August 10, 2005

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: CC Docket 95-116: Letter from BellSouth, AT&T, SBC, Citizens Communications and Cox Communications

Dear Ms. Dortch:

This letter is filed on behalf of BellSouth Telecommunications, Inc., AT&T Corp., SBC Communications Inc., Citizens Communications and Cox Communications, Inc., and responds to the August 2, 2005 *ex parte* presentation of T-Mobile USA, Inc., Nextel Communications, Qwest Communications, Sprint and MCI (collectively referred to herein as "T-Mobile, et al."). In their *ex parte*, T-Mobile, et al., asked the Commission to immediately withdraw its abeyance directive on North American Numbering Council ("NANC") Change Orders 399 and 400 so that both of these change orders could be included in the Number Portability Administration Center ("NPAC") Release 3.3 in an "inactive state."

While the undersigned parties do not object to a Commission directive that would allow the inclusion of Change Order 399 in NPAC Release 3.3, we oppose the inclusion of Change Order 400. As participants in the Future of Numbering Working Group, we each opposed including Change Order 400 in the upcoming NPAC Release. We wish to re-emphasize the position of those NANC participants, including ourselves, that do not support the inclusion of Change Order 400 in NPAC Release 3.3 and urge the Commission to deny the relief requested by T-Mobile, et al., for the reasons set forth below.

First, the August 2, 2005 *ex parte* cover letter states that "at least half of the industry favors including NANC 400 in an 'inactive state' in Release 3.3." We disagree with this assertion. Neither the NANC nor the Future of Numbering Working Group reached a consensus with respect to Change Order 400. Moreover, it is important to note that NANC's Local Number Portability Administration ("LNPA") Working Group review of NANC 400 was not a policy or regulatory compliance review, only a technical review to determine if this auxiliary feature would operate within the existing software structure. To cite the LNPA Working Group action as consensus that the feature **can be deployed** does not lead to consensus that it **should be deployed**. This consensus simply does not exist, and absent some compelling reason to override the consensus process,

which T-Mobile, et al., has not provided, the Commission should not withdraw its abeyance directive on Change Order 400.

Second, the T-Mobile, et al., *ex parte* misrepresents the facts regarding Change Order 400. Throughout the discussion and debate on this auxiliary software feature, there has been recognition that telecommunications service is not at risk when an end user switches providers. Therefore, Change Order 400 is not necessary to ensure that telecommunications service is maintained.

Third, there are legitimate reasons to exclude Change Order 400 from NPAC Release 3.3. These arguments are presented in detail in Section 4.2.2 of the NANC's Report and Recommendation on Change Orders 399 & 400. In brief, they are as follows:

1. Change Order 400 would appear to expand NPAC functionality beyond what is needed for local number portability;

2. Change Order 400 not being implemented at this time will not affect the capability of service providers to port telephone numbers;

3. Change Order 400 may not be required by all service providers. Use of the functionality provided by Change Order 400 by some service providers will impose significant costs on service providers that do not use its functionality. This is a particularly significant concern in the absence of industry consensus;

4. Change Order 400 would simply provide a superfluous means to address needs for which sufficient solutions already exist;

5. Implementation of Change Order 400 may produce anti-competitive effects by giving one vendor an unearned advantage over potential competitors in development of new functionality.

Finally, even the parties that support implementing Change Order 400 acknowledge that it is not required to meet current number portability requirements. This acknowledgment further demonstrates that there is no compelling need for the Commission to override the consensus process.

Until the Commission considers fully all of the issues set forth above, it should not withdraw its abeyance directive on Change Order 400 as requested by T-Mobile, et al.

In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this submission are being provided to the Secretary's office on this date.

Sincerely,

/s/
Jeanine Poltronieri
Vice President, Federal Regulatory
BellSouth Corporation

/s/
Michael F. Del Casino,
Regulatory Division Manager
AT&T Corp

/s/
Henry G. Hultquist
AVP, Regulatory Planning & Policy
SBC Communications, Inc.

/s/
Alex Harris
Vice President, Regulatory
Citizens Communications

/s/
Carrington F. Phillip
Vice President, Regulatory Affairs
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cc:
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