

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.

SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3215

(202) 326-7900

FACSIMILE:
(202) 326-7999

May 6, 2014

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Electronically Filed

Re: CC Docket No. 95-116; WC Docket No. 07-149; WC Docket No. 09-109

Dear Ms. Dortch:

On May 2, 2014, Lisa Hook, President and Chief Executive Officer, Len Kennedy, General Counsel, and Scott Deutchman, Deputy General Counsel, all of Neustar, Inc., and Michele Farquhar, of Hogan Lovells, David Aufhauser, of Williams & Connolly, Thomas Navin, of Wiley Rein, and I met with Julie Veach, Lisa Gelb, Randy Clarke, Ann Stevens, Sanford Williams, Michelle Sclater (by telephone), and Jamie Susskind of the Wireline Competition Bureau and Michele Ellison, Diane Griffin Holland, and Jim Bird of the Office of General Counsel. This letter provides a record of the matters discussed at the meeting.

In our presentation, we discussed the process and legal requirements that would apply regardless of the vendor selected. We emphasized four main points, which are elaborated below. *First*, we explained that just as the Commission designated Neustar's predecessor as the LNPA pursuant to a Federal Register-published notice, the Commission is now required to issue and publish in the Federal Register a notice of proposed rulemaking ("NPRM") before changing the designation of the LNPA. *See, e.g., Sprint Corp. v. FCC*, 315 F.3d 369 (D.C. Cir. 2003). *Second*, the Commission's current rules bar any telecommunications network equipment manufacturer or affiliate from serving as LNPA; moreover, because the Commission reserved the evaluation of vendor neutrality to a later stage of the proceeding, it must now provide for development of a full record concerning that issue. *Third*, issuing an NPRM and making the full record available provides transparency and a meaningful opportunity for affected constituencies to comment on the NANC's proposed selection recommendation – which is necessary given the undisputed importance of the NPAC to the nation's telecommunications system and the effect of the selection decision on stakeholders. *Fourth*, the Commission should direct the FoNPAC to

Ms. Dortch
May 6, 2014
Page 2

call for an additional round of proposals to ensure that the industry and the public achieve the benefit of a fully competitive process.

1. An NPRM Is Mandatory: The Commission is required to issue a notice of proposed rulemaking and receive comments because the prior designation of Neustar's predecessor as LNPA was accomplished pursuant to notice-and-comment rulemaking and a Federal Register-published notice.¹

The 1996 Act directs the Commission to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis."² Congress further directed the Commission to "complete all actions necessary to establish regulations to implement" that requirement (among others) "[w]ithin 6 months after February 8, 1996."³ Pursuant to that statutory directive, on June 26, 1996, the Commission adopted its First Report and Order and Further Notice of Proposed Rulemaking in the Telephone Number Portability proceeding.⁴ The Commission explained that, before the 1996 Act took effect, it had already initiated the proceeding and sought comments on various issues related to telephone number portability.⁵ The Commission at that time adopted certain of its previously proposed rules regarding number portability.⁶ As to the new statutory requirement to select an entity to administer portability, however, the Commission did not promulgate a rule at that time but instead directed the NANC to select one or more independent entities as local number portability administrator(s) and to report that selection to the Commission.⁷ At the time, the Commission stated its belief that "[s]election of the LNPA(s) falls within the duties we established for the NANC in the *Numbering Plan Order* and the NANC Charter."⁸

¹ We noted in our letter of April 23, 2014, that because the previous designation of the LNPA was accomplished through notice-and-comment rulemaking, the Commission was required to follow the same procedure now. *See* Apr. 23 Ex Parte at 4-5 & n.18. Ericsson / Telcordia / iconectiv ("Ericsson") has never responded to that argument, which we detail further in text.

² 47 U.S.C. § 251(e)(1).

³ *Id.* § 251(d)(1).

⁴ *See* First Report and Order and Further Notice of Proposed Rulemaking, *Telephone Number Portability*, 11 FCC Rcd 8352 (1996).

⁵ *See id.* ¶ 1.

⁶ *See id.* ¶ 3.

⁷ *Id.* ¶¶ 93, 95.

⁸ *Id.* ¶ 93.

Ms. Dortch
May 6, 2014
Page 3

In April 1997, the NANC's LNPA Selection Working Group prepared a report containing its recommendations for the LNPAs, among other matters,⁹ and forwarded those recommendations to the Commission.¹⁰ The Common Carrier Bureau issued a public notice, seeking comment on the NANC's recommendation that the Commission select Lockheed Martin IMS as the LNPA for four regions and Perot Systems, Inc. as the LNPA for the remaining three regions.¹¹ On May 8, 1997, the Commission published in the Federal Register, under "Proposed Rules," the NANC's proposed selection of Lockheed Martin and Perot Systems as LNPAs and soliciting comments on the NANC's recommendations.¹² The Commission further specifically sought comment on the entirety of the 1997 SWG Report by incorporating it into the proposed rules by reference.¹³ Both the Bureau's Public Notice and the Commission's Federal Register Notice also observed that "the NANC's authority is limited to providing advice and recommendations to the Commission."¹⁴ Thus the Commission made plain that the NANC's recommendation was not the final selection; that "all procedural requirements of the Administrative Procedure Act" would apply to the LNPA designation proceeding; and that the Commission would treat the final LNPA selection "as a non-restricted rulemaking."¹⁵

⁹ See Report, North American Numbering Council, LNPA Selection Working Group (Apr. 25, 1997) ("1997 SWG Report"), attached as Attachment 1.

¹⁰ The North American Numbering Council (NANC) Issues Recommendations Regarding the Implementation of Telephone Number Portability, Public Notice, CC Docket No. 95-116, 12 FCC Rcd 5003, 5003-04 (May 2, 1997) ("NANC Recommendations Public Notice").

¹¹ *Id.* at 5004-05. The Bureau explained that it was acting pursuant to the Commission's directive in the First Report and Order "to issue a Public Notice that specifically identifies the administrator(s) selected by the NANC and the proposed locations of the regional databases." *Id.* at 5004.

¹² The North American Numbering Council (NANC) Issues Recommendations Regarding the Implementation of Telephone Number Portability, 62 Fed. Reg. 25,157, 25,157-58 (May 8, 1997) ("NANC Recommendations Federal Register Notice"), attached as Attachment 2.

¹³ See, e.g., *Natural Res. Def. Council, Inc. v. EPA*, 824 F.2d 1258, 1284 (1st Cir. 1987) ("Since the Agency anticipated that many of the subcommittee's recommendations would be incorporated into the final rule, the EPA also sought public comment on the SAB subcommittee's report.").

¹⁴ NANC Recommendations Federal Register Notice at 25,158; NANC Recommendations Public Notice at 5005.

¹⁵ NANC Recommendations Federal Register Notice at 25,158; NANC Recommendations Public Notice at 5005.

Ms. Dortch
May 6, 2014
Page 4

After receiving and reviewing public comment, the Commission issued a Second Report and Order adopting the NANC's recommendations with certain modifications.¹⁶ Among other things, the Commission "adopt[ed] the NANC's recommendation that Lockheed Martin IMS (Lockheed Martin) and Perot Systems, Inc. (Perot Systems) serve as the administrators for the regional number portability databases."¹⁷ Appendix B to the Commission's order included its "Final Rules," 47 C.F.R. § 52.26. The rules provide that "[l]ocal number portability administration shall comply with the recommendations of the 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" with certain specified exceptions that are not relevant here.¹⁸ The selection of Lockheed Martin and Perot Systems as the LNPAs was part of that report and was therefore incorporated into the regulation adopted by the Commission. The Commission then published a synopsis of its Second Report and Order, including the designation of the LNPAs and the new regulation incorporating that designation, as a "Final rule" in the Federal Register.¹⁹ Pursuant to 5 U.S.C. § 552(a) the Director of the Federal Register specifically approved the FCC's incorporation by reference.

Because the designation of Neustar (the successor entity to Lockheed Martin) as the LNPA was made through the adoption of a rule by the Commission pursuant to notice-and-comment rulemaking, the Commission cannot change that designation without conducting a new notice-and-comment rulemaking procedure, including an NPRM published in the Federal Register. "An agency that seeks approval for a change to a publication that is approved for incorporation by reference must – (1) Publish notice of the change in the Federal Register and amend the Code of Federal Regulations; (2) Ensure that a copy of the amendment or revision is on file at the Office of the Federal Register; and (3) Notify the Director of the Federal Register in writing that the change is being made." 1 C.F.R. § 51.11(a). And, under D.C. Circuit precedent, when an agency "effectively amends" a previous legislative rule by making a "substantive change" to that rule, notice-and-comment rulemaking is required.²⁰ Designating a new entity as

¹⁶ Second Report and Order, *Telephone Number Portability*, 12 FCC Rcd 12281, ¶ 3 (1997).

¹⁷ *Id.*

¹⁸ 47 C.F.R. § 52.26(a).

¹⁹ *Telephone Number Portability*, 62 Fed. Reg. 48,774, 48,775, 48,786 (Sept. 17, 1997), attached as Attachment 3. The Commission stated that "[t]he requirements and rule adopted in this *Second Report and Order* are necessary to implement the provisions of the Telecommunications Act of 1996." *Id.* at 48,774.

²⁰ *U.S. Telecom Ass'n v. FCC*, 400 F.3d 29, 34-35 (D.C. Cir. 2005); *see also Sprint*, 315 F.3d at 374 ("[N]ew rules that work substantive changes in prior regulations are subject to the APA's procedures."); *Am. Mining Congress v. Mine Safety & Health Admin.*, 995 F.2d 1106, 1112 (D.C. Cir. 1993) (if a "rule effectively amends a prior legislative rule," it is a "legislative, not an

Ms. Dortch
May 6, 2014
Page 5

LNPA would plainly work a “substantive change” to the designation of Lockheed Martin (now Neustar) and Perot Systems as the LNPAs.

The fact that the Commission in 1998 substituted Lockheed Martin for Perot Systems as the LNPA for the Southeast, Western, and West Coast regions without conducting a new notice-and-comment rulemaking proceeding does not alter the analysis.²¹ As noted, 47 C.F.R. § 52.26(a) directs that number portability – including the designation of the LNPAs – comply with the SWG’s 1997 Report. That report expressly provided that one LNPA designated in the report could be substituted for another in exactly the circumstances that arose in 1998 – “vendor failure or default.”²² That substitution was thus “compl[iant] with the recommendations of the NANC as set forth in the report,” as incorporated by the Commission in its rules, 47 C.F.R. § 52.26(a), and therefore required no change in the rule to accomplish.²³ By contrast, a change in the designation of the LNPA would be inconsistent with the rule promulgated by the Commission and can only be accomplished through notice-and-comment rulemaking.²⁴

interpretive rule” and cannot be promulgated without notice and comment); *cf. Shalala v. Guernsey Mem’l Hosp.*, 514 U.S. 87, 100 (1995) (noting that APA rulemaking is required if an agency adopts a new position “inconsistent with . . . existing regulations”).

²¹ See Second Memorandum Opinion and Order on Reconsideration, *Telephone Number Portability*, 13 FCC Rcd 21204, ¶ 9 (1998) (citing technical failures by Perot Systems and adopting NANC recommendation “to replace Perot Systems with Lockheed Martin as the LNPA” in those three regions).

²² 1997 SWG Report § 6.3.5 (recommending multiple vendors – Lockheed Martin and Perot Systems – to serve as LNPA(s) and stating that “if one vendor is unable to perform, or declines to renew its initial service contract term, there will be at least one other vendor capable of providing these services within a relatively short timeframe”); see also *Second Report and Order*, 12 FCC Rcd at 12281, ¶ 38; 62 Fed. Reg. at 48,776.

²³ Ericsson’s argument concerning the North American Numbering Plan Administrator and Pooling Administrator contracts is wrong for a related reason. See Letter from John Nakahata to Marlene Dortch, Secretary, FCC, CC Docket No. 95-116, WC Docket Nos. 07-149 and 09-109, at 3 (filed Apr. 28, 2014). In those cases, the Commission did not seek to change an existing rule. Rather, the Commission provided notice and sought comment on a proposed process to designate the NANPA and PA through a government contracting process. As Ericsson itself acknowledges (at 7), decisions relating to *public* contracts are not subject to notice-and-comment requirements under § 553(a)(2). That is why the Commission was not required to provide notice-and-comment prior to announcing the contract awards. The selection of the LNPA is not a government procurement.

²⁴ Ericsson has argued that the selection of the LNPA has only an indirect impact on third parties, akin to the grant of a broadcast or wireless license. That is incorrect: the selection of the LNPA

Ms. Dortch
May 6, 2014
Page 6

2. Ericsson Is Barred By Rule: A Notice of Proposed Rulemaking is further required to the extent that the Commission intends to depart from specific requirements applicable to potential LNPA vendors adopted in the 1997 SWG report. Among other things, the 1997 SWG Report notes that the RFPs that were the basis for selection of the LNPA included “neutrality requirements.” The report states that “any entity with a *direct material financial interest* in manufacturing telecommunications network equipment” – or any entity affiliated with such an entity – would be disqualified from serving as LNPA.²⁵ The Commission’s incorporation by reference of the 1997 SWG Report thus incorporates the prohibition on equipment manufacturers and their affiliates acting as LNPA.²⁶ To the extent the Commission is contemplating any change to that requirement, it must address that potential change through notice-and-comment rulemaking.

Furthermore, because the RFP documents indicate that the evaluation of proposals did not include any review of potential bidders’ neutrality showing, the Commission must design a process to ensure that interested parties have adequate information to comment meaningfully on potential vendors’ compliance with existing neutrality obligations, including the prohibition on equipment manufacturers serving as LNPA. At a minimum, this must include the neutrality showing submitted with initial proposals in April 2013. In addition, to the extent those

has a *direct* impact on the thousands of service providers that are required by regulation to deal with (and pay fees to) the LNPA. Ericsson cites no case like this one in which the Commission has lawfully acted without notice by characterizing its action as an adjudication rather than a rulemaking subject to the requirements of 5 U.S.C. § 553. Ericsson relies principally on *Conference Group, LLC v. FCC*, 720 F.3d 957, 965 (D.C. Cir. 2013), but that case is inapposite. That case involved a determination concerning whether a single named party’s audio bridging service was a telecommunications service subject to universal service obligations – the type of application of existing law to a specific set of facts that constitutes a classic adjudication. The only effect on third parties – as the D.C. Circuit expressly noted – was that the resolution of that case would provide precedent in a later adjudication involving similar facts, as adjudication typically does. *See id.* at 965-66. Moreover, in that case the Commission *did* issue a public notice and seek comment on the legal issues implicated in that proceeding – providing further support for the conclusion that when an agency decision affects many parties, notice-and-comment is the prudent course, even when not required (as it is here).

²⁵ 1997 SWG Report § 4.2.2(B)(2) (citing § 1.3.4 of the Mid-Atlantic Region’s RFP); *see also* Letter from Aaron M. Panner to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116, WC Docket No. 07-149, WC Docket No. 09-109, at 3 (filed Sept. 11, 2012).

²⁶ Although several of the regional RFPs did not include the prohibition on equipment manufacturers serving as LNPA, the 1997 SWG Report specifically includes that language. Thus, the prohibition on equipment manufacturers serving as the LNPA was incorporated into the Commission’s rules as part of the 1997 SWG Report. 47 C.F.R. § 52.26(a).

Ms. Dortch
May 6, 2014
Page 7

submissions lacked complete information concerning ownership and corporate affiliation of potential vendors and their sub-contractors, the Commission should require submission of such information prior to soliciting public comment on the neutrality issue.

3. Public Interest Considerations Warrant Full Transparency: As we have explained in our prior submissions, the NPAC plays a critical role in the nation's telecommunications infrastructure, and the choice of the LNPA will affect many constituencies. To ensure that the public notice-and-comment procedure provides those constituencies – which include service providers, the national security and public safety communities, and consumer representatives – a full opportunity to participate in the selection, the Commission should make the full record of the selection process available to the public.²⁷ Neustar has no objection to making the entire record available to the public.

If any participant objects to the release of specific trade secret information or other information, the Commission can make appropriate provision for review by counsel pursuant to a protective order. It is also critical for the Commission to make public deliberations concerning procedural decisions reached during the bidding process, including, for example, the decision with respect to solicitation of additional proposals.²⁸

The availability of the entire record will allow carriers to determine how any proposed technical solution will affect their operations and to evaluate the cost impact of the proposed transition, among other matters. The RFP and technical requirements document do not permit such an evaluation: just as two building contractors might propose to meet a set of specifications in substantially different ways, responsive proposals presumably differ substantially. Carriers and other interested stakeholders must be afforded the opportunity to assess those differences.

4. Additional Bidding Is In The Public Interest: As I explained in my letter of January 15, 2014, to Ms. Veach and Jonathan Sallet (a public version of which was filed on January 29, 2014), the Commission should take whatever action is necessary and appropriate to

²⁷ The initial FoNPAC evaluation was restricted to a small number of large carriers. Although the NANC evaluation was more inclusive, most carriers had no ability to review the confidential FoNPAC recommendation, and constituencies outside the telecommunications industry and telecommunications regulatory communities had no apparent role in the NANC process. By contrast, in 1997 the SWG was open to any interested party – including vendors – yet the Commission still sought public comment on the NANC recommendation.

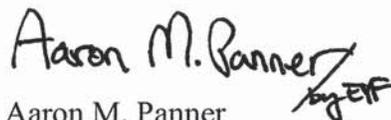
²⁸ As we have noted in previous correspondence, Neustar had reason to believe that the NAPM intended to solicit additional proposals in November 2013; its apparent change of course has never been explained. *See also* Letter from Aaron M. Panner to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116, WC Docket No. 07-149, WC Docket No. 09-109 (Apr. 24, 2013) (raising legal objections to extension of deadline for submission of initial responses).

Ms. Dortch
May 6, 2014
Page 8

ensure that the FoNPAC gives all the parties that submitted qualifying proposals – not just Neustar – the opportunity to submit additional proposals. A further round of proposals will help to ensure that the Commission has before it the strongest available offers. That will benefit all the thousands of telecommunications companies that depend on the NPAC and will best protect the interests of consumers. Calling for an additional round of proposals now – before the Commission evaluates any NANC recommendation – is the most effective way to ensure that the RFP process promotes the public interest.²⁹

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact me.

Sincerely,

Handwritten signature of Aaron M. Panner in black ink, with a stylized flourish at the end.

Aaron M. Panner

cc: Julie Veach
Jonathan Sallet
Philip Verveer
Lisa Gelb
Randy Clarke
Ann Stevens
Sanford Williams
Michelle Sclater
Jamie Susskind
Michele Ellison
Diane Griffin Holland
Jim Bird
Daniel Alvarez
Rebekah Goodheart
Priscilla Delgado Argeris
Nicholas Degani
Amy Bender

²⁹ *Id.*

Attachment 1

**North American
Numbering Council**

**Local Number Portability
Administration
Selection Working Group**

April 25, 1997

North American Numbering Council
LNPA Selection Working Group

TABLE OF CONTENTS

Section		Page
1	Executive Summary	1
2	Introduction - LNPA Selection Working Group	2
2.1	Background	2
2.2	Mission	2
2.3	Composition	3
2.4	Assumptions and Processes	3
2.5	Operating Premise	4
2.6	Meetings	6
2.7	Documentation	6
3	Wireless Number Portability	8
4	LNPA Vendor Selection	9
4.1	Criteria Governing the LNPA Selection Process	9
4.2	Mechanics of the LNPA Selection Process	9
4.3	Organization of the LNPA Selection Process	11
4.4	LLC Attributes Complying with the Competitive Neutrality Criteria	12
4.5	LLC Attributes Complying with Other Criteria	14
4.6	LLC Attributes Addressing Legal and Practical Considerations	15
5	Task Force Reports	17
5.1	LNPA Architecture Task Force Report	17
5.2	LNPA Technical & Operational Requirements Task Force Report	17
6	LNPA Selection Working Group Recommendations	18
6.1	Introduction	18
6.2	LNP Administrators	18
6.3	Number of LNP Administrators	19
6.4	LNP Administrator Selection	20
6.5	LNP Administrator Duties	21
6.6	Regional Coverage	22
6.7	LNP Standards	23
6.8	Numbering Information Sharing	26
7	Future Role	27

Appendices

- Appendix A - Working Group and Task Force Composition
- Appendix B - Working Group and Task Force Meetings
- Appendix C - LNPA Vendor Selection Schedule
- Appendix D - Architecture & Administrative Plan for Local Number Portability
- Appendix E - LNPA Technical & Operational Requirements Task Force Report

1. EXECUTIVE SUMMARY

- 1.1 The LNPA Selection Working Group prepared this report to address all issues delegated to North American Numbering Council (NANC) by the Federal Communications Commission (FCC) regarding Local Number Portability Administration (LNPA) selection. The report begins with an Introduction (see Section 2) that gives a brief background concerning formation of the LNPA Selection Working Group by NANC followed by the mission, composition of both the Working Group and related Task Forces, and the processes used in administering Working Group activities. An overarching operating premise is discussed where the state/regional activities that preceded formation of the Working Group were reviewed and compared to recommended national selection criteria to determine the adequacy of the selection process.
- 1.2 The activities of the Working Group and associated Task Forces focused primarily on the wireline segment of the industry, therefore a brief section (see Section 3) regarding potential issues involving wireless number portability follows the Introduction.
- 1.3 The LNPA Vendor Selection section (see Section 4) defines in some detail the criteria governing the selection process followed by a description of the actual process including an example of the neutrality requirement placed on LNPA vendors. Also included is a discussion of limited liability companies (LLCs) formation and the LLC processes designed to maintain competitive neutrality. The LLC discussion concludes by describing the LLC attributes that support the remaining selection criteria and legal and practical considerations. This section sets the stage for the recommendations made in Section 6.
- 1.4 Section 5 contains descriptions of the reports developed by the two (2) associated Task Forces. The LNPA Architecture Task Force report, "Architecture & Administrative Plan for Local Number Portability", is contained in Appendix D. The report of the LNPA Technical & Operational Requirements Task Force is contained in Appendix E. These documents support and expand on the contents of the Working Group report.
- 1.5 The Working Group Recommendations section (see Section 6) describes the recommendations developed in response to the list of seven (7) determinations left to NANC by the FCC regarding LNPA.
- 1.6 The Future Role section (see Section 7) describes seven (7) areas relating to LNP implementation and ongoing operation where the Working Group believes there is a continued need for national oversight. Each area is described and a recommendation made concerning future oversight activities. Certain of these are critical issues that require early NANC attention.

2. INTRODUCTION - LNPA SELECTION WORKING GROUP

2.1 Background

2.1.1 On July 2, 1996, the FCC ordered all local exchange carriers (LECs) to begin the phased deployment of a long-term service provider local number portability (LNP) method in the 100 largest Metropolitan Statistical Areas (MSAs) no later than October 1, 1997, and to complete deployment in those MSAs by December 31, 1998¹. A separate schedule was established for Commercial Mobile Radio Services (CMRS) provider portability. In addition to setting the schedule and addressing LNP performance criteria, the FCC made two important determinations regarding the appropriate database architecture necessary for long-term LNP. First, the FCC found that an architecture that uses regionally-deployed databases would best serve the public interest; and second, the FCC determined that the LNP databases should be administered by one or more neutral third parties².

2.1.2 In support of those findings, the FCC directed the NANC, a federal advisory committee, to “select as a local number portability administrator(s) (LNPAs), one or more independent, non-governmental entities that are not aligned with any particular telecommunications segment, within seven months of the initial meeting of the NANC”.³ The FCC directed the NANC to make several specific determinations regarding the administration selection process, the overall national architecture, and technical specifications for the regional databases. At the initial meeting of the NANC, the committee established the LNPA Selection Working Group to review and make recommendations on these database administration issues. Two sub-groups, the LNPA Architecture Task Force and the LNPA Technical & Operational Requirements Task Force, were also established to support the Working Group efforts.

2.1.3 This report documents the organization and processes adopted by the Working Group and its Task Forces, and presents and supports recommendations on all issues designated for their review.

2.2 Mission

2.2.1 The LNPA Selection Working Group was formed to address and to submit recommendations on all issues delegated to the NANC by the FCC regarding LNP administration.

¹ First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, July 2, 1996 (LNP Order). On March 11, 1997, the FCC released a First Memorandum Opinion and Order on Reconsideration, in which the LNP deployment periods for the first two implementation phases were extended. However, the essential requirements of the LNP Order as they relate to the Working Group’s efforts were unchanged. The LNP Order also addressed other issues not germane to the current LNPA Selection Working Group activities, including: Interim portability measures, service and location portability, 500 and 900 number portability, and cost recovery for long term LNP.

² *Id.* at ¶ 91-92.

³ *Id.* at ¶ 93. The initial meeting of the NANC was held on October 1, 1996. Therefore, the deadline for the NANC determinations was established as May 1, 1997.

North American Numbering Council
LNPA Selection Working Group

2.2.2 At the initial LNPA Selection Working Group meeting, as part of the overview of the FCC LNP Order, the FCC staff presented a list of determinations left to NANC regarding LNP. The Working Group used this as the comprehensive list of determinations requiring review. Following is the list as presented by the FCC staff:

1. What neutral third party or parties will be the local number portability administrator(s);
2. Whether one or multiple LNPA(s) should be selected;
3. How the LNPA(s) should be selected;
4. Specific duties of the LNPA(s);
5. Geographic coverage of the regional databases;
6. Various technical standards, including interoperability operational standards, network interface standards, and technical specifications; and
7. Guidelines and standards by which the NANPA and LNPA(s) share numbering information.

2.3 Composition

2.3.1 The LNPA Selection Working Group is open to all concerned parties and is representative of all segments of the telecommunications industry. A list of the member companies and associations, as well as the representatives that generally attended meetings, is contained in Appendix A. Also, members of the FCC staff attended most of the meetings held by the LNPA Selection Working Group.

2.3.2 The LNPA Selection Working Group oversees two (2) task forces that are assigned various functions. These groups are the LNPA Architecture Task Force and the LNPA Technical & Operational Requirements Task Force. Both Task Forces also have an open membership policy and are representative of the total telecommunications industry. A list of the member companies and associations, as well as the representatives that generally attend meetings, is contained in Appendix A. In addition, members of the FCC staff occasionally attend the meetings of the two (2) Task Forces.

2.4 Assumptions and Processes

2.4.1 The LNPA Selection Working Group adopted the following working assumptions to govern the operation of the group:

- A. Membership in the Working Group adequately represents the industry.

North American Numbering Council
LNPA Selection Working Group

- B. Membership and participation in meetings is unrestricted, but a given entity exercises only one (1) vote on any given issue.
- C. Decisions are reached by consensus, which does not require unanimous consent, but is not reached if the majority of an affected industry segment disagrees.
- D. Members elect co-chairs from the Incumbent Local Exchange Carrier (ILEC) and Competitive LEC (CLEC) segments of the industry to administer Working Group activities and determine consensus when required.
- E. Unresolved issues are escalated to the NANC Steering Committee and/or the full NANC when required.
- F. Only issues that fall within the scope of the LNPA Selection Working Group mission outlined in Section 2.2 are considered by the working group.

2.5 Operating Premise

- 2.5.1 At the outset, the LNPA Selection Working Group recognized that industry representatives were participating in state/regional LNP workshops, and a significant effort had already occurred to select LNPA vendors and to develop technical specifications. Efforts were well underway in at least one state in each of the seven (7) RBOC regions to select a neutral third-party LNPA vendor. For example, Requests for Proposals (RFPs) had been developed and issued in each region. In the Midwest (i.e., Ameritech) region a vendor was already selected and LNPA development was underway. In addition, the Working Group was aware that the RFPs issued in each region contained substantially similar documents that define the NPAC SMS requirements and the mechanized interface requirements.
- 2.5.2 In light of the considerable, and apparently consistent, state/regional LNP activities, the Working Group decided to first undertake an in-depth review and assessment of these efforts, rather than construct a separate and competing vendor selection plan. Therefore, the Working Group adopted the process of first reviewing state/regional efforts and then establishing national criteria. The Working Group would then develop national LNPA criteria, drawing largely from existing efforts, but adding and/or revising those efforts as deemed necessary. Once final national criteria had been established, state/regional selections that met these criteria could be recommended to the NANC for endorsement.
- 2.5.3 In order to accomplish the necessary review of state/regional efforts, the Working Group developed the following work plan and identified whether a Task Force or the Working Group was responsible for each item:

1. Create a repository of industry documentation on current efforts (e.g., RFPs, Interoperability Interface Specification, Generic Requirements Specification, etc.). Item assigned to the LNPA Working Group.
 2. For each of these documents, examine technical and operational aspects to see how/if they differ. Item assigned to the LNPA Technical & Operational Task Force.
 3. For those aspects that differ, determine if differences need to be eliminated. Item assigned to the LNPA Technical & Operational Task Force.
 4. Establish a single set of technical and architectural criteria that each regional system must meet in order to be endorsed by the NANC. Item assigned to both the LNPA Technical & Operational and the LNPA Architecture Task Forces.
 5. Determine specific duties of the LNPA(s). Item assigned to the LNPA Architecture Task Force.
 6. Ensure that all geographies are covered. Item assigned to the LNPA Architecture Task Force.
- 2.5.4 Although the Working Group determined to make use of state/regional LNPA efforts, it did not relinquish its responsibility to create national standards and criteria for LNPA selection and operations. During the time period when the LNPA Selection Working Group was developing national LNPA criteria, the state/regional teams continued to move forward with their efforts. As a result, an iterative process developed between the national and regional efforts, with the Working Group and Task Forces becoming the forum for resolution of disputed state/regional issues. For example, a disagreement among carriers in state workshops concerning the LNP provisioning flows was brought to the LNPA Technical & Operational Requirements Task Force for resolution. After an extensive effort, the Task Force was unable to reach consensus and escalated the issue to the LNPA Selection Working Group, who subsequently brought it to NANC to inform it of the lack of consensus. NANC encouraged the Working Group and Task Force to continue working the issue and gave instructions to report the results by a given date. The Task Force continued discussions and eventually adopted a compromise acceptable to all members. This example demonstrates the role of the Working Group and Task Forces in providing a lead role in national LNP activities. Similarly, issues concerning snap back, line based calling cards, porting of reserved and unassigned numbers, Service Provider-to-Service Provider audits, etc. were brought by the regions to the Task Forces for resolution. Each of the issues brought to the Task Forces were resolved by the Task Forces or, in some cases, were escalated to the Working

North American Numbering Council
LNPA Selection Working Group

Group and NANC; all issues were resolved and subsequently adopted by the regions.

2.6 Meetings

- 2.6.1 The first meeting of the LNPA Selection Working Group was held on November 8, 1996. At this meeting members were introduced, work activities were discussed, and the co-chairpersons were selected. Subsequently, ten (10) Working Group meetings were held, where the activities of the Task Forces were reviewed and escalated issues considered. Meetings were open to all interested parties from both member and non-member companies and associations. The dates and locations of all meetings are shown in Appendix B.
- 2.6.2 The first meeting of both Task Forces occurred on November 18, 1996. At these meetings, co-chairpersons were selected and potential work plans discussed. Subsequently, the LNPA Architecture Task Force met eight (8) times and the LNPA Technical & Operational Requirements Task Force met seventeen (17) times. The Task Force teams adopted the same open meeting policy as that used by the Working Group. The dates and locations of all Task Force meetings are shown in Appendix B.
- 2.6.3 Regular reports of the LNPA Selection Working Group's activities were made to the NANC by co-chairpersons. LNPA Selection Working Group issues that were not resolved by reaching consensus were referred to the NANC for resolution.
- 2.6.4 Minutes of the LNPA Selection Working Group meetings are available on the FCC website (see Section 2.7.2 for website address).

2.7 Documentation

- 2.7.1 The LNPA Selection Working Group and associated Task Forces developed a communication process using e-mail to distribute meeting notices, minutes, and other correspondence, followed by posting most documents to a website.
- 2.7.2 Following are the address for the website provided by the FCC and a list of documents it contains.

<http://www.fcc.gov/ccb/Nanc>

- Meeting minutes from the Working Group and Task Forces
- Meeting Notices
- Conference Call Notices
- LNPA Vendor Selection Schedule (Appendix C)
 - This one-page document identifies the significant activities of the vendor selection process and displays the due dates for each activity by region
- Request For Proposals (RFPs)

- The RFPs prepared by the regional LLCs are documents issued to primary vendors to invite participation in submitting proposals for developing, implementing, and operating the regional Number Portability Administration Center - Service Management System (NPAC SMS) (i.e., LNPAs). Contained in the RFPs are the requirements necessary to prepare such a bid.
- LLC Operating Agreements
 - These are the agreements in each region that define the operational requirements for each LLC.

2.7.3 Following is the address for a website containing the following technical documents:

<http://www.npac.com>

- NANC Functional Requirements Specification (FRS)
 - The NANC FRS defines the functional requirements for the NPAC SMS. The NPAC SMS is the hardware and software platform that contains the database of information required to effect the porting of telephone numbers.
- NANC Interoperable Interface Specification (IIS)
 - The NANC IIS contains the information model for the NPAC SMS mechanized interfaces. These interfaces reflect the functionality defined in the NANC FRS.

2.7.4 Following are the address for a website provided by the Illinois Operations Committee and a list of documents it contains:

<http://www/ported.com>

- Illinois NPAC SMS RFP
- Generic Switch Requirements
- LNP Test Plan
- Generic Operator Services Requirements
- Generic Download SCP Requirements Document

3. WIRELESS NUMBER PORTABILITY

- 3.1 The work plan executed by the LNPA Selection Working Group and related Task Forces was directed primarily to the wireline portion of the industry and did not fully address wireless concerns. The assumptions used in preparation of the “Architecture and Administrative Plan for Local Number Portability” explicitly excluded wireless. The LNPA Technical & Operational Requirements Task Force did not consider wireless concerns in depth during NPAC SMS requirements development. Therefore, modifications to the Functional Requirements Specification (FRS) and the Interoperable Interface Specification (IIS) may be required to support wireless number portability.

- 3.2 Discussion of potential impacts of wireless number portability was deferred to insure completion of requirements associated with wireline LNP implementation to comply with the FCC deployment schedule. The Cellular Telecommunications Industry Association (CTIA) and other standards and industry forums are currently addressing number portability technical solutions. Therefore, it is necessary to develop and update the FRS and IIS documents with wireless requirements and to develop a schedule to include these changes in a subsequent NPAC SMS release.

4. LNPA VENDOR SELECTION

4.1 Criteria Governing the LNPA Selection Process

4.1.1 The Telecommunications Act of 1996 and the FCC's July 2, 1996 LNP Order established mandatory criteria (Criteria, individually Criterion) for the selection of the LNPA and all related activities. Central among these Criteria are competitive neutrality, which is a requirement for the third party LNPA itself (LNP Order, ¶93), the LNPA's administrative activities (LNP Order, ¶92), and the manner by which LNPA costs are borne by telecommunications carriers (1996 Act, §251(e)(2)). Additional significant Criteria that apply to the LNPA selection process include: (1) equal and open access to LNP databases and numbers (1996 Act, §251(e)(1) and LNP Order, ¶98); (2) uniformity in the provision of LNP data (LNP Order, ¶91); (3) cost effective implementation of LNP (LNP Order, ¶¶91, 93, 95); (4) consistency in LNPA administration (LNP Order, ¶93); (5) LNPA compliance with NANC-determined technical and functional proficiency standards (LNPA Order, ¶¶95, 99); and (6) regionalized LNPA deployment within the FCC deployment schedule (LNP Order, ¶91 and Appendix F).

4.2 Mechanics of the LNPA Selection Process

4.2.1 The LNPA Selection Working Group reviewed the state/regional selection process and determined that each and every action undertaken as part of the LNPA selection process conforms to, and thus satisfies, the Criteria. These actions consist of a sequence of carefully planned steps taken by telecommunications service providers interested in advancing implementation of LNP in each of the seven (7) regions where LNPAs are being selected. The Working Group determined that all of the regions were following substantially similar vendor selection processes, as documented in Appendix C, LNPA Vendor Selection Schedule. The Working Group determined that any differences in vendor selection process were inconsequential and of an administrative nature only.

4.2.2 Service Providers in each region first consulted with a broad community of groups interested in LNP, including state regulatory commissions, providers of database services and carriers of all types, to develop request for proposals (RFPs). The RFPs were then widely distributed to firms that could provide NPAC SMS services (Vendors). The Service Providers received and answered RFP-related questions raised by Vendors. A crucial element of the RFPs was the imposition of a neutrality requirement for all Vendors. For example, Section 1.3.4 of the Mid-Atlantic Region's RFP provided:

- A. In order to prevent a real conflict of interest, the Primary Vendor/System Administrator must be a neutral third party that has no financial or market interest in providing local exchange services within the United States.

- B. To prevent such a conflict of interest, the Primary Vendor/System Administrator “NPAC” function will not be awarded to:
- 1.) any entity with a *direct material financial interest* in the *United States portion* of the North American Numbering Plan (NANP), and number assignments pursuant to the Plan, including (but not limited to) telecommunications carriers;
 - 2.) any entity with a *direct material financial interest* in manufacturing telecommunications network equipment;
 - 3.) any entity affiliated in other than a de minimus way in any entity described in 1.) or 2.) above, and;
 - 4.) any entity involved in a contractual relationship or other arrangement that would impair the entity’s ability to administer numbers fairly under the NANP and in accordance with the procedural delivery schedule set forth in the RFP.

Identical or substantially similar neutrality requirements appeared in the other six (6) RFPs. The Vendors ultimately selected in the seven (7) regions, Lockheed Martin and Perot Systems, have thus established their neutrality following a review and approval screening process by seven (7) different groups of Service Providers conducting their own independent investigations in their seven (7) respective regions.

- 4.2.3 This screening process was implemented as part of a pre-qualification procedure undertaken by the Service Providers. Pre-qualification also considered such Vendor attributes as financial responsibility, experience and ability to deliver on time. Subsequently, the Service Providers conducted an exhaustive evaluation of those Vendors satisfying the pre-qualification requirements, which primarily focused on the proficiency, pricing and contract requirements of Vendors. By these pre-qualification and evaluation procedures, the Service Providers sought out qualified Vendors that could provide timely, cost-effective and technically proficient services in conformity with the Criteria. This two-step review process culminated in the Service Providers’ selection of the best qualified Vendors.
- 4.2.4 Those Service Providers that organized themselves into a contracting entity (see Section 4.3 below) then began negotiations with one or more best qualified Vendors of a master contract that would govern the obligations and rights of the parties and establish the conditions for the provision of LNP data to all utilizing carriers. By requiring compliance with certain technical requirements (see Section 6.7) for the provision of LNP data to all utilizing carriers, the master contract conformed to the Criterion which requires uniformity of provision of LNP data. By conducting negotiations with one or more Vendors, those Service Providers secured competitive pricing in maximum conformity with the cost effectiveness Criterion.

- 4.2.5 Currently, Master Contract negotiations are either just completed or near completion. It is contemplated that upon execution of a master contract with the winning Vendor (LNPA), those Service Providers that organized themselves into a contracting entity (see Section 4.3 below) will conduct on-going supervision of the LNPA. As authorized under the terms of the master contract, those Service Providers will oversee the LNPA with regard to quality control, system modifications and enhancements, contract administration and timely delivery. It is fully anticipated that these supervisory activities will be conducted in strict conformity with the Criteria.
- 4.2.6 Finally, the experience of the Service Providers conducting this sequence of events has been that a minimum of 12-18 months is required. Service Providers have found that concerted and intense efforts are necessary to complete this sequence within such a time period. It is for this reason that Service Providers have proceeded to launch LNPA selection efforts in advance of NANC's LNPA selection date of May 1, 1997. To commence such efforts on or about May 1, 1997, would effectively preclude any prospect of timely compliance with the FCC's deployment schedule.

4.3 Organization of the LNPA Selection Process

- 4.3.1 To implement the extensive sequence of LNPA selection activities described in Section 4.2 above, the Service Providers needed an organization that could perform all these actions and take on all the associated risks and responsibilities. The Service Providers also recognized that, in light of the LNP Order, any such organization and all its activities would be required to conform to the Criteria.
- 4.3.2 Based on extensive research and discussion, the Service Providers concluded that the optimal means of conducting these activities in conformity with the Criteria were to operate jointly and equally with one another in an organization open to any carrier interested in porting numbers. Following significant legal research, the Service Providers chose the limited liability company (LLC) as the most advantageous organizational form. Other organizational forms, including a C corporation and a limited partnership, were deemed viable alternatives, but based on the circumstances surrounding LNPA selection, the LLC was determined to be best suited to accomplish all objectives and simultaneously conform to the Criteria.

4.4 LLC Attributes Complying with the Competitive Neutrality Criteria

- 4.4.1 In each of the seven (7) regions where LNPA's are being selected, LLCs have been established and specifically designed to maintain competitive neutrality. Membership in the LLC is open to any local exchange carrier, whether or not certified, intending to port numbers in the region. This open membership policy would apply equally to incumbent and competing local exchange carriers, as well as to any new entrant into the business of local exchange service. To fund the

LLC's administrative expenses, capital contributions are imposed equally on LLC members (in modest allotments of \$10,000 to \$20,000). All these requirements permit open and barrier-free membership in a manner that treats all local exchange carriers equally.

- 4.4.2 Each LLC member possesses a single, equal vote in all matters decided by the LLC. Most LLC decisions are made by a simple majority vote. In recognition that under such conditions the voting power of a single member can be diluted by the collective votes of other members, and that this circumstance may not always be appropriate for certain matters of significant importance, LLCs have required that certain decisions be made unanimously or by super majorities. These extraordinary majorities have been required for such decisions as LLC operating agreement amendments, master contract execution, debt issuance and mergers. To maintain the one-vote-per-member policy in an industry filled with affiliated interests and constantly evolving corporate structures among carriers, affiliated members are collectively entitled to a single vote. Affiliation thresholds are at 10 percent (or 15% in the Western Region LLC), in conformity with the definition of affiliation established in the 1996 Act. Because of various business and policy considerations, the West Coast Region LLC adopted a 50% affiliation threshold. The overall voting regime of the LLC guarantees each member an equal voice and in appropriate circumstances an equally magnified voice or equal veto power, and thus has carefully and effectively achieved competitive neutrality among members.
- 4.4.3 The combination of open membership and a one-vote-per-member policy facilitates full and vigorous neutrality in the actions of LLCs. The LLCs are comprised of RBOCs, CLECs, and carriers providing local services in combination with an array of other services. All of the LLCs are open to CMRS provider membership at such time as they intend to or are porting numbers. These members are in competition with each other. With equal voices in LLC decision making, these competitors will scrutinize all activities for any hint of favoritism, and thereby act as an effective check and balance on each other.
- 4.4.4 The LLC is a flexible and simple organization. These characteristics are uniquely well suited to permit an LLC to establish its own governance, as well as to submit to the governance of federal and state regulators. This has led all seven (7) LLCs, by the terms of their respective operating agreements, to empower themselves to comply with any and all directives from such regulatory authorities. LLCs have also informed LNPA that they, too, shall comply with regulatory directives, and by language to this effect in both the RFPs and the master contracts, LNPA are so obligated by force of contract. Such actions were deemed necessary by the LLCs to permit regulatory authorities to govern the LLCs' compliance with competitive neutrality. Such actions were deemed appropriate by the LLCs in light of such measures as the FCC's delegation to NANC of LNPA selection and oversight recommendations activities. Under these circumstances, the LLCs determined to continue to move forward on deployment activities knowing that with full and unqualified submission by

LLCs to regulatory directives, competitive neutrality could always be maintained by regulators.

- 4.4.5 This express action by LLCs to subject to regulatory directives is a crucial element of the LLCs. In its LNP Order, the FCC recognized the significant progress of LNPA selection efforts in the states made possible by the LLC entities. The FCC raised no concern or objection to this early progress in its LNP Order, nor did it discourage further progress. In its more recent March 11, 1997 Order, the FCC applauded and supported these ongoing commitments by the LLCs to make LNP a reality in their respective regions.
- 4.4.6 By submitting to regulatory directives, the LLCs allow for the resolution of disputes in a competitively neutral manner. Each LLC has established a dispute resolution process that provides in part for the resolution of disputes by the directive of an appropriate regulatory authority. Because disputes can be expected to center precisely on competition issues, these dispute resolution processes greatly enhance the ability of regulators to maintain competitive neutrality. Moreover, in the event that a permanent NANC LNPA dispute resolution process were established (see, Section 7.1.1, Future Roles), unresolved LLC disputes could be submitted to such a NANC process, as appropriate.
- 4.4.7 The conduct of business by LLCs is a process open to any interested person. LLC meetings are public with the exception of certain limited portions of those meetings deemed by the members or Vendors to be proprietary, due to discussion of such sensitive matters as the negotiation of the master contract. Every element of the LLCs, including powers, composition, membership criteria, activities and voting, are set forth in written operating agreements, all seven (7) of which are freely available to any interested person (and are on the FCC's website discussed in Section 2.7.2). This openness permits regulators, as well as non-member carriers and the public, to verify that the LLCs are conducting their affairs in a competitively neutral manner.
- 4.4.8 LLCs facilitate the management of financial risk in a competitively neutral manner. Each LLC has obtained liability insurance, separate and apart from any coverages or self insurance of individual LLC members, covering the full scope of affairs conducted by the LLC and its members. Each LLC member shares equally in risk management by paying an equal share of the insurance premium, and each LLC member derives an equal benefit of the full amount of the insurance coverage. An incidental benefit of this risk management strategy is that the entire risk of LNPA selection falls on and is managed by the LLC, thereby assuring that other persons, including non-members, regulators and end-user customers, are shielded from risk.
- 4.4.9 Significantly, those carriers that are ineligible for LLC membership or for whatever reason choose not to become an LLC member are not in any way disadvantaged in their use of the LNPA's services. Thus, such carriers will also be permitted to operate in a competitively neutral environment. This is because

LLC membership has been specifically designed *not* to be a prerequisite to utilization of the LNPA's services. Any telecommunications carrier that requires rating or routing or any entity that performs billing for such a telecommunications carrier, including both members and non-members of the LLC, will have non-discriminatory access to the LNPA's services. To do so, a user agreement (User Agreement) must be executed directly with the LNPA.

4.4.10 This open and equitable access to the LNPA through execution of a User Agreement also facilitates competitively neutral conditions by which utilizing carriers obtain services from the LNPA. The LLCs recognize that NPAC SMS cost allocation and recovery will be determined by the FCC and/or state regulator jurisdictions. However, each User Agreement will set forth standard cost elements and prices that could be uniformly charged to utilizing carriers if so required by the FCC and/or state regulators. Thus, each User Agreement will ensure that each utilizing carrier will be subject to uniform terms, conditions and potentially prices for the LNPA's services. These terms, conditions and prices have been or will be extensively negotiated by the LLC to be as low and favorable as possible, and are set forth in the master contract so as to be enforceable by law upon the LNPA. Significantly, this approach guards against any utilizing carrier obtaining preferred treatment from the LNPA, which clearly would violate competitive neutrality. For practical reasons, each User Agreement may vary to accommodate engineering or technical modifications suiting particular network configurations, so long as no other utilizing carrier is placed at a competitive disadvantage.

4.5 LLC Attributes Complying With Other Criteria

4.5.1 The LLCs are specifically designed and well suited to conform to the Criterion calling for regionalized deployment by LNPA. The formation of an LLC within each RBOC region, combined with the open membership policy for any local exchange carrier intending to port numbers in the region, facilitates development on a regionalized basis. LLCs also are requiring in their RFPs and in their master contract negotiations that Vendors bid on the provision of NPAC/SMS services on a regionalized basis.

4.5.2 LLCs also conform well to the Criterion requiring consistency in LNP administration. Although the seven (7) LLCs are established under state laws, the LLC laws in the 50 states are substantially similar (in contrast, laws governing partnerships and other corporate forms contain wide variation among the states). Accordingly, the seven (7) LLCs are virtually identical in their structure and operation, and they are governed by operating agreements which are also substantially similar (there are minor variations in operating agreement provisions reflecting certain policy and business determinations made on a region-specific basis). Accordingly, there will necessarily be substantial uniformity and consistency in the manner of contracting with and supervising of LNPA's.

4.6 LLC Attributes Addressing Legal and Practical Considerations

- 4.6.1 Early in the RFP process, it became clear to the Service Providers that LNPA selection necessarily entailed the procurement in each region of a large and sophisticated database service provider that would be deriving multi-million dollar compensation for regionalized deployment of its services. This presented several problems. There needed to be a single legal entity contracting with the LNPA to implement such a procurement, and such an entity had to be an acceptable and even attractive business venture to Service Providers that would comprise and govern it. Such a procurement had to be completed well within the FCC's stringent deployment schedule so as to permit NPAC SMS development and testing in advance of the deployment deadlines. Given the potential financial liabilities associated with such a business venture, Service Providers were initially quite reluctant to participate in joint contracting activity. LLCs were uniquely well suited to resolve all of these legal and practical concerns fully.
- 4.6.2 An LLC affords its members complete statutory protection from liability, whether in tort, contract or otherwise. All liability is assumed exclusively by the LLC itself, and any liability exposure can be fully managed and protected against by liability insurance coverages secured by the LLC. These advantages served to allay the liability concerns of Service Providers. No other corporate or organizational form possesses such attributes.
- 4.6.3 An LLC was a suitable, single legal entity with which an LNPA would agree to contract. The reality of procuring LNPAs is that they would not undertake the impractical approach of bidding or contracting with multiple organizations for a single service, nor would they contract with an entity that excluded any party intending to port numbers or newly enter the local exchange service market. The LLC, with its open membership policy allowing all interested Service Providers to be organized under the auspices of a single legal entity, created the conditions necessary for the LNPAs to proceed to contract.
- 4.6.4 An LLC was ideally suited as a flexible and easily governed organization that could quickly implement the procurement of an LNPA within the FCC's stringent deployment schedule. LLCs can be formed quickly, and unlike other corporate and organizational forms, they can make decisions and conduct their business with great speed and flexibility and without the statutory constraints, formalities and time requirements associated with more traditional corporate governance.
- 4.6.5 The LLCs are aware that NANC will ultimately review and act on the selection of LNPAs and determine the guidelines for LNP deployment. As part of this authority, NANC will review the full scope of all past and current LLC activity. The LLC's intention is, and has always been, to present its progress for NANC to embrace and adopt as NANC's own progress. Given the FCC's stringent deployment schedule, the LLCs reasonably believe that NANC will adopt (and alter as appropriate) the LLCs' significant progress as the common sense,

North American Numbering Council
LNPA Selection Working Group

practical course of action, rather than commence deployment efforts anew and recreate existing progress.

5. TASK FORCE REPORTS

5.1 LNPA Architecture Task Force Report

- 5.1.1 The LNPA Architecture Task Force developed the “Architecture & Administrative Plan for Local Number Portability” report for presentation of the Task Force’s recommendations to the LNPA Selection Working Group. The report contains an overview of LNP, a brief history of LNP, the LNP performance criteria adopted by the FCC and a list of LNP assumptions. Following are recommendations concerning NPAC geographic coverage and the NPAC certification process including technical and business requirements and the NPAC roles and responsibilities.
- 5.1.2 A draft copy of the “Architecture & Administrative Plan for Local Number Portability” was provided to the NANC membership at their February 5, 1997, meeting. The draft provided information in advance of the delivery of the final report from the LNPA Selection Working Group.
- 5.1.3 See Appendix D for the complete “Architecture & Administrative Plan for Local Number Portability” report.

5.2 LNPA Technical & Operational Requirements Task Force Report

- 5.2.1 The LNPA Technical & Operational Requirements Task Force prepared the report contained in Appendix E for presentation to the LNPA Selection Working Group. The report consists of four (4) administrative sections followed by sections describing standards rationale and the contentious issues addressed by the team. The final sections contain a series of five (5) recommendations offered for consideration by the task force. Finally, five (5) appendices contain the major documents developed by the team.
- 5.2.2 A draft of this report was presented to the NANC membership at their February 26, 1997, meeting. NANC was requested to review the recommendations made in Sections 8 and 9 for early concurrence. The remaining sections were informational and were intended to prepare the NANC members for receipt of the final report in April.
- 5.2.3 See Appendix E for the complete “LNPA Technical & Operational Requirements Task Force Report”.

6. LNPA SELECTION WORKING GROUP RECOMMENDATIONS

6.1 Introduction

6.1.1 The LNPA Selection Working Group used the determinations left to NANC as described in Section 2.2.2 as the comprehensive list of determinations requiring review and recommendation. Each of the determinations listed in Sections 6.2 through 6.8 below, reviews the process used by the Working Group to address them (i.e., to which Task Force the issue was assigned), where in a specific Task Force report the issue is addressed, a summary of the findings, the Working Group's recommendation, and justification for the recommendation.

6.2 LNP Administrators

- What neutral third party or parties will be the local number portability administrators?

6.2.1 Process

The issue was assigned to the LNPA Architecture Task Force.

6.2.2 Report Reference

See Section 4 of this report for description and justification of the regional vendor selection process. See also Section 12 of the "Architecture & Administrative Plan for Local Number Portability" contained in Appendix D for technical, business and architectural requirements that must be met by regional NPAC systems.

6.2.3 Summary of Findings

The Working Group reviewed the vendor selection processes used by each of the regional LLCs (described in detail in Section 4 of this report), and determined that selections made according to these processes met basic criteria for neutrality.

6.2.4 Recommendation

The Working Group recommends that the NANC approve the NPAC vendor selections made by the regional LLCs. The LLCs selected the following vendors for their respective NPAC region, subject to final contract negotiation.

North American Numbering Council
LNPA Selection Working Group

Region	NPAC Vendor	Contract Completed
Northeast	Lockheed Martin IMS	No
Mid-Atlantic	Lockheed Martin IMS	No
Midwest	Lockheed Martin IMS	Yes
Southeast	Perot Systems, Inc.	No
Southwest	Lockheed Martin IMS	No
Western	Perot Systems, Inc.	No
West Coast	Perot Systems, Inc.	Yes

6.2.5 Justification

The Working Group determined that the above selections were made according to the process described and justified in Section 4 of this report. This recommendation assumes that the technical, business and architectural requirements in Section 12 of the LNPA Architecture Task Force report will be approved, and has determined that these selections comply with those requirements. Therefore, the Working Group recommends that these selections be approved by the NANC as the LNPAs for their respective regions.

6.3 Number of LNP Administrators

- Whether one or multiple LNPA(s) should be selected.

6.3.1 Process

This issue was assigned to the LNPA Architecture Task Force.

6.3.2 Report Reference

It was not necessary to address this issue in the LNPA Architecture Task Force report. See 6.3.3 below.

6.3.3 Summary of Findings

The Working Group endorses the outcome of the state/regional competitive bid and selection processes, which resulted in the selection of multiple vendors (Lockheed Martin and Perot Systems) to administer the regional NPAC systems.

6.3.4 Recommendation

The Working Group believes it is unnecessary to make a specific recommendation at this time regarding whether one or multiple LNPA(s) should be selected, since two different vendors were independently selected by

the regional LLCs to administer NPAC systems and services. Had only a single vendor been selected to administer all of the regional NPAC systems, the Working Group had planned to undertake a review of the consequences, and make further recommendations if appropriate.

6.3.5 Justification

The Working Group endorses the selection of multiple vendors to administer the regional databases for two reasons. First, it ensures the diversity of supply of NPAC services throughout the contract timeframe. This means that if one vendor is unable to perform, or declines to renew its initial service contract term, there will be at least one other vendor capable of providing these services within a relatively short timeframe. Thus, potential disruption to the industry of a vendor failure or default is minimized when more than one vendor is providing NPAC services. Second, the presence of more than one potential vendor in the initial and future competitive bid and selection processes enables carriers to obtain more favorable rates, terms and conditions than if only a single LNPA had been selected. This supports the FCC's directive to consider the most cost-effective way of accomplishing number portability.

6.4 LNP Administrator Selection

- How the LNPA(s) should be selected

6.4.1 Process

The LNPA Selection Working Group delegated responsibility to recommend how the LNPA(s) are selected to the LNPA Architecture Task Force.

6.4.2 Report Reference

Section 12.2 of the "Architecture & Administrative Plan for LNP" contained in Appendix D defines the recommended criteria for LNPA selection.

6.4.3 Summary of Findings

Initially, the Task Force reviewed the selection criteria as outlined in Section 4.1.1 above. The LNPA Architecture Task Force then reviewed the activities being undertaken to select LNPA vendors in the state/regional workshops and the regional LLCs. The Task Force concluded that the steps taken by the Service Providers in each region to organize the selection process led to adoption of a selection process in each region that satisfies the criteria.

6.4.4 Recommendation

The LNPA Selection Working Group recommends adoption of the process used to make LNPA vendor selections.

6.4.5 Justification

The process used for LNPA vendor selection is extensively discussed in Section 4 above.

6.5 LNP Administrator Duties

- Specific duties of the LNPA(s)

6.5.1 Process

The LNPA Selection Working Group delegated responsibility to define the specific duties of the LNPA, i.e., the NPAC, to the LNPA Architecture Task Force.

6.5.2 Report Reference

Section 12.5 of the Task Force report, “Architecture & Administrative Plan for LNP”, Appendix D, describes the business roles and responsibilities of the NPAC. Further, the roles of the NPAC are defined in detail in the Functional Requirements Specification (FRS) and Interoperable Interface Specification (IIS). These documents describe, for example the NPAC responsibilities in the areas of data administration, subscription management, NPAC SMS interfaces, system security, reports, performance and reliability, and billing.

6.5.3 Summary of Findings

The Task Force reviewed the process used in each state/region to develop the FRS and IIS documents and determined that the NPAC roles and responsibilities defined in those documents were substantially similar. Further, these requirements thoroughly document standard functions necessary to administer such a system and its databases, the interfaces between the system and those of the various Service Providers, as well as the administrative functions performed by the NPAC personnel.

6.5.4 Recommendation

The LNPA Selection Working Group recommends adoption of the duties outlined in the Architecture & Administrative Plan for LNP contained in Appendix D, and those detailed requirements defined in the FRS and IIS documents.

6.5.5 Justification

The LNPA duties as defined in Appendix D and in the FRS and IIS documents represent the consensus of the industry technical experts, and the two (2) selected NPAC vendors are currently developing systems and processes (i.e., duties) in accordance with these requirements.

6.6 Regional Coverage

- Geographic coverage of the regional databases

6.6.1 Process

The LNPA Selection Working Group delegated to the LNPA Architecture Task Force the responsibility to provide a plan that identified the recommended geographic coverage of regional databases.

6.6.2 Report Reference

Section 9 of the "Architecture & Administrative Plan for LNP" contained in Appendix D identifies the geographic coverage areas of the regional databases.

6.6.3 Summary of Findings

The Task Force recognized that the significant work in state/regional workshops was directed towards selecting a vendor to serve a region rather than a single state. The lead states in LNP deployment were seeking other states with which to merge under an NPAC effort, and some state commissions (e.g., Maryland and California) had formally asked neighboring states to join the efforts of their state LLC.

6.6.4 Recommendation

The LNPA Working Group recommends that the NANC adopt the recommendations in the "Architecture & Administrative Plan for LNP" related to the geographic coverage of the regional databases. This recommendation includes adoption of a seven (7) region structure with the selected LNPA developing one (1) NPAC SMS in each region. If the LNPA operates in two (2) or more regions, the LLCs in those regions may elect to request that the administrator serve one or more regions on the same platform as long as the administrator satisfies all service requirements specified in the master contract with the LLCs and in specific user agreements. In addition, consistent with the LLC Operating Agreements, the merging of regional LLCs is not precluded.

6.6.5 Justification

- 6.6.5.1 Separate NPAC systems for each state would clearly be uneconomic and inefficient, while a single, nationwide NPAC system would be technically and administratively unwieldy.
- 6.6.5.2 Regional databases make sense. Although state-of-the-art system architectures are available for industry use, a single database is not desirable because the amount of routing information would, in time, become overwhelming as number portability is deployed nationwide. In addition, having several diverse and independent regional databases reduces the scope of impact if a given regional vendor were unable to fulfill its contractual obligation. Also, by establishing regions that match RBOC territories, the RBOC will (at least initially) have to connect to only a single regional database. This will simplify and speed up an otherwise complicated implementation and may lead to lower costs.
- 6.6.5.3 State commissions, the industry and the FCC have become accustomed to working with the RBOCs within their regions. State commissions within RBOC service territories have formed associations to address regional issues. The industry is working in state commission-sponsored workshops. Therefore, the RBOC region provides a base within which both incumbents and new entrants are currently working. In addition, state commissions have been asked by LLCs to focus their NPAC efforts on established RBOC territories. The industry, when faced with the opportunity for system efficiencies and a need to meet an aggressive schedule, has leaned toward the established RBOC territories.
- 6.6.5.4 The designation of the RBOC serving territories and the appropriate NPAC coverage areas has been agreed to by all industry segments in these and state/regional LNP forums.

6.7 LNP Standards

- Various technical standards, including interoperability operational standards, network interface standards, and technical specifications.

6.7.1 Process

The LNPA Selection Working Group delegated responsibility to define standards to the LNPA Technical & Operational Requirements Task Force.

6.7.2 Report Reference

Sections 7 through 11 of the Task Force report contained in Appendix E describe in detail the recommendations made by that team.

6.7.3 Summary of Findings

- 6.7.3.1 The LNPA Technical & Operational Requirements Task Force developed industry standard NPAC SMS Provisioning Process Flows. See Section 7 and Appendix B of the LNPA Technical & Operational Requirements Task Force Report contained in Appendix E of this report for more details.
 - 6.7.3.2 The LNPA Technical & Operational Requirements Task Force developed an industry standard NANC Functional Requirements Specification (FRS) document that defines the functional requirements of the NPAC SMS. See Section 8 and Appendix C of the LNPA Technical & Operational Requirements Task Force Report contained in Appendix E of this report for more details.
 - 6.7.3.3 The LNPA Technical & Operational Requirements Task Force developed an industry standard NANC Interoperable Interface Specification (IIS) document that contains the information model for the NPAC SMS mechanized interfaces. See Section 9 and Appendix D of the LNPA Technical & Operational Requirements Task Force Report contained in Appendix E of this report for more details.
 - 6.7.3.4 The LNPA Technical & Operational Requirements Task Force developed an industry wide process to enforce compliance with the policy developed by the LNPA Architecture Task Force for porting of reserved and unassigned numbers. The process includes notification to non-compliant Service Providers followed by the Service Providers right to invoke the NANC Resolution of Numbering Disputes procedures or other escalation as the service provider deems appropriate should a dispute arise. See Section 10 of the LNPA Technical & Operational Requirements Task Force Report contained in Appendix E of this report for more details.
 - 6.7.3.5 The LNPA Technical & Operational Requirements Task Force developed an interim industry wide procedure to control the change management process for designing, developing, testing, and implementing changes to the NANC FRS, NANC IIS, and related processes. This interim process was developed to ensure consistency in the submission and consideration of changes to requirements until a permanent process is adopted as recommended in 7.1.1.D.
- 6.7.4 Recommendation
- 6.7.4.1 The LNPA Selection Working Group recommends adoption by NANC of the documents described in Sections 6.7.3.1 through 6.7.3.3 above, and the processes described in Sections 6.7.3.4 and 6.7.3.5 above.
- 6.7.5 Justification

6.7.5.1 The LNPA Technical & Operational Requirements Task Force reviewed the activities in each of the seven (7) regions to evaluate the LNP planning activities currently underway. It was determined that certain documents were under development concurrently in each region. The regional LNP documents that had relevance to the Task Force mission included:

A. Requirements Documents

Request for Proposals (RFPs) were developed in each region to invite neutral third party vendors to submit proposals to provide NPAC SMSs. The RFP in each region included, either as an attachment or by reference, the Functional Requirements Specification (FRS), which defines the functional requirements for the NPAC SMS and the Interoperable Interface Specification (IIS) which contains the information model for the NPAC SMS mechanized interfaces. Since these two (2) requirements documents were being discussed concurrently in all regions, the Task Force determined that immediate consideration for standardization across the regions was required.

B. NPAC SMS Provisioning Process Flows

The NPAC SMS Provisioning Process Flows document describes the inter-service provider and NPAC SMS process flows. This series of nine (9) flows was also being addressed independently in each region. The Task Force determined that the flows also required immediate consideration for standardization.

6.7.5.2 The LNPA Technical & Operational Requirements Task Force reviewed the content of the above regional documents and determined that they were substantially similar to each other. The Task Force concluded there were significant advantages to the industry if standard FRS, IIS, and NPAC SMS Provisioning Process Flows were developed and endorsed as industry standards. These advantages are defined in greater detail in Section 5.2 of the Task Force report contained in Appendix E. At a high level the advantages include:

- Facilitates meeting FCC schedule
- Better use of LNP resources in all companies
- Facilitates design of associated processes by other industry groups
- Produces timely and cost effective offers of LNP related products
- Minimizes expenditure of time and resources and increases quality for nationwide Service Providers

6.8 Numbering Information Sharing

- Guidelines and standards by which the NANPA and LNPA(s) share numbering information.
- 6.8.1 The manner in which the North American Numbering Plan Administrator (NANPA) and the LNPA(s) might share numbering information is considered to be an aspect of number pooling. While number pooling may certainly be a desirable outcome made possible by LNPA, it was considered outside the scope of the Working Group's immediate mission, and was therefore not addressed.

7. FUTURE ROLE

7.1 Future Roles

7.1.1 The LNPA Selection Working Group and associated Task Forces have addressed the specific LNPA selection, technical and architectural issues designated by the FCC. However, the Working Group has identified several important areas relating to LNP implementation and ongoing operation that, in the opinion of Working Group members, require continued regulatory and industry oversight. The current structure and membership of the NANC and the LNPA Working Group and Task Forces are well suited to assist in carrying out these activities or at a minimum, initiate the activity by investigating issues and making recommendations. Following is a list of these activities, and recommendations for a potential role for the Working Group and/or its Task Forces.

- A. Number Pooling - Number pooling and any other steps required to achieve number utilization efficiency are a short term priority. Area code splits and the advancement of NANP exhaust are issues of grave concern. To ensure a coordinated number pooling effort, interaction between NANPA and LNPA is required during the design, development, and implementation of number pooling. It is recommended that the LNPA Selection Working Group work jointly with the NANPA Working Group in support of this effort.
- B. LNPA Initial Deployment Oversight - To ensure compliance with the FCC order, there is a need to review LNPA deployment on a national basis through, at a minimum, the top 100 MSA deployment period. The successful introduction of 800 portability was fostered by an Oversight Committee, chaired by FCC staff, and a committee modeled along these lines could be equally important and necessary to successful LNPA deployment. Specifically, such a committee could be chaired by the Chief, Common Carrier Bureau (or her designate) and staffed by LNPA Working Group members. In support of this Oversight Committee recommendation, the Working Group notes that the FCC has already delegated responsibility to the Chief, Common Carrier Bureau, to take action to address any problems that arise over specific implementation procedures, and the Working Group is already comprised of industry experts in LNPA implementation.
- C. LNPA General Oversight - NANC will provide oversight to ensure that LNPA activities support FCC objectives of neutral operation of the LNPAs and to ensure that national uniformity and interoperability in LNP administration are achieved. The LLCs, by terms of their respective operating agreements, accept the role of NANC in this oversight capacity, and acknowledge that they will comply with FCC directives. Further, the LNPAs are obligated to comply with regulatory directives through requirements in both the RFPs and master contracts. See Section 4.4.4 for additional information. Details of how NANC recommendations will be

applied to the LLCs will be developed by the LNPA Selection Working Group for NANC consideration.

- D. NPAC SMS Change Management Process - NPAC SMS Change Management Process - There is an immediate need to maintain a centralized focus on the change management process for future NPAC SMS enhancements. The LNPA Technical & Operational Requirements Task Force developed an interim procedure to fill this role over the last four (4) months and currently fills the role of reviewing, selecting, and prioritizing NPAC SMS release two (2) and release three (3) changes. The Task Force recommended adoption of this interim change management process in Section 6.7.3.5 above.

The LNPA Selection Working Group recognizes that, having recommended technical and operational standards for the industry to follow for the implementation of NPAC SMS, ongoing changes to the requirements must be managed. The Working Group recommends that an open industry group, such as the LNPA Technical & Operational Requirements Task Force or other similar group designated by the NANC, be charged to continue to maintain ongoing technical standards for the NPAC. The recommendation includes development of a permanent change management process that will provide an open and neutral facility for the submission and consideration of changes requested to the NANC FRS and/or NANC IIS requirements. The procedure should include the definition of standard change request documents, vehicles for the submission and distribution of requests, and timetables for the process of open consideration and prioritization of such requests.

- E. Location/Service Portability and Wireless LNP - A number of other concerns will require oversight. For example, inclusion of wireless in LNP and implementation of location and service portability are areas that will potentially require changes to the NPAC SMS design, and will therefore require NANC oversight. The LNPA Selection Working Group, with task force support, or similar teams as NANC deems appropriate, are required in the future to oversee these changes.
- F. LNP Dispute Resolution - The NANC Dispute Resolution Working Group developed a dispute resolution process called "Resolution of Numbering Disputes". The LNPA Selection Working Group recommends that a common NANPA and LNPA dispute resolution process be developed jointly by the two (2) Working Groups. The LNPA Selection Working Group further agrees to recommend modifications to each LLC's dispute resolution process to incorporate these new NANC dispute resolution procedures. LLC disputes and other LNP disputes as may be defined by the process could then be submitted through dispute resolution to NANC, as appropriate.

- G. Expanded NANP Environments - To ensure effective development and implementation of expanded NANP (12-13 or more digits) environment, interaction between NANP and LNPA is necessary. It is recommended that the LNPA Selection Working Group work with the NANPA Working Group in support of future expanded NANP environments.

Appendix A

LNPA Selection Working Group and LNPA Task Forces Composition

North American Numbering Council
LNPA Selection Working Group

LNPA Selection Working Group

Company/Association	Name
Airtouch Communications	Kim Mahoney
Ameritech	Terry Appenzeller (Co-Chair)
APCC, Inc.	Greg Haledjian
AT&T	Ellwood Kerkeslager (Co-Chair)
Bell Atlantic	Renie Spriggs
Bell Atlantic	John Rudden
Bellcore	John Malyar
BellSouth	Bill Shaughnessy, Jr.
BellSouth Wireless	Ken Buchanan
California PUC	Natalie Billingsley
Cox	Carrington Phillip
Florida Public Service Commission	Stan Greer
Frontier	David Keech
GTE	Bob Angevine
Interstate Fibernet	Steven Brownsworth
Lucent Technologies	Doug Rollender
Maryland PSC	Geoffrey Waldau
MCI	Beth Kistner
MCI	Woody Traylor
Nextel	Rob Chimsky
Nortel	Mike Sutter
NYNEX	Frank Saletel
Ohio PUC	Scott Potter
PACE/COMPTEL	David Malfara
Pacific Bell	Joanne Balen
Perot Systems	Tim McCleary
SBC	Gary Fleming
Selectronics	Daniel Owen
Sprint	Hoke R. Knox
Sprint PCS/PCIA	Larry Grisham
Stentor	Rich Leroux
Telefonica de Puerto Rico	Roberto Correa
Teleport	Ed Gould
Time Warner/NCTA	Dan Engleman
US West	Cathy Handley
USTA	Dennis Byrne
WorldCom	Scot Lewis

LNPA Architecture Task Force

Company/Association	Name
Airtouch	Paula Jordan
Ameritech	Roger Marshall
AT&T	Karen Weis
Bell Atlantic	Renie Spriggs (Co-Chair)
Bell Atlantic	John Rudden
Bellcore	John Malyar
BellSouth	Steve Sauer
BellSouth Wireless	Karl Koster
California PUC	Natalie Billingsley
Cox	Carrington Phillip
GTE	David Wang
Illinois Commerce	Brent Struthers
Interstate Fibernet	Steve Brownsworth
Lucent Technologies	Doug Rollender
MCI	Woody Traylor
Nortel	Pat Carstensen
NYNEX	Thomas McGarry, Kevin Cooke
Ohio PUC	Scott Potter
OPASTCO	Greg Rise
Pacific Bell	Sandra Cheung
Perot Systems	Tim McCleary
Sprint	Hoke R. Knox (Co-Chair)
SBC	Bob Schaefer
Time Warner/NCTA	Dan Engleman
US West Wireless	Debbie Steele

LNPA Technical & Operational Requirements Task Force

Company/Association	Name
Ameritech	Donna Navickas
AT&T	Bonnie Baca (Co-Chair)
Bell Atlantic	Bob Allen
Bellcore	John Malyar
BellSouth	Ron Steen
BellSouth Wireless	Karl Koster
California PUC	Natalie Billingsley
Cox	Karen Furbish
EDS	Michael Haga
GTE	Bob Angevine
IBM	J. Paul Golick
Illuminet/ITN	Robert Wienski
Interstate Fibernet	Steve Brownsworth
Lockheed Martin	Larry Vagnoni
Lucent Technologies	Doug Rollender
MCI	Steve Addicks
NYNEX	Ed Birmingham
OPASTCO	John McHugh
Pacific Bell	Sandra Cheung
Pacific Bell Mobile Service	Linda Melvin
Perot Systems	Tim McCleary
Pocketcom/CTA	Nina Blake
SBC	Marilyn Murdock (Co-Chair)
Sprint	Dave Garner
Telecom Software Enterprises	Lisa Marie Maxson
Teleport	Phil Presworsky
Time Warner/NCTA	Karen Kay
US West	Cynthia Gagnon
WinStar	Steve Merrill
WorldCom	Bettie Shelby

Appendix B

LNPA Selection Working Group
and
LNPA Task Force Meetings

North American Numbering Council
LNPA Selection Working Group

LNPA Selection Working Group Meeting Schedule

<u>Meeting Date</u>	<u>Meeting Location</u>
November 8, 1996	Washington, DC
November 18, 1996	Washington, DC
December 3, 1996	Arlington, VA
December 18, 1996	Conference Call
January 7, 1997	Arlington, VA
February 4, 1997	Arlington, VA
February 25, 1997	Arlington, VA
March 21, 1997	Arlington, VA
April 7, 1997	Arlington, VA
April 18, 1997	Conference Call

LNPA Architecture Task Force Meeting Schedule

<u>Meeting Date</u>	<u>Meeting Location</u>
November 18, 1996	Washington, DC
December 2, 1996	Washington, DC
January 7, 1997	Arlington, VA
February 3, 1997	Arlington, VA
February 24, 1997	Arlington, VA
March 10, 1997	Conference Call
March 27, 1997	Conference Call
March 31, 1997	Conference Call

LNPA Technical & Operational Requirements Task Force
Meeting Schedule

<u>Meeting Date</u>	<u>Meeting Location</u>
November 18, 1996	Washington, DC
December 2-3, 1996	Arlington, VA
December 16, 1996	Chicago, IL
December 30, 1996	Conference Call
January 7, 1997	Arlington, VA
January 14, 1997	Conference Call
January 20, 1997	Kansas City, MO
January 27-31, 1997	San Francisco, CA
February 24-25, 1997	Arlington, VA
March 5-7, 1997	Dallas, TX
March 14, 1997	Conference Call
March 18, 1997	Conference Call
March 20, 1997	Arlington, VA
March 24, 1997	Denver, CO
April 2, 1997	Conference Call
April 14, 1997	Chicago, IL
April 18, 1997	Conference Call

Appendix C

LNPA Vendor Selection Schedule

North American Numbering Council
LNPA Selection Working Group

LNPA VENDOR SELECTION SCHEDULE*

SMS EVALUATION PROCESS	Midwest Region	Mid-Atlantic Region	North-east Region	West Coast Region	Western Region	South-east Region	South-west Region
LLC Operating Agreement	10/96	6/28/96	9/5/96	11/14/96	Yes	10/14/96	3/13/97
LLC Formed	10/96	6/17/96	9/96	9/96	Yes	10/1/96	12/2/96
RFP Issued	2/6/96	7/8/96	9/13/96	9/20/96	10/2/96	10/24/96	12/23/96
Vendors Notified of Eligibility Status	2/12/96	8/7/96	10/4/96	10/9/96	10/23/96	N/A	N/A
Vendor Submits Q&A	2/22/96	8/15/96	10/4/96	10/18/96	10/16/96	11/4/96	N/A
Bidder's Conference	Q&A	9/17/96	10/11/96	10/18/96	10/29/96	11/20/96	1/6/97
RFP Responses Due	3/18/96	10/8/96	10/25/96	11/1/96	11/12/96	11/26/96	1/13/97
LLC Notifies Vendor of Selection	5/15/96	11/25/96	12/18/96	02/21/97	12/11/96	2/1/97	2/28/97
Contract Negotiated/Signed	12/96	2Q97	2Q97	4/3/97	2Q97	2Q97	2Q97
"Build Out" Period Completed	3/17/97	4/1/97	4/15/97	TBD	6/1/97	6/1/97	6/1/97
NPAC Ready - Testing	4/18/97	5/1/97	5/15/97	TBD	7/1/97	7/1/97	6/1/97
NPAC Ready - Live Testing	** 7/1/97	8/1/97	TBD	TBD	TBD	TBD	9/16/97
Deployment	10/1/97 - 3/31/98	9/1/97 - 3/31/98	10/1/97 - 3/31/98	10/1/97 - 3/31/98	10/1/97 - 3/31/98	10/1/97 - 3/31/98	10/1/97 - 3/31/98

* Schedule as of 4/9/97

** Illinois Field Trial 7/1/97 - 8/30/97

Appendix D

Architecture & Administrative Plan for Local Number Portability

Appendix E

LNPA Technical & Operational Requirements Task Force Report

Attachment 2

assignment of animals to an experimental unit to account for pertinent variables and method of assignment of a treatment or a control to the experimental units. When the effect of such variables is accounted for by an appropriate design, and when, within the same animal, effects due to the test drug can be obtained free of the effects of such variables, the same animal may be used for both the test drug and the control using the controls set forth in paragraph (b)(4) of this section.

(7) The study uses methods to minimize bias on the part of observers and analysts of the data that are adequate to prevent undue influences on the results and interpretation of the study data. The protocol and study report explain the methods of observation and recording of the animal response variables and document the methods, such as "blinding" or "masking," used in the study for excluding or minimizing bias in the observations.

(8) The study uses methods to assess animal response that are well-defined and reliable. The protocol and study report describe the methods for conducting the study, including any appropriate analytical and statistical methods, used to collect and analyze the data resulting from the conduct of the study, describe the criteria used to assess response, and, when appropriate, justify the selection of the methods to assess animal response.

(9) There is an analysis and evaluation of the results of the study in accord with the protocol adequate to assess the effects of the new animal drug. The study report evaluates the methods used to conduct, and presents and evaluates the results of, the study as to their adequacy to assess the effects of the new animal drug. This evaluation of the results of the study assesses, among other items, the comparability of treatment and control groups with respect to pertinent variables and the effects of any interim analyses performed.

(c) *Waiver.* The Director of the Center for Veterinary Medicine (the Director) may, on the Director's own initiative or on the petition of an interested person, waive in whole or in part any of the criteria in paragraph (b) of this section with respect to a specific study. A petition for a waiver is required to set forth clearly and concisely the specific criteria from which waiver is sought, why the criteria are not reasonably applicable to the particular study, what alternative procedures, if any, are to be, or have been employed, and what results have been obtained. The petition is also required to state why the studies

so conducted will yield substantial effectiveness, notwithstanding nonconformance with which waiver is required.

(d) *Uncontrolled studies.* Uncontrolled studies, in contrast to controlled studies, in which the Director may, under paragraph (c) of this section, waive the use of any necessary controls described in paragraph (b)(4) of this section, are not acceptable on the basis for the approval of a new drug on effectiveness or target animal response. Such studies, carefully documented, may provide support of adequate efficacy for studies regarding efficacy. Uncontrolled studies may yield valuable data on the new animal drug, but they should be considered on the basis of the light of the characteristics of the drug. Isolated case reports, anecdotal experience, and reports of adverse details which permit a preliminary evaluation will not be

Dated: April 29, 1997.

William B. Schultz,
Deputy Commissioner
 [FR Doc. 97-11846 Filed 5/1/97]

BILLING CODE 4160-01-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 95-100]

The North American Council (NANC) Issues Recommendations on the Implementation of Title II Portability

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission issued a Public Notice which initiates a pleading cycle for comments on NANC's recommendations on local number portability (LNPAs), the duties of local number portability location of regional number databases, and technical requirements for the regional databases.

DATES: Comments are due on or before June 2, 1997, and replies are due on or before June 16, 1997.

ADDRESSES: Comments should be sent to the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20541.

held, or have evidence of outstanding such the criteria for tested. studies. s or partially including studies for as granted a waiver, of this section, of sary control ph (b)(4) of this ptable as the sole al of claims of et animal safety. lly conducted and rovide corroborative and well-controlled ectiveness and may egarding safety of g. Such studies will eir merits in the istics listed here. , random orts lacking the t scientific e considered.

for Policy.
ed 5-7-97; 8:45 am]

NOTIFICATIONS

116; DA 97-916]

Local Numbering Issues Regarding the Telephone Number

Communications

Commission has released which establishes a comments on the ations regarding ility administrators of LPNAs, the number portability nical specifications bases.

due on or before uly comments are e 17, 1997. nts and reply e sent to Office of al Communications M Street, NW., Room C. 20554, with a

copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, NW., Room 544, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Steven Teplitz or Kyle Dixon, Policy and Program Planning Division, Common Carrier Bureau, (202) 418-1580.

SUPPLEMENTARY INFORMATION:

Synopsis of Public Notice

On June 27, 1996, the Commission adopted the *First Report and Order and Further Notice of Proposed Rulemaking (First Report & Order)* (61 FR 38605 (July 25, 1996)) in the above-referenced docket implementing the requirement under section 251(b) of the Communications Act of 1934, as amended, that all local exchange carriers offer number portability in accordance with requirements prescribed by the Commission. In the *First Report & Order*, the Commission directed the North American Numbering Council (NANC), a federal advisory committee, to select one or more independent, non-governmental entities that are not aligned with any particular telecommunications segment, to serve as a local number portability administrator(s) (LNPA(s)). The Commission also directed the NANC to make recommendations regarding, *inter alia*, the duties of LNPA(s), the location of regional databases, and technical specifications for the regional databases.

The NANC forwarded its recommendations to the Commission on May 1, 1997 in a report from its Local Number Portability Administration Selection Working Group, dated April 25, 1997. Specifically, the NANC issued recommendations in the following areas: (1) What party or parties should be selected as LNPA(s); (2) whether one or multiple LNPA(s) should be selected; (3) how the LNPA(s) should be selected; (4) specific duties of the LNPA(s); (5) geographic coverage of the regional databases; (6) technical standards, including interoperability standards, network interface standards, and technical specifications, for the regional databases; (7) the sharing of numbering information between the North American Numbering Plan Administrator and the LNPA(s); and (8) the future role of the NANC with respect to local number portability issues. The Commission will act on these recommendations in a future order.

Copies of the NANC's Local Number Portability Administration Selection Working Group report are available for public inspection and copying during normal business hours, in the Commission's Public Reference Center, Room 239, 1919 M Street, NW., Washington, D.C. 20554. Copies can also be obtained from International Transcription Service, Inc. (ITS), the

Commission's contract service records duplication center, 1919 M Street, NW., Washington, D.C. 20554, by calling (202) 875-3888. Copies of the NANC's Local Number Portability Administration Selection Working Group report is available at the Commission's website at www.fcc.gov/ccb/NA.

Region	Specific states
Northeast	Vermont, New Hampshire, Maine, New York, Connecticut, Rhode Island, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, Arkansas, Texas, Oklahoma, Kansas, Nebraska, Missouri, Iowa, Illinois, Wisconsin, Indiana, Michigan, and Ohio
Mid-Atlantic	Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, Arkansas, Texas, Oklahoma, Kansas, Nebraska, Missouri, Iowa, Illinois, Wisconsin, Indiana, Michigan, and Ohio
Mid-West	Illinois, Wisconsin, Indiana, Michigan, and Ohio
Southeast	Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia, Kentucky, Tennessee, Mississippi, Alabama, Louisiana, and Louisiana.
Southwest	Texas, Oklahoma, Kansas, Arkansas, and Missouri
Western	Washington, Oregon, Montana, Wyoming, North Dakota, South Dakota, Nebraska, Colorado, Utah, Arizona, New Mexico, Idaho, Nevada, and Hawaii
West Coast	California, Nevada, and Hawaii

The NANC also recommends that the U.S. territories choose from one of the seven regions. A state has 60 days from the release date of this Public Notice to notify the Common Carrier Bureau and the NANC that it does not wish to participate in the regional database system for number portability.

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 9, and consistent with its charter, the NANC's authority is limited to providing advice and recommendations to the Commission. Moreover, all procedural requirements of the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, and other applicable statutes continue to apply. Interested parties should file an original and four copies of their comments on the NANC's number portability recommendations by June 2, 1997 and reply comments by June 17, 1997 with the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Comments and reply comments should reference CC Docket No. 96-115. In addition, parties should send one copy to Janice Myles, Common Carrier Bureau, FCC, Room 544, 1919 M Street, N.W., Washington, D.C. 20554, and one copy to ITS, at 2100 M Street, N.W., Washington, D.C. 20037. Comments and reply comments will be available for public inspection and copying during regular business hours in the Commission's Public Reference Center, Room 239, 1919 M Street, N.W.,

Washington, D.C. 20554. Comments and reply comments will be available from ITS, at 2100 M Street, N.W., Washington, D.C. 20037, by calling (202) 875-3888.

We will continue to proceed as a non-rulemaking for purposes of the Commission's *ex parte* rulemaking process, generally 47 CFR §§ 1.101-1.103. For further information, contact Teplitz or Kyle Dixon, Program Planning Director, Common Carrier Bureau, at (202) 875-3888.

Federal Communications Commission
William F. Caton,
Acting Secretary.
 [FR Doc. 97-12074 Filed 6/1/97; BILLING CODE 6712-01-P]

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

50 CFR Part 622
[I.D. 041597C]
RIN 0648-AG25

Fisheries of the Caribbean Sea, Mexico, and South America: Migratory Pelagic Resources of the Gulf of Mexico and Caribbean Sea: Amendment 8; Correction

AGENCY: National Marine Fisheries Service, (NMFS), Na

Director for public
 notification, at 2100 M
 Street, N.W., Wash-
 ington, D.C. 20037, or
 202-380-3800. In addition,
 a Number Portability
 Action Working
 Group is available for review via
 website at <http://www.fcc.gov>.

The *First Report & Order* directed the
 Chief, Common Carrier Bureau, to issue
 a Public Notice that specifically
 identifies the administrator(s) selected
 by the NANC and the proposed
 locations of the regional databases.
 Pursuant to this directive, we hereby
 announce that the NANC has made the
 following recommended LNPA
 selections, in the following regions:

States per region	Administrator
Connecticut, Rhode Island, and Massachusetts	Lockheed Martin IMS.
West Virginia, Virginia, and Washington, DC	Lockheed Martin IMS.
Alabama, Tennessee, Kentucky, Alabama, Mississippi,	Lockheed Martin IMS.
Florida	Perot Systems, Inc.
North Dakota, South Dakota, Minnesota, Iowa, Ne- braska, and Alaska	Lockheed Martin IMS.
.....	Perot Systems, Inc.
.....	Perot Systems, Inc.

554. Copies of
 comments will also
 be accepted at 2100 M Street,
 N.W., Washington, D.C. 20037, or by
 telephone at 202-380-3800.
 We intend to treat this
 notice as a restricted
 notice of proposed
 rulemaking under
 5 U.S.C. 1.1200(a), 1.1206.
 For information contact Steven
 M. Gorman, Policy and
 Planning Division, Common
 Carrier Commission,
 2100 M Street, N.W.,
 Washington, D.C. 20037,
 (202) 418-1580.

Atmospheric Administration (NOAA),
 Commerce.

ACTION: Notice of availability of an
 amendment to a fishery management
 plan; correction.

SUMMARY: NMFS published a document
 in the **Federal Register** on April 23,
 1997, announcing the availability of
 Amendment 8 to the Fishery
 Management Plan for the Coastal
 Migratory Pelagic Resources of the Gulf
 of Mexico and South Atlantic. The
 document contained an incorrect I.D.
 number.

FOR FURTHER INFORMATION CONTACT:
 Mark Godcharles, 813-225-2015.

Correction

In the **Federal Register** issue of April
 23, 1997, in FR DOC 97-10555, on page
 19733, in the second column, correct
 the I.D. number to read: [I.D. 041497C].

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 2, 1997.

Gary C. Matlock,

*Director, Office of Sustainable Fisheries,
 National Marine Fisheries Service.*

[FR Doc. 97-12056 Filed 5-7-97; 8:45 am]

BILLING CODE 3510-22-F

COMMERCE
and Atmospheric

**Caribbean, Gulf of
 Atlantic; Coastal
 Resources of the
 South Atlantic;
 Correction**

National Marine Fisheries
 Service, National Oceanic and

Attachment 3

Federal Register issue of July 11, 1997 (62 FR 37408).

EFFECTIVE DATE: September 15, 1997.

FOR FURTHER INFORMATION CONTACT: Terry D. Johnson, 202-418-0445; e-mail: Tjohnson@fcc.gov.

SUPPLEMENTARY INFORMATION: This document corrects footnote 23 of the Report and Order in the above-captioned proceeding, which appeared on page 37416 in the **Federal Register** issue of July 11, 1997 (62 FR 37416). Footnote number 23 associated with paragraph 50 erroneously stated that the AM station population was determined using the 1mV/m field strength contour, and it further stated that the FM station population was determined using the 60 dBuV/m contour. For all AM stations, the 0.5 mV/m contour was used. For Class B FM stations, the 54 dBuV/m contour was used. For Class B1 FM stations, the 57 dBuV/m contour was used. For all other FM Classes, the 60 dBuV/m contour was used.

Correction

Therefore, footnote 23 should be corrected to read as follows:

DataWorld MediaXpert Service prepared for NAB a calculation of the signal coverage for each station, and overlaid this data onto 1990 decennial census population data to estimate the population contained within each station's signal coverage area. For each AM station, estimated soil conductivity data was retrieved for each of 360 radial azimuths around the transmitter site, the standard horizontal plane radiation pattern was calculated and any pertinent pattern augmentations applied, and the distance to the 0.5 mV/m field strength contour for each of the 360 radials was calculated using the appropriate propagation curves and the FCC equivalent distance method. For each FM station, terrain averages were calculated from the USGS/DMA 3 arc second terrain database for each of 360 radial azimuths, the HAAT was calculated using the height of the center of radiation AMSL and processed with FM contour calculation software, pertinent directional antenna information was applied, and the distance to the 54 dBuV/m (for Class B stations), 57 dBuV/m (for Class B1 stations), or 60 dBuV/m (for all other classes of station) contour was calculated using the appropriate FCC F[50,50] curves. For both AM and FM, the distance to contour data was applied to population counting software using 1990 census data to determine the total population within each station's coverage area.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97-24724 Filed 9-16-97; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 95-116; FCC 97-289]

Telephone Number Portability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The *Second Report and Order (Order)* released August 18, 1997 adopts, with minor modifications the recommendations of the North American Numbering Council relating to local number portability administration. The requirements, standards and procedures adopted in this *Order* are needed to give the telecommunications industry clear guidelines as to how to implement long-term local number portability.

DATES: The final rule is effective October 17, 1997. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 17, 1997.

FOR FURTHER INFORMATION CONTACT: Steven Teplitz, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418-1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order* adopted August 14, 1997, and released August 18, 1997. The full text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., N.W., Room 239, Washington, D.C. 20554 or at the Office of the Federal Register, 800 North Capitol Street, N.W., Suite 700, Washington, D.C. The complete text also may be obtained through the World Wide Web, at <http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc97-289.wp>, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th St., N.W., Washington, D.C. 20036.

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act, the *Order* contains a Final Regulatory Flexibility Analysis which is set forth in the *Order*. A brief description of the Final Regulatory Flexibility Analysis follows.

Pursuant to section 604 of the Regulatory Flexibility Act, the Commission performed a comprehensive analysis of the *Second Report and Order* with regard to small entities. This analysis includes: (1) a

succinct statement of the need for, and objectives of, the Commission's decisions in the *Second Report and Order*; (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, the final regulatory analysis of the *First Report and Order and Further Notice of Proposed Rulemaking*, 61 FR 38605 (July 25, 1996) (*First Report & Order*) and the supplemental final regulatory analysis of the *First Memorandum Opinion and Order on Reconsideration*, 62 FR 18280 (April 15, 1997) (*First Order on Reconsideration*), and a summary of the Commission's assessment of these issues; (3) a description of and an estimate of the number of small entities to which the *Second Report and Order* will apply; (4) a description of the projected reporting, recordkeeping and other compliance requirements of the *Second Report and Order*, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for compliance with the requirement; and (5) a description of the steps the Commission has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes. The requirements and rule adopted in this *Second Report and Order* are necessary to implement the provisions of the Telecommunications Act of 1996.

Synopsis of Second Report and Order

Introduction

1. On June 27, 1996, the Commission adopted the *First Report and Order and Further Notice of Proposed Rulemaking*, 61 FR 38605 (July 25, 1996) (*First Report & Order*) in this docket. The *First Report & Order* established rules designed to implement section 251(b) of the Communications Act of 1934, as amended (the Act), which requires all local exchange carriers (LECs) to offer, "to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." 47 U.S.C. § 251(b)(2). Among other things, in the *First Report & Order*, the Commission directed the North American Numbering Council (NANC) to make recommendations regarding specific aspects of local number portability implementation. The NANC forwarded its recommendations to the Commission on May 1, 1997, in a report from its Local Number Portability Administration Selection Working Group, dated April 25, 1997 (*Working Group Report*).

2. In this *Second Report & Order*, the Commission adopts the recommendations of the NANC as set forth in the *Working Group Report*, with the modifications discussed below. Specifically, we (1) adopt the NANC's recommendation that seven regional number portability databases be established coinciding with the boundaries of the seven original Bell Operating Company (BOC) regions; (2) adopt the NANC's recommendation that Lockheed Martin IMS (Lockheed Martin) and Perot Systems, Inc. (Perot Systems) serve as the administrators for the regional number portability databases; (3) adopt the technical and operational standards proposed by the NANC for the provision of number portability by wireline carriers; (4) require that the carrier immediately preceding the terminating local exchange carrier be responsible for ensuring that number portability databases are queried; (5) permit LECs to block calls that have not been queried when failure to do so is likely to impair network reliability; (6) direct the NANC to complete and submit to the Commission recommendations on the sharing of numbering information between the regional number portability database administrators and the North American Numbering Plan Administrator; (7) direct the NANC to develop standards and procedures regarding the provision of number portability by CMRS providers; (8) adopt, on an interim basis only, the NANC's recommendation that the regional limited liability companies (LLCs), already established by carriers in each of the original BOC regions, manage and oversee the local number portability administrators, subject to review by the NANC; (9) direct the NANC to provide national-level oversight of local number portability administration; and (10) adopt the NANC's recommendation that the Commission create a committee to oversee number portability deployment in the top 100 Metropolitan Statistical Areas.

Discussion

Local Number Portability Databases

Geographic coverage of number portability databases: 3. *Databases By BOC Region.* We adopt the NANC's recommendation that a Number Portability Administration Center database be established for each of the original BOC regions so as to cover, collectively, the 50 states, the District of Columbia and the U.S. territories in the North American Numbering Plan Area. Deploying number portability databases

by BOC region will: (1) build on the efforts of the LLCs, which already have chosen local number portability database administrators in each of the original BOC regions; (2) make use of the technical and organizational experience of the state-sponsored associations and workshops; and (3) minimize the cost and complexity of use of the databases by the BOCs. Moreover, we find it significant that, according to the NANC, industry fora at all levels have agreed to the designation of BOC territories as the appropriate Number Portability Administration Center coverage areas. We conclude that establishing a database for each of the original BOC regions would serve the public interest.

4. We decline, at this time, to grant CBT's request that it be allowed to select one regional Number Portability Administration Center for purposes of fulfilling its number portability responsibilities. We find that the current record is insufficient to make a finding that granting CBT's request will not raise technical difficulties with respect to local number portability implementation or have negative financial consequences for carriers responsible for conducting the queries necessary to route calls to the proper terminating carrier. Because the record on this issue is insufficient for us to make a determination whether the benefits to CBT of granting its request outweigh the potential harm to other carriers, we decline to make such a determination at this time. Instead, we direct the NANC to review CBT's request and to make a recommendation to the Commission, on or before December 15, 1997. Specifically, we direct the NANC to address the question of whether LECs with contiguous operating areas that overlap more than one number portability database region should be allowed to select a single Number Portability Administration Center.

5. *U.S. Territories.* We adopt the NANC's recommendation that each U.S. territory in the North American Numbering Plan be permitted to choose one of the seven regional databases for purposes of implementing number portability. Because of their various locations, the U.S. territories are not included within any BOC's territory, nor do they collectively comprise another, separate region. The NANC's recommendation that each territory choose a particular regional database provides a reasonable alternative to creating additional Number Portability Administration Center regions that are much smaller than the Number

Portability Administration Center regions that are based on BOC regions.

6. We further find that allowing the U.S. territories to select the regional database they will use to provide number portability will not significantly change the size or complexity of any one database or otherwise undermine the public interest benefits of the regional database system. Accordingly, we hereby direct each U.S. territory to: (1) select a regional database that carriers in that territory will use to provide number portability; and (2) notify the Commission and the NANC in writing regarding this selection within 45 days of the release of this order. Each territory's selection of a particular database is final.

Selection of database administrators: 7. We adopt the NANC's recommendation that Lockheed Martin serve as local number portability database administrator for the Northeast, Mid-Atlantic, Midwest and Southwest regions, and that Perot Systems serve as the local number portability database administrator for the Southeast, Western and West Coast regions. As noted above, the *First Report & Order* directed the NANC to select one or more local number portability database administrators that are independent, non-governmental entities that are not aligned with any particular telecommunications industry segment. We 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. We further note that no party to the proceeding objects to the selections. We, however, may review and, if necessary, modify our approval of the recommended local number portability administrators in the event that negotiations between Lockheed Martin or Perot Systems and the LLCs do not result in completed master contracts for each region.

8. We also adopt the NANC's recommendations that (1) LLCs be allowed to elect to have the local number portability database administrator for separate regions serve those regions using the same platform; and (2) database administrators be allowed to create "virtual Number Portability Administration Centers." We reiterate our conclusion that, absent technical advances or other changed circumstances, it would not be in the public interest for number portability to be provided in this manner. We clarify, however, that our prohibition on the

establishment of one national database does not preclude local number portability database administrators from using the same computer hardware or software to store, utilize or provide access to multiple databases by, for example, separating regional databases stored on the same computer or system of computers by means of database partitions. We underscore, however, that the Chief of the Common Carrier Bureau retains delegated authority to take appropriate action regarding any existing or potential problems associated with serving one or more regions using the same database platform.

Number of database administrators: 9. By the time the NANC submitted its recommendations to the Commission, the seven regional LLCs had independently selected two separate database administrators: Lockheed Martin and Perot Systems. For that reason, the NANC concluded it was unnecessary to address whether more than one administrator should be required. We find that the NANC acted reasonably in assessing whether having two administrators would be appropriate, and thus we decline to disturb this result. Further, we agree, for the reasons given by the NANC, that there are clear advantages to having at least two experienced number portability database administrators that can compete with and substitute for each other, thereby promoting cost-effectiveness and reliability in the provision of Number Portability Administration Center services. While we recognize the likely benefits of having at least two administrators, we do not, at this time, adopt a requirement that two or any other number of entities serve as local number portability database administrators.

General duties of database administrators: 10. We adopt the NANC's recommendations regarding the general duties of the local number portability database administrators. The NANC defined these duties based on input from the industry at the national, regional and state levels, and none of the commenting parties objects to them. These duties also appear to be consistent with the types of activities the Commission tentatively concluded would be necessary to deploy long-term number portability. For example, the Commission tentatively concluded that costs for long-term portability would be attributable to the "development and implementation of the hardware and software for the database," to the "maintenance, operation, security, administration, and physical property associated with the database," and to

the "uploading, downloading, and querying" associated with the database. Moreover, the duties appear to be reasonably comprehensive, so as to enable the number portability administrators to implement the architecture and technical specifications developed by the NANC, and neither the Commission nor the parties has identified any record evidence that indicates a need to adopt general duties in addition to those recommended by the NANC. We also note that the NANC based these general duties on the more specific duties described in the Functional Requirements Specification (Functional Requirements Specification or FRS) and Interoperable Interface Specification (Interoperable Interface Specification or IIS) and that the NANC's description of the underlying specific duties in the FRS and IIS as "standard functions" suggests that both the specific and general duties the NANC recommends are noncontroversial.

Technical and Operational Standards

Uniform national standards: 11. We agree with the NANC that the adoption of uniform Functional Requirements Specification, Interoperable Interface Specification, Provisioning Process Flows, policy for the porting of reserved and unassigned numbers, and compliance and change management processes would provide significant advantages for the implementation of local number portability. We conclude that uniform national standards in this area will promote efficient and consistent use of number portability methods and numbering resources on a nationwide basis, ensure the interoperability of networks, and facilitate the ability of carriers to meet number portability implementation deadlines. We further conclude that uniform national standards should minimize expenditure of time and resources, maximize use of local number portability resources for all companies, produce timely and cost effective offers of local number portability related products, enable switch vendors to spread their costs over a larger base of customers, eliminate the need to develop several different versions of number portability software, and improve service quality for carriers providing service in multiple regions. Furthermore, uniform national standards will allow vendors to develop standard products rather than multiple versions of hardware and software necessary to implement local number portability based on regional differences, resulting in more timely

and cost effective product offerings for local service providers.

Specific technical standards: 12. We conclude that the NANC's recommended technical and operational standards are consistent with the Commission's performance criteria for implementing local number portability. In adopting the standards as currently set forth in the *Working Group Report* and its appendices as a framework for implementation of local number portability, we recognize that ongoing changes to these specifications and processes likely will be needed as the industry gains operational experience in implementing long-term number portability. We urge the industry, working under the auspices of the NANC, to maintain, update and modify the technical and operational standards as necessary, and to establish a long-term compliance process for service providers and local number portability administrators.

13. Number Portability Administration Center Service Management System Provisioning Process Flows (Provisioning Process Flows). We adopt the Provisioning Process Flows as set forth in Appendix E to the *Working Group Report* and recommended by the NANC as industry standards for use in each Number Portability Administration Center region.

14. We conclude that the uniform standards for Provisioning Process Flows proposed by the NANC are essential to the efficient deployment of local number portability across the nation. In particular, we find that uniform Provisioning Process Flows will help ensure that communication between and among service providers (using local Service Management Systems) and local number portability administrators (using Number Portability Administration Center Service Management Systems) proceed in a clear and orderly fashion so that number portability requests are handled in an efficient and timely manner. We note that no commenter opposed adoption of these standard Provisioning Process Flows. We direct the NANC to make recommendations regarding future modifications to the Commission as necessary.

15. Number Portability Administration Center Service Management System Standards—Functional Requirements Specification. We adopt the NANC's recommendation that local number portability administrators and any entity directly connecting to the Number Portability Administration Center Service Management System be required to use

the Number Portability Administration Center Service Management System Functional Requirements Specification as described in the *North American Numbering Council—Functional Requirements Specification—Number Portability Administration Center—Service Management System*, Version 1.1, dated May 5, 1997 (*NANC FRS*). The *NANC FRS* will serve as an industry standard for use in developing and maintaining the Number Portability Administration Center Service Management System in each of the seven Number Portability Administration Center regions.

16. The *NANC FRS* was developed primarily to support the provisioning of wireline number portability. The *NANC* has not fully considered or developed distinct number portability requirements applicable to CMRS providers. Therefore, modifications to the *NANC FRS* may be required to support wireless number portability. We direct the *NANC* to recommend modifications to the *NANC FRS* as necessary to support wireless number portability.

17. *Number Portability Administration Center Service Management System Standards—Interoperable Interface Specification*. We adopt the *NANC*'s recommendation that the local number portability administrators and any entity directly connecting to the Number Portability Administration Center Service Management System use the Number Portability Administration Center Service Management System Interoperable Interface Specification as described in the *North American Numbering Council—Interoperable Interface Specification—Number Portability Administration Center—Service Management System*, Version 1.0, dated April 7, 1997 (*NANC IIS*). The *NANC IIS* will serve as an industry standard for use in developing and maintaining the Number Portability Administration Center Service Management System interfaces in each of the seven Number Portability Administration Center regions.

18. The *NANC IIS* was developed primarily to support wireline number portability. The *NANC* has not fully considered or developed unique wireless number portability requirements. Therefore, modifications to the *NANC IIS* may be required to support wireless number portability. As discussed more fully below, we direct the *NANC* to recommend modifications to the *NANC IIS* as necessary to support wireless number portability.

19. *Policy for the Porting of Reserved and Unassigned Numbers and*

Compliance Process. We adopt the *NANC*'s recommendations relating to the porting of reserved and unassigned numbers developed and documented in Appendix D to the *Working Group Report*. Specifically, the *NANC* recommends that customers should be allowed to port telephone numbers that they have reserved under a legally enforceable written agreement but that have not been activated. The *NANC* further recommends that such reserved numbers: (1) be treated as disconnected telephone numbers when the customer is disconnected or when the service is moved to another service provider and the reserved numbers are not ported to subsequent service providers; and (2) may not be used by another customer. The Working Group's Architecture Task Force points out that implementation of the capability to port reserved numbers may require modifications to operational support systems and may not be available initially. The *NANC* also recommends that service providers not be allowed to port unassigned numbers unless and until there is an explicit authorization for such porting from a regulator with appropriate jurisdiction.

20. In adopting the *NANC*'s recommendation for the porting of reserved and unassigned numbers policy, we direct the *NANC* to monitor the implementation of this policy, and make appropriate recommendations to the Commission, including, if deemed necessary by the *NANC*, guidelines for administering ported unassigned numbers that are no longer reserved by the customer that originally ported them.

21. We also conclude that the *NANC* has recommended a reasonable process for enforcing compliance with the policy pertaining to the porting of reserved and unassigned numbers. If a service provider finds that it is disadvantaged by instances of non-compliance with the policy for the porting of reserved and unassigned numbers by another service provider, the *NANC* recommends several courses of action. First, the aggrieved service provider may contact the service provider with which it has a dispute to resolve the issue through informal negotiations. Should these efforts prove unsuccessful, the aggrieved service provider may bring the issue to the regional LLC for resolution via the LLC's dispute resolution process, to the *NANC*, to the state public utilities commission, or to other bodies as deemed appropriate by the service provider.

22. *Change Management Process*. We adopt the *NANC*'s recommendations

concerning the change management process. We agree with the *NANC* that it is important that a neutral entity oversee the change management process, so that: (1) there is consistency in the submission and consideration of changes to the architectural, technical and operational specifications and procedures; (2) uniform processes are implemented; and (3) no individual carriers or industry segments are disadvantaged. We find that the *NANC*'s proposed change management process will enable the industry to make changes to the architectural, technical and operational specifications and procedures in a timely and uniform manner. The role of the regional LLCs in managing changes to the number portability technical and operational specifications, however, is subject to our planned review of the role of the regional LLCs in implementing long-term number portability. We direct the *NANC* to continue its oversight of architectural, technical and operational change management processes and to make additional recommendations to the Commission as necessary. In the event the *NANC* is dissolved at some point in the future, we will, at that time, either establish or select an oversight body to perform the change management functions now delegated to the *NANC*.

23. We also adopt the *NANC*'s recommendations as presented in Appendix D to the *Working Group Report*, with the exception of the *NANC*'s recommendation on the blocking of default routed calls.

24. *N-1 Call Routing*. The *NANC* recommends that the carrier in the call routing process immediately preceding the terminating carrier, designated the "N-1" carrier, be responsible for ensuring that database queries are performed. We adopt the *NANC*'s recommendation that the N-1 carrier be responsible for ensuring that databases are queried, as necessary, to effectuate number portability. The N-1 carrier can meet this obligation by either querying the number portability database itself or by arranging with another entity to perform database queries on behalf of the N-1 carrier.

25. The efficient provisioning of number portability requires that all carriers know who bears responsibility for performing queries, so that calls are not dropped because the carrier is uncertain who should perform the database query, and so that carriers can design their networks accordingly or arrange to have database queries performed by another entity. Consistent with our finding in the *First Memorandum Opinion and Order on*

Reconsideration, 62 FR 18280 (April 15, 1997) (*First Order on Reconsideration*), we conclude that the Location Routing Number system functions best if the N-1 carrier bears responsibility for ensuring that the call routing query is performed. Under the Location Routing Number system, requiring call-terminating carriers to perform all queries may impose too great a burden on terminating LECs. In addition, obligating incumbent LECs to perform all call routing queries could impair network reliability.

26. We note, however, that the requirement that the N-1 carrier be responsible for ensuring completion of the database query applies only in the context of Location Routing Number as the long-term number portability solution. In the event that Location Routing Number is supplanted by another method of providing long-term number portability, we may modify the call routing process as necessary. We note 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.

27. *Default Routing.* The NANC recommends that we permit carriers to block "default routed calls" coming into their networks. 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. If the N-1 carrier fails to perform the query, the call is routed, *by default*, to the LEC that originally serviced the telephone number. The original LEC, which may or may not still be serving the called number, can either query the local Service Management System and complete the call, or "block" the call, sending a message back to the caller that the call cannot be delivered. The NANC found that compelling LECs to query all default routed calls could impair network reliability, and that allowing carriers to block default routed calls coming into their networks is necessary to protect against overload or congestion that could result from an inordinate number of calls being routed by default to the original LEC. In light of these network reliability concerns, 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.

28. In the *First Report & Order*, we required CMRS providers to have the capability of querying number portability database systems in order to deliver calls from their networks to ported numbers anywhere in the country by December 31, 1998. We established this deadline so that CMRS providers would have the ability to route calls from their customers to a wireline customer who has ported his or her number, by the time a substantial number of wireline customers have the ability to port their numbers between wireline carriers. Under this deployment schedule, the initial deployment of long-term local number portability for wireline carriers will occur prior to the date by which CMRS providers must be able to perform database queries. During this period, CMRS providers are not obligated by our rules to perform call routing queries or to arrange for other entities to perform queries on their behalf. Thus, if wireline LECs are allowed to block default routed calls, calls originating on wireless networks (to the extent that the CMRS provider is the N-1 carrier) could be blocked. For this reason, we will only allow LECs to block default routed calls when performing database queries on default routed calls is likely to impair network reliability. We also require LECs to apply this blocking standard to calls from all carriers on a nondiscriminatory basis. In the event that a CMRS or other service provider believes that a LEC is blocking calls under circumstances unlikely to impair network reliability, such service provider may bring the issue before the NANC. We direct the NANC to act expeditiously on these issues. Although CMRS providers are not responsible for querying calls until December 31, 1998, we urge them to make arrangements with LECs as soon as possible to ensure that their calls are not blocked. We note that if a LEC performs database queries on default routed calls, the LEC may charge the N-1 carrier, pursuant to guidelines the Commission will establish regarding long-term number portability cost allocation and recovery.

29. *Disconnected Ported Numbers.* The NANC also recommends that when a ported telephone number is disconnected, that telephone number be released or "snapped-back" to the original service provider assigned the NXX. We find this NANC recommendation reasonable and the result of industry-wide consensus. Accordingly, we adopt the recommendation. We ask the NANC to prepare recommendations to clarify the

policy if it determines that there is confusion among the industry regarding its application.

30. *High Volume Call-In Networks.* The Working Group's Architecture Task Force did not reach consensus on how to provide local number portability to high volume call-in networks. Currently, a service provider may move a customer's telephone number(s) to a high volume call-in network when the service provider determines that the customer regularly generates large volumes of terminating traffic over a short period of time, so that the surge in telephone calls will not overload the network. A high volume call-in network allows all such customers to be assigned numbers in an NPA-NXX (e.g., 213-520) dedicated for high volume call-in. Switches in the network can be designed to segregate traffic for high volume call-in numbers and route it via trunk groups that are dedicated to the network and do not overflow to other trunk groups. The dedicated trunks are engineered to handle a particular traffic load and, in this way, traffic volumes are limited, and traffic to high calling volume numbers cannot congest the network.

31. The Location Routing Number method for local number portability requires a database query to be performed on calls to portable NPA-NXXs before route selection takes place. If high volume call-in network numbers are portable, they could generate large volumes of queries that could congest the Service Control Points. Also, if a high volume call-in network number is ported and a location routing number is returned in the database response, the call will not be routed via trunks dedicated to high volume call-in networks. This congestion can in turn affect other services and compromise the design of high volume call-in network networks.

32. We find that additional study is necessary before we allow porting of numbers to high volume call-in networks. We, therefore, urge the industry, under the auspices of the NANC, to study this matter further and prepare recommendations on how best to incorporate high volume call-in networks into the local number portability scheme. We direct the NANC to continue to examine this matter and make recommendations to the Commission.

Numbering Information Sharing

33. We acknowledge and applaud the steps already taken by the NANC to coordinate its efforts with those of the Industry Numbering Committee to develop a work plan and guidelines to

implement number pooling, and we direct the NANC to continue to work with the Industry Numbering Committee and any other industry bodies it deems appropriate in developing numbering information sharing guidelines. We also direct the NANC to address the needs of CMRS providers to ensure that number conservation efforts do not unfairly discriminate against such carriers. We further direct the NANC to make recommendations to the Commission as necessary to develop guidelines for numbering information sharing.

Number Portability and CMRS Providers

34. We recognize the significant time constraints imposed on the NANC for the development of recommended standards and procedures so that wireline carriers can meet the Commission's implementation schedule, which commences October 1, 1997. We are also aware that under our number portability deployment schedule, CMRS providers are not required to have the capability of querying number portability database systems in order to deliver calls from their networks to ported numbers until December 31, 1998 and are not required to have the ability to port numbers until June 30, 1999. We, therefore, conclude that it was reasonable for the NANC to defer making recommendations at this time with respect to the implementation of local number portability by CMRS providers. Our adoption of the NANC's recommendations set forth in its May 1, 1997 transmittal, however, should not be viewed in any way as an indication that we believe our plan for implementing local number portability is complete. The industry, under the auspices of the NANC, will probably need to make modifications to local number portability standards and processes as it gains experience in implementing number portability and obtains additional information about incorporating CMRS providers into a long-term number portability solution and interconnecting CMRS providers with wireline carriers already implementing their number portability obligations.

35. We find that adoption of the current NANC recommendations should not be deferred pending resolution of all wireless concerns. While delaying implementation of number portability until all wireless concerns are fully addressed might result in an easier transition to a number portability environment for CMRS providers, we believe that such delay would be contrary to the public interest because a far greater number of wireline customers

could not, during the period of delay, switch local providers without also changing telephone numbers. At the same time, we recognize that it will probably be necessary to modify and update the current local number portability standards and procedures in order to support wireless number portability. Thus, we direct the NANC to develop standards and procedures necessary to provide for CMRS provider participation in local number portability. We further direct the NANC to present its wireless recommendations to the Commission as soon as possible, but not later than nine months after the release of this *Second Report & Order*. CMRS providers will need clear guidelines as to how to query the Service Management System databases to determine proper call routing, as well as how to implement wireless number portability. The NANC must also consider other issues of concern to CMRS providers, such as how to account for differences between service area boundaries for wireline versus wireless services and how to implement number portability in a roaming environment. In revising local number portability standards to incorporate the concerns of the wireless industry, the NANC should remain cognizant of the goals of ensuring the interoperability of networks and nondiscrimination as applied to CMRS providers. In particular, in making its recommendations, the NANC is to ensure that CMRS providers are not unfairly disadvantaged by virtue of the fact that wireline number portability is being implemented before number portability for CMRS providers.

36. CTIA reports that it and other industry groups are currently developing technical solutions for implementing wireless number portability. We direct the NANC to monitor these industry efforts and to make recommendations to the Commission for modifications to the various technical and operational standards as necessary for CMRS providers to efficiently implement number portability and to allow CMRS providers to interconnect with a wireline number portability environment.

Local Number Portability Oversight Procedures

37. We adopt, with certain modifications, the NANC's recommendations regarding the oversight and management of the local number portability administrators. Specifically, we adopt, on an interim basis, the NANC's recommendation that the LLCs provide immediate oversight

and management of the local number portability administrators. The LLCs should serve in this role until the Commission concludes a rulemaking to examine the issue of local number portability administrator oversight and management including, but not limited to, the question of whether the LLCs should continue to act in this capacity. The Commission will initiate such a rulemaking no later than June 30, 1998. In addition, we adopt the NANC's recommendation that it provide ongoing general oversight of number portability administration, including oversight of the individual LLCs, subject to Commission review. We also adopt the NANC's recommendation that the Commission create a committee, chaired by the Chief of the Common Carrier Bureau, to oversee number portability deployment in the top 100 MSAs.

38. *Oversight by the LLCs.* We conclude that, at least in the short term, the LLCs should provide immediate oversight for the regional local number portability administrators. Specifically, we conclude that: (1) there are advantages to allowing LLCs to provide immediate oversight of the local number portability administrators; (2) we have no basis for concluding that the LLCs will not treat all carriers fairly; and (3) the record regarding local number portability administrator oversight does not permit us to conclude that other proposals would be preferable to LLC oversight.

39. We agree with the NANC that there will likely be a need to modify some requirements to permit database system enhancements and other modifications as local number portability is deployed throughout each region. Without a single entity to oversee such modifications in each region, local number portability administrators would likely be faced with varied, if not conflicting, proposals from the carriers utilizing the database regarding how the modifications should be implemented. The need for the local number portability administrator to reconcile such varied proposals, in turn, could potentially delay the administrator from making necessary modifications.

40. We conclude that the LLCs are the entities that are best able to provide immediate oversight of the local number portability administrators at this time. Because the LLCs were responsible for negotiating the master contracts with their respective local number portability administrators, each LLC is the entity with the greatest expertise regarding the structure and operation of the database for its region. Therefore, with respect to each region, using an entity other than

the LLC to provide immediate oversight of the local number portability administrator would waste the LLC's valuable expertise and run the risk that necessary modifications to the database system may be delayed.

41. Bell Atlantic and other parties object to LLC oversight and management of the local number portability administrators based primarily on the fact that, because new entrants will outnumber incumbent LECs in each region, the new entrants that belong to the individual LLCs will be able to outvote the incumbent LEC members if they so choose. They suggest that, with respect to decisions that do not require unanimity by the LLCs, new entrant members of an LLC could vote in ways that give new entrants competitive advantages over incumbent LECs in the provision of number portability.

42. Any decision making process that operates on the basis of majority votes runs the risk that the group will decide to take action that disadvantages some members. Requiring unanimity for all oversight decisions, however, could make such oversight a cumbersome, time-consuming process. In light of the concerns expressed by incumbent LECs, we adopt the NANC's recommendation that LLCs provide immediate oversight of the local number portability administrators, but such oversight shall be on an interim basis. Specifically, the LLCs may serve in this role only until such time as the Commission concludes further proceedings to examine the issue of local number portability administrator oversight and management in general and, in particular, the question of whether the LLCs should continue to act in this capacity. The Commission will initiate such further proceedings no later than June 30, 1998. We note that Phase I of the Commission's long-term number portability implementation schedule will be completed March 31, 1998. We believe, therefore, that initiating a proceeding no later than June 30, 1998 will enable the parties and the Commission to acquire practical experience with number portability implementation, and to determine whether problems arise as a result of oversight and management envisioned by LLCs.

43. We will permit LLC oversight, on an interim basis, for several reasons. First, the current record does not support a finding that the LLCs will act in a fashion that is not fair to all carriers. To the contrary, two incumbent LECs applaud the LLCs' efforts to date, and BellSouth states affirmatively that the LLCs have remained neutral during the administrator selection and contracting

phases of number portability deployment. We also note that the Maryland Public Service Commission, in an order regarding the conflict between Bell Atlantic and the Mid-Atlantic LLC, required Bell Atlantic to sign a non-disclosure form before it could review the LLC's standard user agreement with Lockheed Martin. The Maryland Commission also directed the regulated members of the Mid-Atlantic LLC to secure a release from Lockheed and to furnish a copy of the proposed standard user agreement to Bell Atlantic. Further, the Maryland Commission directed the Mid-Atlantic LLC and Bell Atlantic to negotiate to resolve any areas of disagreement regarding the user agreement. If the parties cannot resolve their differences regarding the user agreement, the Maryland Commission has said that it will resolve these differences for them. Because the record contains no other specific allegations of anticompetitive activities by the LLCs, we are not persuaded on the basis of the current record that partiality by LLCs is likely to occur in the immediate future.

44. Second, we agree with WorldCom, Sprint and AT&T that there are significant protections to ensure fair and impartial actions by the LLCs. As the NANC states, membership in the LLCs is open to any local exchange carrier that intends to port numbers, LLC meetings are generally open to the public, and members of the LLCs have agreed to require a supermajority or unanimity with respect to voting on certain important decisions, such as execution of the master contract. Further, the NANC explains that all carriers that need to access the database for rating, routing, or billing purposes will have the same access to the local number portability administrator's service, even if the carrier is not a member of the LLC. We also observe that the LLCs have agreed to follow any and all directives from state and federal regulators. In addition, we note that oversight by the NANC and by state and federal regulators provides additional protection against the possibility of partiality by the LLCs in their oversight of the local number portability administrators.

45. Third, we reject the arguments of Bell Atlantic and NYNEX and others that permitting the LLCs to oversee the number portability database administrators would be inconsistent with the *First Report & Order* because the LLCs are not, in their view, neutral. In the *First Report & Order*, we specified that the local number portability administrators must be "independent, non-governmental entities that are not

aligned with any particular telecommunications industry segment." Contrary to the arguments of Bell Atlantic and NYNEX, this neutrality requirement applies to number portability database administrators, not to entities that oversee the administrators. In any event, because we find that there is no basis in the current record for us to conclude that the LLCs will act in a fashion that is not fair to all carriers, we also cannot conclude that the LLCs' interim oversight and management of the number portability administrators will prevent the administrators from acting impartially.

46. We wish to underscore, however, that we remain committed to ensuring that number portability administration is carried out in an impartial manner. In the *First Report & Order*, we delegated authority to the Chief of the Common Carrier Bureau to monitor the progress of number portability implementation for wireline carriers and to take appropriate action to ensure compliance with the implementation schedule. We expressly delegate authority to the Chief of the Common Carrier Bureau to monitor the activities of the carriers that comprise the LLCs and to take any action necessary to remedy possible partiality by those carriers with respect to the LLCs' oversight and management of the local number portability administrators.

47. We also decline, at this time, to grant Bell Atlantic and NYNEX's request that local number portability administrators be required to provide number portability services under tariff as a means of avoiding competitive abuses by new entrants through the LLCs. Bell Atlantic argues that because the Commission ordered the administrator of the 800 number database to provide access to its database under tariff, the Commission must do the same with respect to local number portability databases. We find that Bell Atlantic's reliance on our decision in the 800 number database context is misplaced. In that decision, we found that "[o]n balance * * * the better course for now" was to require that access to the 800 database be tariffed because we determined that such treatment was necessary to ensure that 800 database access was provided at reasonable rates and on nondiscriminatory terms. We do not find the same concerns applicable to access to local number portability databases. First, section 251 of the Act requires that the cost of number portability "shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." 47

U.S.C. 251(e)(2). Thus, the method for calculating the amount any particular carrier will pay for obtaining services from a local number portability database administrator will be determined by the Commission, not by the LLC. Second, as noted above, the local number portability administrators, pursuant to the master contracts negotiated by the LLC, will offer access to their databases to all carriers on the same terms and conditions, whether or not the carrier is a member of an LLC.

48. In addition, we cannot conclude from the current record that, as a practical matter, CMRS providers will be excluded from participating in the LLCs' management and oversight activities as they affect CMRS providers. As stated above, in order to complete the tasks associated with wireline number portability in accordance with the Commission's schedule, the NANC directed its attention to developing recommendations primarily relating to the wireline portion of the industry and did not fully address wireless concerns. Further, the NANC recognized that certain requirements, such as the FRS and IIS, must be revised to incorporate the work of CTIA and others on the technical aspects of the provision of number portability by CMRS providers. We share CTIA's concern that number portability be administered in an impartial manner, and we strongly encourage both the NANC and the LLCs to review their policies to ensure that they have not, even inadvertently, limited the participation of CMRS providers in the LLCs or other aspects of number portability administration. While there is no evidence in the record that any CMRS provider has been denied membership in an LLC, we encourage the LLCs to make membership available to all carriers that intend to port numbers, whether those carriers intend to do so immediately or sometime in the future. We do not believe, however, that CTIA's arguments justify rejection or modification of the NANC's recommendations at this time.

49. Other proposals for local number portability administrator oversight suggested by incumbent LECs include: (1) adopting specific rules to govern the operation of the local number portability administrators; (2) delegating oversight of the local number portability administrators to an industry or standards body that operates by consensus; (3) requiring local number portability administrators to file their master agreements with the Commission; (4) delegating local number portability administrator oversight to a national LLC. As a general matter, the parties making these

proposals offer little more than bare assertions that these alternatives would be preferable to LLC oversight, without explanation or justification for their conclusions. We find that the current record does not support a finding that any of these proposals would be preferable to LLC oversight. Consequently, we lack sufficient analysis regarding these proposals to make a reasoned decision regarding their adoption.

50. The LLCs are currently requiring that database administrators provide uniform terms and conditions to all carriers. WorldCom asks that the Commission expressly endorse the LLCs' requirement that number portability administrators provide same terms and conditions to all carriers that must provide number portability in a region, regardless of whether a particular carrier belongs to the LLC. We agree with WorldCom that no carrier should be able to use the terms and conditions of obtaining number portability database services to gain a competitive advantage over other carriers. In the *First Report & Order*, we determined that it is in the public interest for the number portability databases to be administered by one or more neutral third parties because neutral third party administration "ensures the equal treatment of all carriers and avoids any appearance of impropriety or anti-competitive conduct." Thus, our order expressed an expectation that a neutral administrator would ensure equal treatment of all carriers; we did not affirmatively require uniform treatment. Based on the information presently available, the LLC requirement for uniform terms and conditions appears to be reasonable. Nevertheless, given the limited record, we do not preclude further consideration of this issue if any party can demonstrate that the LLCs' requirement that database administrators provide uniform terms and conditions to all carriers is unfair to them.

51. *Oversight by the NANC Generally.* We adopt the NANC's recommendation that it provide general oversight of number portability administration on an ongoing basis. Specifically, we establish a procedure whereby parties may bring matters regarding number portability administration to the NANC so that it may recommend a resolution of those matters to the Commission.

52. The NANC represents a broad cross section of carriers with interests in numbering and number portability issues and has developed substantial expertise while formulating its recommendations regarding number

portability implementation. Application of this expertise will be critical in addressing future issues regarding number portability deployment, including implementation of number portability by CMRS providers and coordination of number portability administration with numbering administration. Further, we find that the NANC provides a valuable forum in which carriers are able to consider, at the national level, possible ways to resolve issues that arise as number portability is deployed within each number portability region. Such issues include, but are not limited to, ensuring that the local number portability administrators operate impartially, and achieving national uniformity and interoperability in number portability administration. In our view, such ongoing work of the NANC, especially during the early phases of deployment, will provide invaluable assistance to the Commission in ensuring timely implementation of number portability. Although the Commission retains ultimate authority over number portability matters, carriers that are not satisfied with a decision of an LLC or local number portability administrator regarding the administration of number portability, and cannot obtain relief from either of those entities, may bring their concerns before the NANC.

53. The Commission strongly encourages all parties to attempt to resolve issues regarding number portability deployment among themselves and, if necessary, under the auspices of the NANC. If any party objects to the NANC's proposed resolution, the NANC shall submit its proposed resolution of the disputed issue to the Commission as a recommendation for Commission review. In light of the parties' record of successful cooperation to implement number portability, we believe that this approach will enable the parties to resolve such issues most efficiently and effectively. Such issues may include, but are not limited to, amendments to or interpretations of the NANC's recommendations approved in this order, disputes regarding the LLCs' oversight and management of the number portability database administrators, or any other matter involving the administration of local number portability. In the interest of expediting this process, the Commission hereby establishes the following procedures to govern NANC recommendations submitted for Commission review:

(1) Following the adoption of a recommendation regarding the administration of number portability,

the NANC shall issue a written report summarizing the positions of the parties and the basis for the recommendation adopted by the NANC. The NANC Chair will transmit the written report of such recommendation to the Chief of the Common Carrier Bureau (Chief). The Chief will issue a public notice describing the report and provide a reasonable opportunity for interested parties to comment on the NANC's recommendation. Recommendations adopted by the NANC and forwarded to the Commission may be implemented by the parties pending Commission review.

(2) Within 90 days of the conclusion of the comment cycle established by the Chief of the Common Carrier Bureau for review of a NANC recommendation, the Chief, after consultation with the Chief of the Wireless Telecommunications Bureau, may issue an order adopting, modifying or rejecting the recommendation. If the Chief does not act within 90 days of the conclusion of the comment cycle, the recommendation will be deemed to have been adopted by the Bureau.

54. We reject USTA's request that we establish direct appeal provisions for carriers that wish to contest the decisions of the LLCs or the local number portability administrators regarding the administration of number portability. As stated above, most of the commenting parties agree that the LLCs and local number portability administrators have worked efficiently and fairly to implement local number portability, and none of the commenting parties identifies with precision any future circumstances in which the LLCs and local number portability administrators would fail to work efficiently and fairly. Moreover, by this order, the Commission establishes a procedure through which aggrieved parties may have their concerns addressed in the LLCs' own dispute resolution process, by the NANC, and ultimately by the Commission. Given the success of carriers and the local number portability administrators in resolving difficult implementation issues, as well as the availability of the NANC to recommend resolutions of matters brought before it to the Commission, we decline to establish special provisions for bringing such matters before state or federal regulators.

55. *Implementation Oversight Committee.* We also adopt the NANC's recommendation that the Commission create a committee to monitor number portability deployment in the top 100 MSAs. We agree with the NANC that such monitoring will be especially important during the initial phase of

number portability deployment, as this initial phase will involve more extensive testing and will lay the groundwork for successful deployment in later phases. Consequently, we are creating a committee, comprised of members of the NANC's Local Number Portability Working Group, representing a broad cross-section of the telecommunications industry, and chaired by the Chief of the Common Carrier Bureau, to monitor compliance with the Commission's orders during deployment of number portability in the top 100 MSAs. This committee will not provide advice or recommendations to the Commission, but will gather information to monitor number portability deployment in the top 100 MSAs.

Final Regulatory Flexibility Analysis

56. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice of Proposed Rulemaking* in this docket (NPRM). The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. The comments received on the IRFA were discussed in the *First Report & Order's* Final Regulatory Flexibility Analysis (FRFA-First Report & Order), which was incorporated as Appendix C to the *First Report & Order* in this docket. The FRFA-First Report & Order conforms to the RFA, 5 U.S.C. 604. On reconsideration of the *First Report & Order*, parties commented on the FRFA-First Report & Order. The comments received on the FRFA-First Report & Order were discussed in the Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) incorporated into the *First Order on Reconsideration* in this docket. The Supplemental FRFA conforms to the RFA, 5 U.S.C. 604. The Final Regulatory Flexibility Analysis (FRFA-Second Report & Order) is incorporated as an appendix to the *Second Report & Order* in this docket, in which the Commission adopts, to the extent described therein, the recommendations of the North American Numbering Council (NANC) regarding the implementation of local number portability. The *First Report & Order* directed the NANC to make these recommendations and forward them to the Commission, which then requested public comment on the recommendations. The FRFA-Second Report & Order also conforms to the RFA, 5 U.S.C. 604.

A. Need for and Objectives of Second Report and Order

57. The need for and objectives of the requirements adopted in the *Second Report and Order* are the same as those discussed in the Final Regulatory Flexibility Analysis in the *First Report & Order*. The Commission, in compliance with sections 251(b)(2) and 251(d)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act), adopts requirements and procedures intended to ensure the prompt implementation of telephone number portability with the minimum regulatory and administrative burden on telecommunications carriers. These requirements are necessary to implement the provision in the 1996 Act requiring local exchange carriers (LECs) to offer number portability, if technically feasible. In implementing the statute, the Commission has the responsibility to adopt requirements that will implement most quickly and effectively the national telecommunications policy embodied in the 1996 Act and to promote the pro-competitive, deregulatory markets envisioned by Congress. Congress has recognized that number portability will lower barriers to entry and promote competition in the local exchange marketplace. Specifically, we adopt the recommendations of the NANC regarding the selection of local number portability administrators, the location of regional databases, the overall national architecture and technical specifications for the regional databases, and the duties of local number portability administrators in administering the number portability regional databases.

B. Summary of Significant Issues Raised By Public Comments in Response to the IRFA, FRFA-First Report & Order and Supplemental FRFA

58. The comments received on the IRFA were discussed in the FRFA-First Report & Order incorporated into the *First Report & Order*. The comments received on the FRFA-First Report & Order were discussed in the Supplemental FRFA incorporated into the *First Order on Reconsideration*. No additional comments were sought or received for purposes of the FRFA-Second Report & Order.

C. Summary of the FRFA-First Report & Order

59. In the FRFA-First Report & Order, we concluded that incumbent LECs do not qualify as small businesses because they are dominant in their field of

operation, and, accordingly, we did not address the impact of our requirements on incumbent LECs. We noted that the RFA generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632. A small business concern is one that (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). According to the SBA's regulations, entities engaged in the provision of telephone service may have a maximum of 1,500 employees in order to qualify as a small business concern. 13 CFR 121.201. This standard also applies in determining whether an entity is a small business for purposes of the Regulatory Flexibility Act.

60. We did recognize that our requirements may have a significant economic impact on a substantial number of small businesses insofar as they apply to telecommunications carriers other than incumbent LECs, including competitive LECs, as well as cellular, broadband personal communications services (PCS), and covered specialized mobile radio (SMR) providers. Based upon data contained in the most recent census and a report by the Commission's Common Carrier Bureau, we estimated that 2,100 carriers could be affected. We also discussed the reporting requirements imposed by the *First Report & Order*.

61. Finally, we discussed the steps we had taken to minimize the impact on small entities, consistent with our stated objectives. We concluded that our actions in the *First Report & Order* would benefit small entities by facilitating their entry into the local exchange market. We found that the record in this proceeding indicated that the lack of number portability would deter entry by competitive providers of local service because of the value customers place on retaining their telephone numbers. These competitive providers, many of which may be small entities, may find it easier to enter the market as a result of number portability, which will eliminate this barrier to entry. We noted that, in general, we attempted to keep burdens on local exchange carriers to a minimum. For example, we adopted a phased deployment schedule for implementation in the 100 largest MSAs, and then elsewhere upon a carrier's request; we conditioned the provision of currently available measures upon request only; we did not require cellular, broadband PCS, and covered SMR providers, which may be

small businesses, to offer currently available number portability measures; and we did not require paging and messaging service providers, which may be small entities, to provide any number portability.

D. Summary of the Supplemental FRFA

62. *Implementation Schedule.* In the *First Report & Order*, we required local exchange carriers operating in the 100 largest MSAs to offer long-term service provider portability, according to a phased deployment schedule commencing on October 1, 1997, and concluding by December 31, 1998, set forth in Appendix F of the *First Report & Order*. In the *First Order on Reconsideration*, we extended the end dates for Phase I of our deployment schedule by three months, and for Phase II by 45 days. Thus, deployment will now take place in Phase I from October 1, 1997, through March 31, 1998, and in Phase II from January 1, 1998, through May 15, 1998. We also clarified that LECs need only provide number portability within the 100 largest MSAs in switches for which another carrier has made a specific request for the provision of portability. LECs must make available lists of their switches for which deployment has and has not been requested. The parties involved in such requests identifying preferred switches may need to use legal, accounting, economic and/or engineering services.

63. In the *First Order on Reconsideration*, we reduced the burdens on rural and smaller LECs by establishing a procedure whereby, within as well as outside the 100 largest MSAs, portability need only be implemented in the switches for which another carrier has made a specific request for the provision of portability. If competition is not imminent in the areas covered by rural/small LEC switches, then the rural or smaller LEC should not receive requests from competing carriers to implement portability, and thus need not expend its resources until competition does develop. By that time, extensive non-carrier-specific testing will likely have been done, and rural and small LECs need not expend their resources on such testing. We noted that the majority of parties representing small or rural LECs specified as the relief sought that we only impose implementation requirements where competing carriers have shown interest in portability. Moreover, our extension of Phases I and II of our deployment schedule may permit smaller LECs to reduce their testing costs by allowing time for larger LECs to test and resolve the problems of this new technology.

64. In the *First Order on Reconsideration*, we rejected several alternatives put forth by parties that might impose greater burdens on small entities and small incumbent LECs. We rejected requests to accelerate the deployment schedule for areas both within and outside the 100 largest MSAs. We also rejected the procedures proposed by some parties that would require LECs to file waiver requests for their specific switches if they believe there is no competitive interest in those switches, instead of requiring LECs to identify in which switches of other LECs they wish portability capabilities. The suggested waiver procedures would burden the LEC from whom portability is requested with preparing and filing the petition for waiver. In addition, a competing carrier that opposes the waiver petition would be burdened with challenging the waiver. In contrast, under the procedure we establish, the only reporting burden on requesting carriers is to identify and request their preferred switches. Carriers from which portability is being requested, which may be small incumbent LECs, only incur a reporting burden if they wish to lessen their burdens further by requesting more time in which to deploy portability. Finally, we clarified that CMRS providers, like wireline providers, need only provide portability in requested switches, both within and outside the 100 largest MSAs.

E. Description and Estimates of the Number of Small Entities Affected by the Second Report and Order

65. For the purposes of the *Second Report and Order*, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. 5 U.S.C. 601(3). Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA. 15 U.S.C. 632. SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities with fewer than 1,500 employees. 13 CFR 121.201.

66. The requirements adopted in the *Second Report and Order* governing regional databases to be utilized for long-term number portability apply to all LECs, including incumbent LECs as well as new LEC entrants, and also

apply to interexchange carriers, cellular, broadband PCS, and covered SMR providers. According to the SBA definition, incumbent LECs do not qualify as small businesses because they are dominant in their field of operation. Accordingly, we will not address the impact of these requirements on incumbent LECs.

67. Our actions in the *Second Report & Order* will generally benefit small entities by facilitating their entry into the local exchange market. The record in this proceeding indicates that the lack of number portability would deter entry by competitive providers of local service because of the value customers place on retaining their telephone numbers. The *Second Report and Order* adopts the technical and operational standards and procedures needed to implement local number portability. Competitive providers, many of which may be small entities, may find it easier to enter the market as a result of number portability, which will eliminate this barrier to entry. We note that, in general, we attempted to keep burdens on local exchange carriers to a minimum.

68. Our requirements, however, may have a significant economic impact on a substantial number of small businesses insofar as they apply to telecommunications carriers other than incumbent LECs. In particular, the requirements may have such an impact upon new entrant LECs, as well as cellular, broadband PCS, and covered SMR providers. These impacts are discussed further below.

69. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, cellular carriers, mobile service carriers, broadband PCS providers, and covered SMR providers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." 15 U.S.C. 632(a)(1). For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to tentatively conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent local exchange carriers.

i. Common Carrier Services and Related Entities

70. According to the *Telecommunications Industry Revenue: Telecommunications Relay Service Fund Worksheet Data (TRS Worksheet)*, there are 2,847 interstate carriers. These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

71. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons. 13 CFR 121.201; SIC Code 4812. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. We do not have information on the number of carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 2,295 small telephone communications companies other than radiotelephone companies.

72. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. 13 CFR 121.201; SIC Code 4813. The most reliable source of information regarding the number of LECs nationwide is the data that we collect annually in connection with the *TRS Worksheet*. According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services. We do not have information on the number of carriers

that are not independently owned and operated, nor what carriers have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small incumbent LECs.

73. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. 13 CFR 121.201; SIC 4813. The most reliable source of information regarding the number of IXCs nationwide is the data that we collect annually in connection with the *TRS Worksheet*. According to our most recent data, 130 companies reported that they were engaged in the provision of interexchange services. We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 130 small entity IXCs.

ii. Wireless and Commercial Mobile Services

74. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons. 13 CFR 121.201; SIC Code 4812. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small

entity radiotelephone companies that may be affected by the decisions and requirements adopted in the *Second Report and Order*.

75. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The closest applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies (SIC 4812). The most reliable source of information regarding the number of cellular services carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the *TRS Worksheet*. According to the most recent data, 792 companies reported that they were engaged in the provision of cellular services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of cellular services carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 792 small cellular service carriers.

76. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. However, licenses for blocks C through F have not been awarded fully; therefore, there are few, if any, small businesses currently providing PCS services. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS

providers as defined by the SBA and the Commission's auction rules.

77. *SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined "small entity" in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than \$15 million in the three previous calendar years. This definition of a "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by the SBA. The requirements adopted in the *Second Report and Order* may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than \$15 million. We assume, for purposes of the FRFA-Second Report & Order, that all of the extended implementation authorizations may be held by small entities, which may be affected by the decisions and requirements adopted in the *Second Report and Order*.

78. The Commission's auctions for geographic area licenses in the 900 MHz SMR band concluded in April of 1996. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the requirements adopted in the *Second Report and Order* includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of the FRFA-Second Report & Order, that all of the licenses may be awarded to small entities who, thus, may be affected by the decisions in the *Second Report and Order*.

F. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

79. There are several reporting requirements imposed by the *Second Report and Order* that are likely to require the services of persons with technical expertise to prepare the reports. Most of these reporting requirements, however, are imposed on the NANC, a federal advisory committee, as opposed to a "small entity" within the meaning of the RFA. 5 U.S.C. 601(3); Small Business Act, 15 U.S.C. 632; 5 U.S.C. 601(5). In particular, the Commission directs the NANC to present its recommendation regarding the provision of number portability by wireless carriers within nine months of the release of the *Second Report and Order*. Further, the NANC is directed to review the request of Cincinnati Bell Telephone that it be allowed to select one of the regional number portability databases for purposes of fulfilling its number portability responsibilities and to make a recommendation to the Commission by December 15, 1997. Moreover, as part of its general oversight of the local number portability administrators, the NANC is directed to submit recommendations concerning local number portability to the Commission from time to time. Following the adoption of a recommendation regarding the administration of number portability, the NANC is directed to issue a written report to the Commission summarizing the positions of the parties and the basis for the recommendation adopted by the NANC. In addition, pursuant to the *Second Report & Order*, each U.S. territory (*i.e.*, Puerto Rico, U.S. Virgin Islands, Guam and the Commonwealth of the Northern Mariana Islands) is directed to: (1) select a regional database that carriers in that territory will use to provide number portability; and (2) notify the Commission and the NANC in writing regarding this selection within 45 days of the release of the *Second Report and Order*. There are no significant reporting, recordkeeping or other compliance requirements imposed by the *Second Report and Order* on other entities.

G. Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

80. The Commission's actions in the *Second Report and Order* will benefit small entities by facilitating their entry into the local exchange market. The record in this proceeding indicates that the lack of number portability would

deter entry by competitive providers of local service because of the value customers place on retaining their telephone numbers. These competitive providers, many of which may be small entities, may find it easier to enter the market as a result of number portability which will eliminate this barrier to entry.

81. In general in this docket, we have attempted to keep burdens on local exchange carriers to a minimum. The regulatory burdens we have imposed are necessary to ensure that the public receives the benefit of the expeditious provision of service provider number portability in accordance with the statutory requirements. We believe that the *Second Report & Order* furthers our commitment to minimizing regulatory burdens on small entities. For example, the NANC had recommended that we allow LECs to block calls whenever a carrier transmitting a call to a terminating LEC fails to query the number portability database to determine if a number has been ported. This recommendation would have required carriers transmitting calls to terminating LECs to reconfigure their networks to perform database queries or to pay another entity to perform a database query on their behalf. Permitting LECs to block unqueried calls could have negatively affected CMRS providers, who are not required to query calls or make arrangements to do so until December 31, 1998. We, therefore, only allow terminating LECs to block calls, when failure to do so is likely to impair network reliability. The volume of calls transferred to terminating LECs by small entities is unlikely to reach a level that could impair network reliability. As a result, terminating LECs are unlikely to block calls handled by small entities. Furthermore, carriers can make arrangements with other entities to perform database queries on their behalf. Based on the record before us, we do not find that any of the recommendations we adopt in the *Second Report & Order* will have a disproportionate impact on small entities.

82. *Report to Congress*: The Commission will send a copy of the *Second Report & Order*, including the FRFA-Second Report & Order, in a report to be sent to Congress pursuant to the Small Business Regulatory Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of the *Second Report & Order* and the FRFA-Second Report & Order (or summary thereof) will also be published in the **Federal Register** and will be sent to the Chief

Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

83. Accordingly, it is ordered that, pursuant to the authority contained in sections 1, 4(i), 4(j), 201–205, 218, 251, and 332 of the Communications Act as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 251 and 332, part 52 of the Commission's Rules, 47 CFR part 52, is amended as set forth below.

84. It is further ordered that the policies, rules and requirements set forth in the *Second Report and Order* are adopted, effective October 17, 1997.

85. It is further ordered that the Secretary shall send a copy of the *Second Report and Order*, including the final regulatory flexibility certification set forth in Appendix C, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

List of Subjects in 47 CFR Part 52

Communications common carriers, Incorporation by reference, Telecommunications, Telephone. Federal Communications Commission.

William F. Caton,
Acting Secretary.

Rule Changes

Part 52 of title 47 of the Code of Federal Regulations is amended as follows:

PART 52—NUMBERING

1. The authority citation for part 52 continues to read as follows:

Authority: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–05, 207–09, 218, 225–7, 251–2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–05, 207–09, 218, 225–7, 271 and 332 unless otherwise noted.

2. A new Section 52.26 is added to read as follows:

§ 52.26 NANC Recommendations on Local Number Portability Administration.

(a) Local number portability administration shall 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. *Except that:* Section 7.10 of

Appendix D of the *Working Group Report* is *not* incorporated herein.

(b) In addition to the requirements set forth in the *Working Group Report*, the following requirements are established:

(1) If a telecommunications carrier transmits a telephone call to a local exchange carrier's switch that contains any ported numbers, and the telecommunications carrier has failed to perform a database query to determine if the telephone number has been ported to another local exchange carrier, the local exchange carrier may block the unqueried call only if performing the database query is likely to impair network reliability;

(2) The regional limited liability companies (LLCs), already established by telecommunications carriers in each of the original Bell Operating Company regions, shall manage and oversee the local number portability administrators, subject to review by the NANC, but only on an interim basis, until the conclusion of a rulemaking to examine the issue of local number portability administrator oversight and management and the question of whether the LLCs should continue to act in this capacity; and

(3) The NANC shall provide ongoing oversight of number portability administration, including oversight of the regional LLCs, subject to Commission review. Parties shall attempt to resolve issues regarding number portability deployment among themselves and, if necessary, under the auspices of the NANC. If any party objects to the NANC's proposed resolution, the NANC shall issue a written report summarizing the positions of the parties and the basis for the recommendation adopted by the NANC. The NANC Chair shall submit its proposed resolution of the disputed issue to the Chief of the Common Carrier Bureau as a recommendation for Commission review. The Chief of the Common Carrier Bureau will place the NANC's proposed resolution on public notice. Recommendations adopted by the NANC and forwarded to the Bureau may be implemented by the parties pending review of the recommendation. Within 90 days of the conclusion of the comment cycle, the Chief of the Common Carrier Bureau may issue an order adopting, modifying or rejecting the recommendation. If the Chief does not act within 90 days of the conclusion of the comment cycle, the recommendation will be deemed to have been adopted by the Bureau.

(c) The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the *Working Group Report* and its

appendices can be obtained from the Commission's contract copier, International Transcription Service, Inc., 1231 20th St., N.W., Washington, D.C. 20036, and can be inspected during normal business hours at the following locations: 1919 M Street, N.W., Room 239 (FCC Reference Center), Washington, D.C. 20554 or at the Office of the Federal Register, 800 North Capitol Street, N.W., Suite 700, Washington, D.C. The *Working Group Report* and its appendices are also available on the Internet at <http://www.fcc.gov/ccb/Nanc/>.

[FR Doc. 97-24426 Filed 9-16-97; 8:45 am]
BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 94-129; FCC 97-248]

Unauthorized Changes of Consumer's Long Distance Carriers; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communication Commission published in the **Federal Register** of August 14, 1997, a document which amends the Commission's rules and policies governing the unauthorized switching of subscribers' primary interexchange carriers (PICs), an activity more commonly known as "slamming." In the Order on Reconsideration, the Commission disposes of six petitions for reconsideration of its *1995 Report and Order*, and amends its rules regarding changes in subscribers' long distance carriers in three respects. The Commission's decision is intended to deter and ultimately eliminate unauthorized changes in subscribers' long distance carriers. Inadvertently § 64.1100(a) had the word "or" omitted. This document adds the word "or".

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Cathy Seidel, Enforcement Division, Common Carrier Bureau, (202) 418-0960.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register** of August 14, 1997, FCC 97-248 (62 FR 43477) FR Doc. No. 97-21527. The amended § 64.1100(a) inadvertently had the word "or" omitted. This correction adds the word "or" to the amended § 64.1100(a).

§ 64.1100 [Corrected]

On page 43481, in the second column, in § 64.1100(a), last line, add the word "or" after the semicolon.

Dated: September 11, 1997.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97-24646 Filed 9-16-97; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[CC Docket No. 92-297; FCC 97-323]

The Local Multipoint Distribution Service ("LMDS")

AGENCY: Federal Communications Commission.

ACTION: Final rule; order on reconsideration

SUMMARY: On September 9, 1997, the Federal Communications Commission adopted a *Second Order on Reconsideration* amending certain rules pertaining to Local Multipoint Distribution Service ("LMDS") operations in the 27.5-28.35 GHz, 29.1-29.25 GHz, and 31.0-31.3 GHz bands. These amendments are being made in response to certain petitions for reconsideration of the *Second Report and Order* in this proceeding which established rules and policies for LMDS. The effect of this action is to make amendments to the rules regarding favorable small business provisions available to qualifying applicants for LMDS licenses.

EFFECTIVE DATE: November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Moses, Wireless Telecommunications Bureau, (202) 418-0660.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Order on Reconsideration* in CC Docket No. 92-297, FCC 97-323. The complete *Second Order on Reconsideration* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, N.W., Washington, D.C. 20036. The complete *Second Order on Reconsideration* is also available on the Commission's Internet home page (<http://www.fcc.gov>).

SUMMARY of THE SECOND ORDER on RECONSIDERATION

1. The Commission has before it several petitions for reconsideration of the *Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking in this proceeding, Rulemaking To Amend Parts 1, 2, 21, and 25 of the Commission's Rules To Redesignate the 27.5-29.5 GHz Frequency Band, To Reallocate the 29.5-30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, Petitions for Reconsideration of the Denial of Applications for Waiver of the Commission's Common Carrier Point-to-Point Microwave Radio Service Rules*, CC Docket No. 92-297, Suite 12 Group Petition for Pioneer Preference, PP-22, *Second Report and Order, Order on Reconsideration*, 62 FR 23148 (April 29, 1997), and *Fifth Notice of Proposed Rulemaking*, 62 FR 16514 (April 7, 1997) ("*LMDS Second Report and Order*") ("*Fifth Notice of Proposed Rulemaking*") ("*Order on Reconsideration*"), adopting subpart L of part 101 of the Commission's rules, 47 CFR 101.1001-1112; *appeal pending sub nom. Melcher v. FCC*, Case Nos. 93-1110, et al. (D.C. Cir., filed February 8, 1993) (eligibility restrictions); *Errata* (released April 7 and May 1, 1997); *Order on Reconsideration*, 62 FR 28373 (May 23, 1997). The Commission defers the comments and all matters raised for comment in the *Fifth Notice of Proposed Rulemaking* to a separate Report and Order to be issued in the near future. CellularVision USA, Inc. ("CellularVision"), WebCel Communications, Inc. ("WebCel"), Cook Inlet Region, Inc. ("Cook Inlet"), LBC Communications, Inc. ("LBC"), the Rural Telecommunications Group ("RTG"), the Independent Alliance, and Sierra Digital Communications, Inc. filed petitions for reconsideration of the *LMDS Second Report and Order*. LDH International, Inc., Celltel Communications Corporation, and CT Communications Corporation jointly filed a petition for reconsideration of the *Order on Reconsideration*, and M3 Illinois Telecommunications Corporation filed a petition for review of the *Order on Reconsideration*. This *Second Order on Reconsideration* addresses those portions of the petitions of CellularVision, WebCel, and Cook Inlet that deal with the participation of small businesses in the upcoming auction of LMDS licenses.

2. In authorizing the Commission to use competitive bidding, Congress mandated that the Commission "ensure that small businesses, rural telephone