

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

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

WC Docket No. 09-109

Telephone Number Portability

CC Docket No. 95-116

REPLY COMMENTS OF AT&T INC.

AT&T Inc., on its own behalf and on behalf of its subsidiaries, files these reply comments in response to the Wireline Competition Bureau's *Request for Comment* filed in this matter.¹

In the *Request for Comment*, the Wireline Competition Bureau (Bureau) seeks comment on the proposal regarding a process for selecting the next local number portability administrator (LNPA), which will be referred to in these reply comments as the "Selection Proposal." Specifically the Bureau seeks comments on the respective roles of the North American Numbering Council (NANC) Chair and the North American Portability Management LLC (NAPM) in that process.² AT&T wholeheartedly supports the Selection Proposal process, as is, and recommends that the Bureau adopt it.

A. Absent Extraordinary Circumstances, the Bureau Should Back the NANC Selection Proposal.

It is wholly appropriate to allow an examination of the Selection Proposal process. There needs to be a mechanism to air differing opinions. Nevertheless, in the absence of extraordinary

¹ *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 and Request for Comment*, DA-11-454 (rel. Mar. 8, 2011) (*Request for Comment*).

² *Id.*, para. 1.

circumstances, AT&T believes that the best practice in the long run is to back consensus in the NANC whenever possible.³ Without trying to enumerate all of them, one obvious example of an extraordinary circumstance would be for the NANC to plainly deviate from established Commission policy. That is not the case here.

A consensus denotes a “general accord” or “agreement.”⁴ Hence, by definition it would not necessarily need to be unanimous. While unanimity would be the ideal, in the real world it is rarely if ever reached. In a working body like the NANC, which is composed of various members with differing views and interests, any consensus is reached as the result of reasonable compromise. It cannot work any other way. To undermine the consensus process *without just cause* would be to render the NANC, or any similarly constituted body, ineffective and pointless. In this case, commenters have not raised any such grounds for undoing the consensus reached in the NANC. Because of this, AT&T supports the Selection Proposal and asks the Bureau to do the same.

B. The Bureau Should Not Interfere with the Selection of the SWG Chairs

Under the Selection Proposal, the NANC will establish an LNPA Selection Working Group (SWG) to oversee the selection process.⁵ The SWG is open to all members of the NANC, as well as individuals from any “association or governmental entity,” as long as they do not have a conflict of interest with any vendor or potential vendor and can sign an appropriate non-

³ In the *Request for Comment*, the Bureau notes in footnote 1 that the Selection Proposal “purports to be a consensus proposal” but that the “full NANC has not adopted it.” That was true on March 8, 2011, when the Bureau issued its order and request; however, on March 9, 2011, the “full NANC” adopted the Selection Proposal. It is, therefore, a consensus proposal of the NANC. Minutes of the March 9, 2011, NANC meeting taken by Commission staff will reflect that consensus was reached on the Selection Proposal on that date.

⁴ WEBSTER’S II: New Riverside University Dictionary, The Riverside Publishing Company, p. 300 (1984).

⁵ NANC/NAPM LLC CONSENSUS PROPOSAL FOR CLARIFICATION OF THE FCC’S RULES REGARDING THE LNPA SELECTION PROCESS, I. Summary of the Proposed LNPA Selection Process, para. 2 (Selection Proposal).

disclosure agreement.⁶ The members of the SWG will elect three chairs to administer their work.⁷ This proposal is fair, straight-forward, and consistent with basic democratic principles for the functioning of such a group.

In its comments, Telcordia Technologies, Inc. (Telcordia) proposes that one of the three SWG chairs be reserved *a priori* for “a state utility commissioner or consumer advocate.”⁸ AT&T does not support this proposal, because it is unnecessary and contrary to fundamental principles of self-governance. Moreover, this proposal is inconsistent with the way the NANC has historically governed itself and the way the NANC has generally created and operated working groups like the SWG. It is common for the NANC chairs to be drawn from the members of the working group—those NANC members who are willing to serve on a committee—and the chairs are selected by those members. As the SWG can be composed of individuals from associations or governmental entities, it is possible that one or more of the chairs could be a state utility commissioner or consumer advocate. But the selection of the SWG chairs ought to be within the hands of the SWG members themselves and not imposed from above, especially without some significant evidence that, in the absence of such a requirement, the selection process would be unfair or corrupted. No such evidence exists much less was proffered.

In addition to being undemocratic and an unnecessary affront to the working members of the SWG, the proposal is impractical. It may be that such individuals may not choose to participate in the SWG or, if they are willing to participate in the SWG, may choose not to participate as a chair. If this happens, then the work of the SWG must be postponed while the Bureau figures out a mechanism for appointing a non-member chair to the SWG. All in all, the result would be unsatisfactory and completely foreign to the normal functioning of such working groups.

⁶ *Id.*

⁷ *Id.*

⁸ Comments of Telcordia Technologies, Inc., p. 2 (Mar. 22, 2011).

The Bureau should reject this proposal in favor of allowing the members of the SWG to select their own chairs in a democratic manner. After all, the chairs ought to have the confidence of the majority of members of the SWG.

C. The Bureau Should Reject Contentions to Modify the Selection Proposal to “Safeguard the Public’s Pocketbook” or “the Expenditure of Federal Money.”

Oddly both Telcordia and the National Association of State Utility Consumer Advocates (NASUCA) make oblique references to public funds as a reason for amending the Selection Proposal.⁹ AT&T is puzzled by these comments. As a general statement, AT&T has no objections to the commenters’ references to “transparency” and “accountability” and similar lofty goals. Nevertheless, the references to public funds appear misplaced as, under the current structure of the administration of telephone number portability (LNP), no public funds are involved. The costs associated with the administration of LNP—the LNPA, the LNP database, the activities of the NAPM, and actual porting of telephone numbers—are paid by providers and vendors, not taxpayers or consumers. Because such costs are paid by the industry, the industry is highly motivated to ensure that the costs are fair and reasonable and that they are not excessive in any way.

The Bureau should not be swayed by this vague reference to public monies. The Selection Proposal already addresses the lofty goals of accountability and transparency, as well as fairness to the NANC membership.

For these reasons among others, the Bureau should adopt the consensus proposal of the NANC.

⁹ Telcordia, pp. 1-2 (“Reestablishing accountability over fundamental policy decisions involving number portability administration and requiring competitive bids for the next number portability administrator contract are necessary . . . to effectively safeguard the public’s pocketbook.”); Comments of the National Association of State Utility Consumer Advocates, p. 5 (Mar. 22, 2011) (“NASUCA submits that fundamental decisions regarding the administration of numbering sources [sic], as well as the expenditure of federal money, should be made by entities that are publicly accountable.”)

