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

ORDER AND REQUEST FOR COMMENT

Adopted: March 8, 2011 **Released: March 8, 2011**

Comments Due: March 22, 2011
Reply Comments Due: March 29, 2011

By the Chief, Wireline Competition Bureau:

1. The Wireline Competition Bureau (Bureau) takes four actions in furtherance of selection of the next local number portability administrator (LNPA). The LNPA provides local number portability services under a contract with an industry consortium (the LNP contract). First, we delegate authority to the North American Numbering Council (NANC), working in consultation with the North American Portability Management LLC (NAPM), to implement a process for selecting the next LNPA. Second, the Bureau seeks comment on the specific process that the NANC and NAPM shall use. In particular, the Bureau seeks comment on a proposal by the NANC Chair and the NAPM regarding their respective roles in the LNPA selection process.[1] Following the comment period, the Bureau will set forth more details about the LNPA selection process. Third, we direct the NANC to recommend to the Federal Communications Commission (Commission) one or more independent, non-governmental entities to serve as the next LNPA. Fourth, we outline the Bureau's role in overseeing the LNPA selection process.

2. ***Background.*** Section 251(e)(1) of the Communications Act of 1934, as amended (the Act), requires the Commission to create or designate one or more impartial entities to administer telecommunications numbering.[2] One of the issues associated with numbering administration is the need to manage telephone numbers so that customers may retain their phone number in the same location if they switch service providers. In the *First LNP Order,* the Commission concluded that it is in the public interest to manage numbering resources through regionally-deployed databases administered by one or

[1] *See* NANC/NAPM LLC Consensus Proposal for Clarification of the FCC's Rules Regarding the LNPA Selection Process, filed February 14, 2011 (NANC/NAPM Proposal), Attachment A. Notwithstanding that this proposal purports to be a consensus proposal of the NANC and the NAPM, we note that the full NANC has not adopted it. Therefore, we refer to the proposal as a joint proposal of the NANC Chair and the NAPM.

[2] 47 U.S.C. § 251(e)(1).

more neutral third parties to enable customers to retain their numbers and have the numbers ported to another service provider.[3]

3. In the *First LNP Order*, the Commission directed the NANC, within seven months, to recommend one or more independent, non-governmental entities, not aligned with any particular telecommunications segment, to serve as LNPA(s).[4] The Commission's action was consistent with the duties established for the NANC in the *Numbering Plan Order*[5] and the NANC Charter.[6] The NANC established the LNPA Selection Working Group to review and advise on LNP administration issues.[7] The LNPA Selection Working Group recommended a process for selecting the LNPA. The LNPA Selection Working Group also recommended that service providers organize as limited liability companies (LLCs) to implement the sequence of LNPA selection activities.[8]

4. Based on these recommendations, the Commission approved an administrative structure to allow non-profit industry regional LLCs to select and oversee porting contractors in a competitive market.[9] The LLC structure ultimately resulted in the creation of the NAPM.[10] Under that structure, the NAPM, an industry consortium, contracted for an administrator for the Number Portability Administration Center/Service Management System (NPAC/SMS)[11] to provide LNP services.[12] Currently, Neustar is the LNPA. Neustar's contract to maintain, administer, and operate the NPAC/SMS expires on December 31, 2015.

5. ***Discussion.*** The Commission's initial delegation of authority to the NANC to recommend one or more entities to serve as the LNPA(s) was limited in duration, and thus has expired. The Commission therefore must establish a new process for selecting the LNPA(s) when the current contract expires. Pursuant to our authority in section 251(e)(1) of the Act, we delegate to the NANC the initial responsibility for developing a process to select the next LNPA(s) and for recommending to the Commission one or more LNPAs. Our delegation to the NANC ensures wide industry participation in the

[3] *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996) (*First LNP Order*).

[4] 47 CFR §52.25(c). The NANC was directed to make a recommendation within seven months of its initial meeting. The Commission also directed the NANC to recommend the administrator selection process, the duties of local number portability administrator(s), the location of regional databases, the overall national architecture, and technical specifications for the regional databases. *First LNP Order*, 11 FCC at 8401, para. 93.

[5] *Administration of the North American Numbering Plan*, CC Docket No. 92-237, Report and Order, 11 FCC Rcd 2588 (1995) (*Numbering Plan Order*).

[6] *First LNP Order*, 11 FCC Rcd at 8401, para. 93, citing *Charter of the North American Numbering Council*, approved Oct. 5, 1995.

[7] *See* Letter from Alan C. Hasselwander, Chairman, NANC, to Reed Hundt, Chairman, FCC, CC Docket No. 95-116 (May 1, 1997), transmitting the report from the NANC's Local Number Portability Administrator Selection Working Group, dated April 25, 1997 (*Working Group Report)*.

[8] *Working Group Report* at § 4.

[9] *Telephone Number Portability*, Second Report and Order, 12 FCC Rcd 1228, 12297-98 (1997) (*Second LNP Order*).

[10] Initially, there were seven separate LLCs, one for each of the seven Bell Operating Company regions. In 1999, the seven LLCs consolidated into one and became the NAPM LLC.

[11] The NPAC/SMS consists of hardware and software platform(s) that host a national information database and serve as the central coordination point of LNP activity.

[12] *Second LNP Order*, 12 FCC Rcd at 12303, para. 33.

LNPA selection process. It is also consistent with the process used to select the initial LNPAs. We further direct the NANC to consult with the NAPM.[13] The NAPM has obtained considerable expertise from overseeing and managing the LNP contract for over ten years. Moreover, we anticipate that the selection process will require substantial resources and that the NAPM is in a position to provide those resources. We find that the delegation to the NANC, with assistance from the NAPM, will allow the Commission and interested parties to get the benefit of the NANC's and the NAPM's significant experience with the LNP process. Thus, we direct the NANC, with assistance from the NAPM, to develop and recommend a selection process, including designing a Request for Qualifications and selection criteria to facilitate competitive bids.[14] The Bureau will approve the process that will be used to select the next LNPA(s). We also direct the NANC, using the selection process approved by the Bureau, to recommend one or more independent, non-governmental entities that are not aligned with any particular telecommunications industry segment to serve as LNPA(s). The Commission (or the Bureau acting on delegated authority) will make the final selection of the LNPA(s).

6. ***NANC Chair/NAPM Proposal for LNPA Selection Process.*** We seek to identify a clear and concrete process for LNPA selection so that interested parties will understand the steps involved, and to propose a timeframe for action. The NANC Chair and the NAPM have jointly proposed a process for selecting the next LNPA(s).[15] Their proposal sets forth what they believe should be the respective roles of the NANC and the NAPM in selecting the LNPA(s) and we find it to be consistent with prior delegations of authority and Commission rules regarding LNPA selection.

7. The parties propose that the NANC oversee the selection process by establishing the LNPA Selection Working Group (LNPA Selection WG) and that the NAPM administer the process by utilizing its Future of the Number Portability Administration Center Subcommittee (FonPAC Subcommittee). The LNPA Selection WG's proposed responsibilities include reviewing and approving the FonPAC Subcommittee's Request for Information (RFI) and Request for Proposal (RFP) before submission to the NANC Chair. The NANC Chair will submit these documents to the Commission with a request for public release. In addition, the LNPA Selection WG will review and evaluate the FonPAC Subcommittee's vendor selection recommendation before submission to the NANC for approval. The NANC will disband the LNPA Selection WG after the Commission approves the vendor(s) selection. We attach the complete NANC Chair/NAPM proposal to this order,[16] and seek comments on it from interested parties. We invite parties to offer additional suggestions about the process and recommend a timeframe that will ensure that a new LNPA contract is in place when the existing contract expires on December 31, 2015.

8. ***Bureau Involvement in LNPA Selection Process.*** The Bureau will have considerable involvement in the LNPA selection process to ensure that the process runs efficiently and is impartial to all vendors and all segments of the industry. We impose the following requirements to ensure efficiency and fairness:

- The NANC/NAPM must provide a timeline for the LNPA selection process and inform the Bureau of its progress at each step. Specifically, the NANC/NAPM must submit progress reports pertaining to issuance of the RFI, the Technical Requirements Document (TRD), and the RFP, including evaluation criteria. The NANC/NAPM must also provide the Bureau with information concerning receipt of completed bids, including the number and

[13] We will establish more details about the roles of the NANC and the NAPM, and adopt a timeframe for the process, after we consider comments on a specific process, as discussed below.

[14] The Commission or Bureau will select the LNPA(s) through a competitive bidding process.

[15] *See* Attachment A.

[16] *See id.*

names of bidders, when known. The timeline shall provide adequate time for potential delays or contingencies and still ensure that a new contract will be in place when the existing contract expires.

- The NANC/NAPM may not issue any procurement documents (RFI, TRD, or RFP) without prior Bureau authorization. The NANC/NAPM must provide sufficient time for the Bureau to fully review and coordinate internally any such documents.
- When requested, the NANC/NAPM must provide to Bureau representatives any information submitted by any party in the selection process.
- After evaluating the bidders, the NANC/NAPM must submit a recommendation to the Bureau which includes a ranked evaluation of the bidders that relies on criteria established in the RFP.

9. Once the NANC/NAPM submits its bidder recommendations, the Commission – or Bureau acting on delegated authority – will select the vendor(s) to serve as the LNPA(s).

10. Pursuant to sections 1.415 and 1.419 of the Commission's rules,[17] parties may file comments in response to this Request for Comment no later than **March 22, 2011,** with the Secretary, FCC, 445 12th Street, SW, Washington, DC 20554. Reply comments may be filed with the Secretary, FCC, no later than **March 29, 2011**. All pleadings are to reference **WC Docket No. 09-109** and **CC Docket No. 95-116**.

11. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[18] Comments filed through the ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/cgb/ecfs/. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of the proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking numbers. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

12. Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

13. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Parties are strongly encouraged to file comments electronically using the Commission's ECFS.

[17] 47 C.F.R. §§ 1.415, 1.419.

[18] *See Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

14. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Parties should also send a copy of their filings to Marilyn Jones and Sanford Williams, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Rooms 5-C264 and 5-C217, 445 12th Street, SW, Washington, DC 20554, or by e-mail to marilyn.jones@fcc.gov and sanford.williams@fcc.gov. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

15. Documents in WC Docket No. 09-109 and CC Docket No. 05-116 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. S.W., Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

16. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

17. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the *ex parte* rules.[19] Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.[20] Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the rules.[21]

18. For further information, contact Marilyn Jones or Sanford Williams, Competition Policy Division, Wireline Competition Bureau, at marilyn.jones@fcc.gov or sanford.williams@fcc.gov.

19. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i) and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 251(e), sections 1.3 and 52.111 of the Commission's rules, 47 C.F.R. §§ 1.3 and 52.111, and pursuant to authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291,[22] that authority is delegated to the North American Numbering Council as set forth above.

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[19] 47 C.F.R. § 1.1200 *et seq.*

[20] *See* 47 C.F.R. § 1.1206(b)(2).

[21] 47 C.F.R. § 1.1206(b).

[22] *See* 47 U.S.C. § 155(c).

20. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 251(e) and 408 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251(e), and 408, section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, and pursuant to authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that this action IS EFFECTIVE IMMEDIATELY UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief, Wireline Competition Bureau

ATTACHMENT A

NANC/NAPM LLC Consensus Proposal for Clarification of the FCC's Rules Regarding the LNPA Selection Process

The Number Portability Administration Center ("NPAC") has become a critical component of the telecommunications industry's infrastructure. More than 4,000 service providers rely on the NPAC every day to route voice calls and text messages to their intended destination. We understand that the Federal Communications Commission ("FCC" or "Commission") intends to clarify the respective roles of the North American Numbering Council ("NANC"), a federal advisory committee, and the North American Portability Management LLC ("NAPM LLC"), composed of a diverse group of service providers, with regard to the process for selecting one or more Local Number Portability Administrator(s) ("LNPA(s)"). Accordingly, the NANC and NAPM LLC hereby submit this consensus proposal ("Proposal") regarding the process for selecting the LNPA(s) that will provide service to the communications industry upon expiration of the current and any subsequent vendor contracts.

I. SUMMARY OF THE PROPOSED LNPA SELECTION PROCESS

The Proposal -- which is based on, and consistent with, the Commission's rules and orders -- reflects consensus support for the following LNPA selection process:

1. The FCC will reaffirm the following delegations of authority:
    a. NANC is authorized to oversee the selection of one or more independent, non-governmental entities that are not aligned with any particular telecommunications segment to serve as the LNPA(s) and to make recommendations to the Commission regarding such selection; and
    b. Subject to the oversight of the NANC, the NAPM LLC is authorized to recommend the selection of the LNPA(s).

2. The NANC will establish an LNPA Selection Working Group ("SWG") to oversee the selection process of the LNPA(s).
    a. The SWG will be comprised of and open to any individual who (a) is a NANC Member, NANC Alternate or technical staff of a NANC Member company, association or governmental entity and (b) who:
        i. does not have a conflict of interest, or the appearance of a conflict of interest, with any vendor or potential vendor; and
        ii. signs a non-disclosure agreement which prohibits (a) disclosure of confidential information to anyone who is not a member of the SWG or the NANC Chair and (b) the use of confidential information for any other purpose or in any other venue or hearing.
    b. For reasons of confidentiality, the NANC will delegate the authority to reach consensus on behalf of the NANC to the SWG with respect to the request for information ("RFI") and the request for proposal ("RFP").
    c. Membership and participation in meetings is unrestricted, but each participating NANC Member company, association or governmental entity may exercise only one (1) vote on any given issue regardless of how many individuals associated with the NANC Member company, association or governmental entity are participating in the SWG. Decisions must be reached by consensus, which does not require unanimous

consent, but is not reached if the majority of any affected industry segment disagrees with the proposed decision.

d. The SWG members will elect three chairs for the SWG to administer the SWG activities and determine consensus when required.
e. Non-voting FCC staff observers may attend any meeting of the SWG.

3. The NAPM LLC will utilize its Future of the NPAC Subcommittee ("FoNPAC Subcommittee"), which operates pursuant to the NAPM LLC Operating Agreement, to administer the selection process of the LNPA(s).

4. The SWG will work with, provide policy guidance as outlined by the FCC to, and oversee the technical work by, the FoNPAC Subcommittee.

5. The SWG and the FoNPAC Subcommittee will follow the LNPA vendor selection process set forth below:
   a. The SWG will oversee the development of the draft RFI by the FoNPAC Subcommittee.
   b. The FoNPAC Subcommittee will submit the draft RFI to the SWG for approval.
   c. The SWG will review and either approve the draft RFI or suggest revisions to the draft RFI for the FoNPAC Subcommittee. The FONPAC Subcommittee will consider any suggested revisions and work with the SWG to reach agreement regarding any suggested revisions. The SWG will prepare a status report and submit the approved RFI to the NANC Chair.
   d. The NANC Chair will submit the approved RFI, along with a request for public release within 15 days, to the FCC and will submit the SWG status report to the NANC.
   e. Once the FCC publicly announces the release date of the RFI, the NAPM LLC may activate website software to receive public and vendor responses to the RFI.
   f. The FoNPAC Subcommittee will review and analyze the RFI responses and present recommendations regarding the outline for the RFP to the SWG.
   g. The SWG will review and approve the outline for the RFP or suggest revisions regarding NPAC policy issues and vendor qualifications selection criteria to be included in the RFP for the FoNPAC Subcommittee. The FoNPAC Subcommittee will consider any suggested revisions and work with the SWG to reach agreement regarding suggested revisions to the outline for the RFP.
   h. The FoNPAC Subcommittee will draft the RFP and submit it to the SWG for review and approval.
   i. The SWG will review and approve the RFP or suggest revisions regarding the RFP for the FoNPAC Subcommittee. The FoNPAC Subcommittee will consider any suggested revisions and work with the SWG to reach agreement regarding any suggested revisions. The SWG will prepare a status report and will submit the RFP and status report to the NANC Chair.
   j. The NANC Chair will submit the RFP, along with a request for public release within 30 days, to the FCC and the SWG status report to the NANC.
   k. Once the FCC publicly announces the release date of the RFP, the NAPM LLC may activate website software to receive vendor responses to the RFP.

l. The FoNPAC Subcommittee will review and evaluate vendor responses to the RFP, and prepare a vendor selection recommendation to the SWG.
m. The SWG will review and evaluate the FoNPAC Subcommittee's vendor selection recommendation. The SWG may approve the FoNPAC Subcommittee's vendor selection recommendation or provide specific reasons for not approving the selection recommendation to the FoNPAC Subcommittee. The FoNPAC Subcommittee will consider this feedback and may revise its vendor selection recommendation.
n. The SWG will present the FoNPAC Subcommittee's final vendor selection recommendation to the NANC.
o. The NANC will utilize a consensus process to approve the FoNPAC Subcommittee's vendor selection recommendation or suggest specific reasons why the FoNPAC Subcommittee should consider an alternative recommendation, which the FoNPAC Subcommittee will consider and, if appropriate, revise its recommendation.
p. Upon consensus approval of the FoNPAC Subcommittee's vendor selection recommendation, the NANC Chair will submit the recommended vendor(s) and evaluation report to the NANC for final approval. The NANC will have final approval of the recommendation that will be transmitted to the FCC by the NANC Chair.
q. Upon final approval of vendor(s) selection by the FCC, the NANC will disband the SWG.

6. The FCC will authorize the NAPM LLC:
   a. to negotiate a contract(s) with the selected vendor(s) upon final approval of vendor(s) selection by the FCC;
   b. to approve and oversee system design, development, industry testing and activation; and
   c. to manage the vendor(s) contracts, with regular progress reports to the NANC. NAPM LLC will file the final contracts with the FCC. NANC will submit operational status reports, as needed, to the FCC.

7. If the SWG is unable to reach consensus regarding any issue, the issue shall be referred for resolution to the FCC, subject to appropriate protections for confidential information.

II. THE PROPOSAL REFLECTS THE CONSENSUS OF NANC AND THE NAPM LLC

The Proposal is endorsed by the NANC and the NAPM LLC. The Proposal represents our consensus view of the best process for selection of an LNPA(s) to provide the neutral, technologically proficient, and cost-effective administrative services that are necessary for achieving the important pro-consumer and pro-competitive purposes of local number portability ("LNP"). Significantly, the Proposal reflects the requirements of Sections 52.25 and 52.26 of the FCC's current rules, including the report to the Commission prepared by the NANC's LNPA SWG, dated April 25, 1997 ("*Working Group Report*"),[1] which is incorporated by reference in Section 52.26(a) of the Commission's rules.

[1] *See* Letter from Alan C. Hasselwander, Chairman, NANC, to Reed Hundt, Chairman, FCC, CC Docket No. 95-116 (May 1, 1997), transmitting the *Working Group Report*. *See also*, North American Numbering Council, *Local Number Portability Administration Selection Working Group Report* (Apr. 25, 1997) *available at* (continued....)

III. THE PROPOSAL REFLECTS THE CURRENT DELEGATIONS OF AUTHORITY AND FCC RULES REGARDING LNPA SELECTION

Under the Commission's existing rules, the NANC has oversight authority of the selection of the LNPA(s) and ultimately makes a recommendation regarding the selected LNPA(s) to the FCC, which in turn approves the selection. The existing rules also contemplate a selection process run by the regional LLCs (now consolidated into the single NAPM LLC) pursuant to NANC oversight. This process was expressly approved by the NANC and adopted by the Commission in 1997, and the Proposal reflects agreement between the NANC and the NAPM LLC that this same process should continue to be used for selecting LNPA(s).

A. The Delegation of Authority for NANC Oversight

Section 52.25(c) of the Commission's rules directs the NANC to "select a local number portability administrator(s) (LNPA(s)) to administer the regional databases."[2] Consistent with its determination that the number portability databases should be administered by a neutral third party, the Commission, in the *Number Portability First Report and Order*, directed the NANC to select "one or more independent, non-governmental entities that are not aligned with any particular telecommunications industry segment *within seven months* of the initial meeting of the NANC."[3] The Commission also explained that "[t]he fundamental purpose of the NANC is to act as an *oversight committee* with the technical and operational expertise to advise the Commission on numbering issues."[4] Section 52.25 does not, however, prescribe a specific process through which the NANC is to select the LNPA.

B. The LNPA Selection Process Set Forth in the *LNPA SWG Report*

For the initial LNPA selection, the NANC exercised its oversight authority through the LNPA SWG. The appropriate LNPA selection process is set forth in the *Working Group Report*, which, along with most of its Appendices, is incorporated by reference in Section 52.26 of the Commission's rules.[5] As such, the recommendations and procedures outlined in the *Working Group Report* have the force of law and outline a process for the selection of the LNPA. The *Working Group Report* endorsed a process wherein the regional LLCs selected the LNPAs for each region. Those selections were subsequently reviewed by the LNPA SWG for consistency with the statutory and rule-based requirements, and ultimately approved by the NANC and recommended to the Commission. The Commission approved the NANC recommendation and incorporated the *Working Group Report* into its rules.

At the time of the formation of the LNPA SWG, service providers in each of the seven Regional Bell Operating Company regions, acting through the regional LLCs, had already begun a LNPA procurement

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http://www.fcc.gov/wcb/cpd/Nanc/wknggrp.doc ("*Working Group Report*, *id.*, Appendix D: Architecture & Administrative Plan for Local Number Portability, *available at* http://www.fcc.gov/wcb/cpd/Nanc/nanca1r3.doc.

[2] 47 C.F.R. § 52.25(c).

[3] Telephone Number Portability, CC Docket No. 96-116, RM 8535, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, 8401 ¶ 93 (1996) (emphasis added).

[4] *Id.* at 8401 ¶ 93 (emphasis added).

[5] *See* 47 C.F.R. § 52.26(a) ("Local number portability administration must comply with the recommendations of the North American Numbering Council (NANC) as set forth in the report to the Commission prepared by the NANC's Local Number Portability Administration Selection Working Group, dated April 25, 1997 (*Working Group Report*) and its appendices, which are incorporated by reference pursuant to 5 U.S.C. 552(a) and 1 CFR part 51.").

process.[6] In addition to probing vendor suitability, the service providers subjected the potential administrators to a thorough pre-qualification process considering several factors, "including the neutrality of the database administrator with respect to providers of local exchange services, financial responsibility, experience and ability to deliver the services contemplated by the RFP in a timely manner."[7] Next, the service providers evaluated the pre-qualified potential vendors to determine which applicants would best provide timely, cost-effective, and technically proficient services.[8]

Rather than develop an entirely new selection process, the LNPA SWG simply reviewed the steps that had already been taken by the LLCs to determine their sufficiency.[9] The LNPA SWG identified several criteria, based upon the Telecommunications Act of 1996[10] and the *First Report and Order*, that it concluded should govern the selection of a LNP database administrator. These criteria included:

> (1) "competitive neutrality," meaning that local number portability database administrators must be unaligned with any industry segment and that local number portability database administrators must treat competing users of their services impartially with respect to costs, terms and conditions;
>
> (2) equal and open access to local number portability databases and numbers;
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> (3) uniformity in the provision of local number portability data;
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> (4) cost effective implementation of local number portability;
>
> (5) consistency in local number portability administration;
>
> (6) local number portability database administrator compliance with NANC-determined technical and functional proficiency standards; and
>
> (7) regionalized local number portability database administrator deployment within the Commission's deployment schedule.[11]

Based upon these criteria, the LNPA SWG determined that the selections made by the service providers, through the regional LLCs, conformed with the requirements of the LNPA as set forth by Congress and the Commission. Thus, the NANC reported its endorsement of the LLCs' selections to the Commission. The Commission approved of this approach in the *Second Report and Order*, stated that "[w]e find that the criteria utilized by the NANC in reviewing and evaluating the selection process employed by the various service providers at the regional level were sufficient to ensure that the local number portability database administrators ultimately recommended meet the Commission's requirements."[12]

This selection process was codified by the Commission through its incorporation of the *Working Group Report* into its rules in Section 52.26.[13] Accordingly, the Commission's rules and orders outline a LNPA

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[6] *Second Report and Order*, 12 FCC Rcd 12281, 12299 ¶¶ 26-27.

[7] *Second Report and Order*, 12 FCC Rcd at 12301 ¶ 30 (*citing Working Group Report*, § 4.2.3).

[8] *Id.*

[9] *Id.* at 12299-300 ¶ 28; *Working Group Report*, §§ 2.5.2, 2.5.3.

[10] Telecommunications Act of 1996, Public L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. §§ 151 *et seq.*

[11] *Second Report and Order*, 12 FCC Rcd at 12301 ¶ 29; *Working Group Report*, § 4.1.1.

[12] *Second Report and Order*, 12 FCC Rcd at 12303 ¶ 33.

[13] Section 6.4.4 of the *Working Group Report* recommends adoption of the process used to make LNPA vendor selections. *See Working Group Report*, § 6.4.4.

selection process that begins with the initial selection by the NAPM LLC of one or more LNPAs, followed by NANC review and approval of this selection to ensure that the selection comports with the FCC's requirements. The NANC has the opportunity to review and endorse the selection and ultimately makes its written recommendation to the Commission, which must also review and approve of the selection(s).

C. The Role of the NAPM LLC in the LNPA Selection Process

The Commission's rules, through a fully incorporated appendix of the *Working Group Report*, reflect the fact that "[t]he sole purpose of the formation of a Limited Liability Corporation (LLC) is to create an entity to select and manage a neutral third party number portability administrator."[14] Because of their technical and operational expertise, their direct experience with every detail of the NPAC operations, and the criticality of the NPAC to their businesses, the members of the NAPM LLC are recognized as having "the greatest expertise"[15] regarding the structure and operation of the NPAC, and the NAPM LLC's members have the greatest interest in ensuring technical proficiency, competitive neutrality, and forward-looking management of the NPAC. Indeed, it is for these reasons that the Commission's rules give the NAPM LLC the immediate authority over LNPA management and selection.[16]

D. The Establishment by NANC of a New SWG to Oversee and Work With the NAPM LLC as Set Forth in this Proposal Is Consistent With the Commission's Existing Rules and Orders

The NANC and the NAPM LLC recommend that the LNPA selection shall proceed according to the roles and responsibilities outlined in this Proposal.[17] The NAPM LLC and its FONPAC Subcommittee will produce the RFI and RFP subject to oversight from the NANC through its SWG. Once the NAPM LLC has made its selection of one or more LNPAs, the SWG, will review the selection(s) according to the criteria used in the original procurement.[18] Upon approval by the NANC, the selection(s) made by the NAPM LLC shall be forwarded to the Commission for approval. After approval by the Commission, the NAPM LLC shall negotiate a contract with the selected vendor(s), approve and oversee the implementation of the new system and manage the contract going forward.

As it did in 1997, the NANC will establish a Working Group to assist the NANC with its oversight. This Working Group will monitor the progress of the LNPA selection as it develops. For the initial LNPA selection, a LNPA SWG was formed "to address and to submit recommendations on all issues delegated to the NANC by the FCC regarding LNP administration."[19] A similar group -- the SWG -- will be formed for the current LNPA(s) selection process.

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[14] *Working Group Report*, Appendix D, § 12.2.1.

[15] Telephone Number Portability, CC Docket No. 95-116, RM 8535, *Second Report and Order*, 12 FCC Rcd 12281, 12346 ¶ 117 (1997)(*Second Report and Order*).

[16] *See* 47 C.F.R. § 52.26(b)(2); *Second Report and Order*, 12 FCC Rcd 12281, 12347 ¶ 119. The Commission intended to revisit this decision in a subsequent rulemaking but never proceeded to do so

[17] *See* NAPM LLC, *FONPAC RFP Timeline*, http://www.napmllc.org/pages/npacrfp/npacRFP_Timeline.aspx (last visited Dec. 19, 2010); *see also NAPM LLC Announces Request for Information From Vendors on Upcoming Request for Proposals for LNP Database Platforms and Services*, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116, Public Notice, 25 FCC Rcd 13379 (2010).

[18] For the seventh criterion, however, an appropriate timeline likely would be the procurement and deployment schedule set by the NAPM LLC at the outset of the procurement process.

[19] *Working Group Report*, § 2.2.1.

The SWG will have three primary responsibilities: (1) to monitor the LNPA selection and provide regular reports to the NANC as to its progress,[20] (2) to act as a resource and advisor to the NAPM LLC,[21] and (3) to issue a recommendation to the NANC regarding the ultimate LNPA(s) selected by the NAPM LLC.[22] These responsibilities are based directly on the activities of the original LNPA SWG as explained in the *Working Group Report*.[23] As set forth in this Proposal, the SWG will be an effective means for exercising NANC's oversight authority in a manner that safeguards the integrity of the RFI/RFP process.

IV. CONCLUSION

For the reasons explained above, the NANC and NAPM LLC respectfully request the Commission to endorse the Proposal as soon as possible so that the current stay of the LNPA selection process can be lifted and the need for further extensions of the current contract can be minimized to the greatest extent possible.

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[20] *See Working Group Report*, § 2.6.3.

[21] *See Working Group Report*, § 2.5.4. The LNPA SWG also developed the selection criteria discussed in Section IV, *supra,* that are now incorporated into the Commission's rules. Additionally, the LNPA SWG addressed national standards and operational issues for LNP. Since the initiation of LNP, those functions are dealt with by the NANC's existing and active Local Number Portability Administration Working Group ("LNPA WG").

[22] *See Working Group Report*, § 2.2.1.

[23] *See* 47 C.F.R. § 52.26(a).