



March 19, 2015

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: CC Docket No. 95-116 & WC Docket No. 09-109

Dear Ms. Dortch:

On March 17, 2015, B. Lynn Follansbee of USTelecom, Scott Bergmann of CTIA -The Wireless Association, Ann Berkowitz of Verizon, Charles McKee of Sprint, Indra Chalk of T-Mobile, Jeb Benedict of CenturyLink and Tiki Gaugler of XO Communications (XO) met with Allan Manuel of the Public Safety and Homeland Security Bureau and Lisa Gelb, Ann Stevens and Sanford Williams of the Wireline Competition Bureau and held separate individual meetings with Nick Degani of Commissioner Pai's office, Amy Bender of Commissioner O'Reilly's Office, and Travis Litman of Commissioner Rosenworcel's office and Rebekah Goodheart of Commissioner Clyburn's office. The subject of discussion at all of the meetings was the Local Number Portability Administrator (LNPA) vendor selection.

USTelecom, CTIA, Verizon, Sprint, T-Mobile, CenturyLink and XO (the "Industry Group") met with the aforementioned parties to urge the Commission to adopt the pending draft Order approving the North American Numbering Council's (NANC) recommendation for the next LNPA vendor (NANC Recommendation). In addition, we answered questions the Bureau staff and Commissioners' legal advisors posed with respect to issues surrounding the LNPA Selection Process and transition to a new vendor.

Specifically, the Industry Group responded to concerns raised by the LNP Alliance about small carrier participation and interests in the process and transition. Ann Berkowitz and Tiki Gaugler, who served as two of the Tri-Chairs of the Selection Working Group (SWG), highlighted the ease of any industry member to participate in the LNPA Selection Process, had it chosen to do so. Although the LNP Alliance has claimed, "[i]t is, in fact, fair to say that smaller

carriers were effectively excluded by the gating criteria for participation,”¹ Ms. Berkowitz and Ms. Gaugler refuted that argument. Although none of the LNP Alliance members are directly NANC members, the process for becoming a NANC member is simply to submit a request to the Commission and obtain approval. Once doing so, the criteria for joining the SWG was essentially to sign the required non-disclosure agreement.

The LNP Alliance’s position appears to be that it was critical for its members to participate in the selection process but it was too burdensome for any member to draft a letter requesting Commission approval to become a NANC member in order to do so. And yet now, after the NANC Recommendation has been submitted in favor of iconectiv, the LNP Alliance has discovered both the time and resources to participate extensively in the Commission’s proceeding via comments and ex parte meetings and filings.

Moreover, the small and medium carrier community *did* participate through its trade associations, COMPTEL and USTelecom, which are members of the NANC. In fact, several of the LNP Alliance participants – COMLINK, ComSpan Communications, CoastCom, LS Networks, and TelNet Worldwide, Inc.² – are all COMPTEL members³ and could have engaged COMPTEL with their concerns earlier in the process. In addition, USTelecom represents small and medium carriers comparable in size to the LNP Alliance participants, and various state commissions represented the public interest –including businesses and consumers – through participation in the NANC. Although COMPTEL did not opt to participate in the SWG, USTelecom did, as well as representatives of the District of Columbia and Massachusetts commissions. Both COMPTEL and USTelecom represented their members’ interests, including small and medium carriers, in casting votes on the NANC Recommendation. Furthermore, although the LNP Alliance has argued, “[t]here was not a single over the top VoIP provider on

¹ See Letter from James C. Falvey, Counsel for the LNP Alliance, to Marlene Dortch, FCC, WC Docket No. 09-109 & CC Docket No. 95-116, at 6 (Jan. 12, 2015) (“LNP Alliance January Ex Parte”).

² See LNP Alliance January Ex Parte at 1 n.1 (“The LNP Alliance is a consortium of small and medium providers that currently consists of Comspan Communications, Inc., Telnet Worldwide, Inc., the Northwest Telecommunications Association (“NwTA”), and the Michigan Internet and Telecommunications Alliance (“MITA”). The LNP Alliance is focused on ensuring that the LNPA selection process takes into account the concerns of its S/M provider members and other similarly situated providers.”). COMLINK, ComSpan Communications, CoastCom, and LS Networks are members of NwTA, and Telnet Worldwide and COMLINK are members of MITA. See NSTA Members: Telecommunications Provider, *available at* <http://nwta.biz/DirectorySearch.asp?catid=117&catName=Telecommunications>; MITA Member Companies, *available at* <http://www.mita1.org/member-companies/>.

³ See COMPTEL Membership List, *available at* <http://www.comptel.org/memberlist.asp?contentid=2109> (listing COMLINK, ComSpan Communications, CoastCom, LS Networks, and TelNet Worldwide, Inc. as COMPTEL members.)

the SWG,”⁴ Vonage – an over the top VoIP provider – is a NANC member and a NAPM member that participated in the NAPM vote on the vendor recommendation, representing the interests of that industry segment with respect to numbering issues involving the IP transition.

The LNP Alliance’s statement that “LNP Alliance members, with much lower revenues and resources, had no practical opportunity to join the NANC and put in the time and resources to be eligible to join the SWG” is not supportable.⁵ The LNP Alliance had the opportunity to comment on the process itself when the Commission sought comment, but did not. Moreover, the LNP Alliance took no initiative to participate in the process during the years of industry deliberations.

Finally, Tiki Gaugler referenced various points made in an XO ex parte letter filed December 24, 2014,⁶ explaining that XO is similarly situated to these small and medium carriers both in its use of the NPAC⁷ and its means of interconnection with the NPAC databases, thus XO did consider and represent the interests of these smaller competitive carriers, regardless of differing revenue levels. As noted in the XO ex parte, XO utilizes Service Order Administration (SOA) and Local Service Management System (LSMS) gateways to access and exchange data with the NPAC databases and/or outsources porting activities to a third party service bureau, similar to other smaller carriers with much lower revenues.⁸

A change in NPAC vendors will not require XO (or likely other small and medium carriers) to modify its internal network or back office systems; therefore, the LNPA transition would not require most carriers to expend time or resources for major software developments. Instead, companies like XO will rely on these third party vendors to establish and test their gateway services with the new NPAC databases, and XO will then administer test cases using the vendor gateways in order to ensure the data flows through appropriately. XO believes this may represent a comparable test plan for similarly-situated small and medium carriers, and many small carriers that do not to participate in early stages of

⁴ LNP Alliance January Ex Parte at 2.

⁵ LNP Alliance January Ex Parte at 5.

⁶ Letter from Tiki Gaugler, XO Communications, to Marlene Dortch, FCC, WC Docket No. 09-109 & CC Docket No. 95-116 (Dec. 24, 2014) (“XO Ex Parte”).

⁷ See Letter from James C. Falvey, Counsel for the LNP Alliance, to Marlene Dortch, FCC, WC Docket No. 09-109 & CC Docket No. 95-116 (Dec. 11, 2014) (“LNP Alliance December Ex Parte”) (noting that XO recognizes and similarly utilizes the NPAC for number resource management as other CLECs).

⁸ See XO Ex Parte at 11-12.

NPAC testing or that utilize service bureaus for all of their porting activities would incur significantly lower, even minimal, transition costs.⁹

Thus, Ms. Gaugler explained that the level of revenues of an NPAC user is not the defining factor that influences transition impacts and costs. Instead, NPAC users with similar interconnection arrangements will likely incur similar transition costs, of which XO has been able to estimate using its vendor pricing information and programmer estimations that should also be available to smaller carriers. As the Commission is aware, “[t]he new LNPA will absorb its own expenses related to its portion of the transition and implementation of the new NPAC ecosystem.”¹⁰ Thus, individual carriers have evaluated their own costs, and individual carrier cost information was not obtained by XO or other NAPM or SWG members as part of the LNPA Selection Process. In sum, while some smaller carriers may have raised issues in this proceeding, the industry at large – including many small and medium carriers – is unified in support of the Commission’s draft Order.

At the meetings, the Industry Group did not express an opinion on the confidentiality of particular documents on the record but noted that confidentiality must be considered on a case by case basis, with a focus on protecting the proprietary information of those vendors that offered bids in the LNPA Selection Process. In discussing neutrality issues that have been raised, the Industry Group affirmed that the NANC, NAPM, and the SWG were not tasked by the Commission with considering the neutrality status of the vendors. While the Industry Group raised no neutrality concerns, the participants understand this issue has always been in the Commission’s purview.

In all of the meetings, there was discussion of possible benefits and detriments in engaging a third party administrator to oversee the transition. The Industry Group did not express a preference for the participation of a third party administrator and opposed any suggestion that the Commission should seek public comment on the eventual LNPA contract, stressing that this is not a government procurement, but rather is a private contract between the NAPM and the LNPA vendor.¹¹ Even though the Commission has retained final approval authority over the contract, the Bureau has recognized “that the NAPM has the expertise, experience and is in the best position to negotiate a contract with the selected vendor(s).”¹² The

⁹ *Id.*

¹⁰ *See XO Ex Parte* at 11 & n.62 (citing RFP section 12.3).

¹¹ *Petition of Telcordia Technologies Inc. to Reform or Strike Amendment 70, to Institute Competitive Bidding for Number Portability Administration and to End the NAPM LLC’s Interim Role in Number Portability Administration Contract; Telephone Number Portability, Order*, WC Docket No. 09-109; CC Docket No. 95-116, DA-11-454, ¶ 4 (rel. May 16, 2011) (“*LNPA Selection Order*”).

¹² *Id.* ¶ 8.

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Industry Group has concerns that either of these proposals would further delay the transition and increase industry costs, neither of which would serve consumers. While the Industry Group recognized that an administrator with arbitration authority to resolve any potential disputes may be beneficial, a third party is not necessary to address technical aspects of the transition, as the industry numbering experts are already deeply involved in the process and are poised to begin the transition planning and testing. The Industry Group is confident that the transition will be efficiently and appropriately managed with the company/industry experts already participating in the NANC working groups and NAPM. The most important element is to get the transition underway and that cannot happen until the Commission issues an Order. As recently recognized by former Nebraska Public Service Commissioner Anne Boyle, the Commission should not give weight to these efforts to forestall or “paralyze” a decision in this long-pending proceeding.¹³

Please contact the undersigned should you have any questions.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION



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¹³ Lynn Stanton, TR's State NewsWire, *Former Nebraska commissioner withdraws support from LNPA letter* (March 18, 2015).