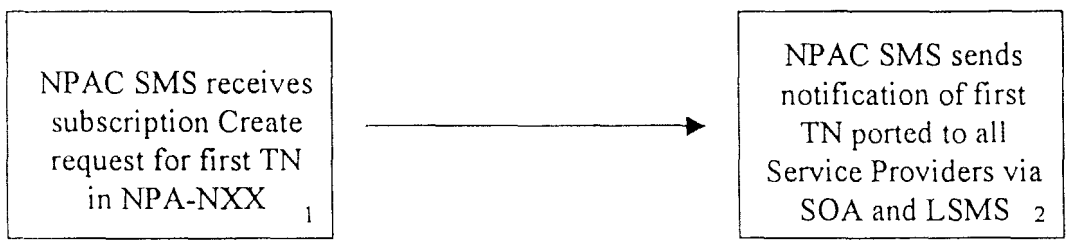
Further, SBC's argument that its proposal to charge N-1 carriers for unnecessary LNP queries will have no net cost effect fails to account for the fact that its proposal could affect the identity of its query service customers, not merely the per-query charge. Carriers such as AT&T that intend to perform their own LNP queries may nevertheless need to purchase LNP query service from other carriers if they are temporarily unable to perform queries for technical reasons. If LECs nationwide were to choose to perform LNP queries on all calls to NXXs designated as portable, an N-1 carrier that had designed its systems to comply with the NANC Process Flows might experience capacity and congestion problems until it could adjust to the sudden, tremendous volume of queries that it would be required to perform under SBC's new policy, and accordingly might be forced to purchase LNP query services that it otherwise could self-provision.

In summary, the Commission already has held that N-1 carriers are only required to perform (and to pay for) LNP queries for calls to an NXX in which at least one number has been ported, and should confirm that all tariffs for LNP query services must conform to this ruling.

Sincerely,

INTER-SERVICE PROVIDER LNP OPERATIONS FLOWS - CODE OPENING PROCESSES -

NPA-NXX Code Opening



First TN Ported in NPA-NXX