

May 26, 2009

Thomas M. Koutsky
Chairman, North American Numbering Council
Federal Communications Commission
Competition Policy Division
445 12th Street, SW, Room 5-C162
Washington, DC 20554

**Re: Request that NANC Resolve Dispute Concerning Necessity of Adding
Certain URI Codes for the Completion of Telephone Calls**

Dear Mr. Koutsky:

Pursuant to Section 52.26(b)(3) of the Commission's rules, 47 C.F.R. § 52.26(b)(3), Telcordia Technologies, Inc. ("Telcordia") brings before the North American Numbering Council ("NANC") a dispute with respect to the decision by the North American Portability Management LLC ("NAPM") to adopt and execute Amendment 72 to the extent that it includes Change Orders NANC 429, 430 and 435. Change Orders 429, 430 and 435 provide for the inclusion in the NPAC database and provision through that database of Uniform Resource Identifier ("URI") fields for Voice, Multimedia Messaging Service ("MMS") and Short Messaging Service ("SMS"), respectively. According to an email from NeuStar to NPAC database users, NeuStar will provide the "ability to provision" these URIs.¹ These URIs have not been found by NANC to be "necessary to route telephone calls to the appropriate telecommunications carriers" under 47 C.F.R. § 52.25(f), and Telcordia believes that these URIs cannot meet the "necessary" standard for inclusion in the NPAC database. Accordingly, Telcordia is initiating a formal dispute within the NANC dispute resolution process with respect to portions of Amendment 72 incorporating or implementing Change Orders 429, 430 and 435.

Telcordia asks the NANC to find that Change Orders 429, 430 and 435 are procedurally defective, in that neither the NANC nor the Commission has "determine[d]" that this "specific information is necessary," and substantively defective because such fields are, in fact, not "necessary to route telephone calls to the appropriate telecommunications carrier."² Separately, Telcordia has asked the Wireline Competition Bureau (the "Bureau") to issue an interim standstill order to permit NANC to complete

¹ A copy of this email is attached as Exhibit A.

² 47 C.F.R. § 52.25(f).

this dispute resolution process and provide a report to the Chief of the Wireline Competition Bureau, and to allow 90 days to pass following submission of the report to permit Bureau consideration of any recommendations.³

This dispute presents the following issues:

- **Issue 1: Can Change Orders 429, 430 and 435 lawfully be implemented in the NPAC database without an express NANC or FCC finding that these URIs are “necessary to route telephone calls to telecommunications carriers”?**
- **Issue 2: Did the NANC or the FCC determine that the URI codes specified in Change Orders 429, 430 and 435 are “necessary to route telephone calls to the appropriate telecommunications carrier”?**
- **Issue 3: Can a Local Number Portability Working Group (“LNPA WG”) finding that information is necessary to route telephone calls to the appropriate telecommunications carrier substitute for such a finding by the NANC under 47 C.F.R. § 52.25(f)?**
- **Issue 4: Did the LNPA WG make a finding that the URI fields referenced in Change Orders 429, 430 and 435 is necessary to route telephone calls to the appropriate telecommunications carrier?**
- **Issue 5: Can the NANC approve URI fields for inclusion in the NPAC database if the fields are not strictly necessary to route telephone calls to the appropriate telecommunications carrier?**
- **Issue 6: Are the URI fields referenced in Change Orders 429, 430 and 435 necessary to route telephone calls to the appropriate telecommunications carrier?**

As set forth in further detail below, Telcordia submits that the proper response to each of these issues is “no.”

Telcordia has previously attempted to resolve this dispute with the proponents of including in the NPAC database the URI fields specified in Change Orders 429, 430, and 435. This dispute dates back to 2005. Telcordia objected to inclusion of these URI fields when they were first proposed in 2005. Telcordia subsequently presented its objections during a joint meeting of the LNPA WG and the Future of Numbering Working Group in April 2005, and worked with other parties to develop the opposition section of the Future

³ See Letter from John T. Nakahata, Counsel to Telcordia Technologies, Inc., to Ms. Julie Veach, Acting Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 07-149 (May 22, 2009) (attached as Exhibit B).

of Numbering Working Group Report dated June 10, 2005.⁴ During the LNPA Working Group consideration of these URI fields in 2008, Telcordia again pointed out that these fields were not necessary for call routing – and other parties objected or raised concerns with to their inclusion. Further opportunity to attempt to resolve this dispute was frustrated by the fact that these change orders were not presented to the full NANC for consideration. Any further attempts to resolve this dispute would be futile.

Background Facts

1. ENUM is an international standard that unifies traditional telephony and next-generation IP networks, and provides a critical framework for mapping and processing diverse network addresses.⁵ It transforms the telephone number—the most basic communications address—into a universal identifier that can be used across many different devices and applications (voice, fax, mobile, email, text messaging, location-based services and the Internet). It does this by associating a telephone number with URIs that identify gateways for customer services and devices. There are both public ENUM and service-provider, or private, ENUM.

2. The intended use of service-provider ENUM (also known as “infrastructure ENUM”) is for IP peering – enabling the IP-IP exchange of traffic between service providers, including but not limited to voice, MMS and SMS messages.⁶ While public ENUM is still nascent, service-provider ENUM is a competitive market.

3. Unlike NPAC, service provider ENUM operates in multivendor form.

4. On January 12, 2005, NeuStar proposed NANC Change Order 400 to the LNPA WG⁷ to add four Uniform Resource Identifier fields to the NPAC.⁸ The proposed URI fields were for voice, multimedia messaging services, push-to-talk over cellular and presence.

5. At the January 12, 2005 meeting of the LNPA WG, “A local system vendor [which was Telcordia] asked if the Change Orders were needed to support the porting of VoIP numbers; it was noted that they were not to the extent that they are

⁴ See Report and Recommendation on NANC Change Orders 399 & 400, Future of Numbering Working Group (revised June 10, 2005) at 30, available at www.nanc-chair.org/docs/nowg/Jun05_FoN_NANC_Change_Order_Report.doc (“Exhibit C”) (selected pages attached as Exhibit C).

⁵ Internet Engineering Task Force (IETF), [Enum] RFC 3761 on The E.164 to Uniform Resource Identifiers (URI) Dynamic Delegation Discovery System (DDDS) Application (ENUM), available at <http://www.ietf.org/mail-archive/web/enum/current/msg02981.html>.

⁶ See <http://tools.ietf.org/html/draft-ietf-enum-infrastructure-enum-reqs-04> at 2-3; see also Press Release, Country Code 1 ENUM LLC Enables Next Generation Services with Launch of Extensible ENUM Registry Service (Feb. 17, 2009), available at: <http://www.enumllc.com/prelease021709.pdf>.

⁷ Minutes of the LNPA Working Group January 2005 meeting at 13-14, available at http://www.npac.com/cmascos/docs/01-05_LNPA_Final_Minutes.zip (“Exhibit D”) (selected pages attached at Exhibit D).

⁸ *Id.*, Change Order 400 at 32, Table 3-8 (attached as Exhibit E). See also Exhibit C at 4.

ported today; however, issues such as efficient routing and service interoperability are not currently addressed.”⁹ In addition, “[a] local system vendor [Telcordia] asked if the Change Orders were to support carrier to carrier ENUM,” to which “NeuStar noted that the Change Orders were independent of carrier to carrier ENUM.”¹⁰

6. NANC, at its March 2005 meeting, referred Change Order 400 to both its LNPA WG and its Future of Numbering Working Group for an evaluation and recommendation.¹¹

7. In a letter to the LNPA WG dated March 28, 2005, the Chair of the Country Code 1 ENUM LLC wrote to the LNPA WG co-chairs and stated, “communications routed using ENUM do not require a number portability look-up. As URIs can be populated in the ENUM DNS for all numbers, not just those that are ported or pooled, the LLC does not see a need for population of URIs in the NPAC.”¹²

8. At its April 12, 2005 meeting, the LNPA WG voted to 9-3 with 2 abstentions to recommend to NAPM to include Change Order 400 in the next service release “in an inactive state.”¹³ This was determined to constitute a “consensus.”¹⁴ This vote was taken “with the understanding that the votes are not final until the FoN WG completes its analysis.”¹⁵ Vendors requested to be able to vote and were not permitted to do so.¹⁶ The LNPA WG made no finding that Change Order 400 was necessary to route telephone calls to appropriate telecommunications carriers.

9. On April 14, 2005, NANC’s Future of Numbering Working Group and LNPA WG held a joint meeting to consider Change Order 400.¹⁷ The participants agreed that the Change Order 400 URI codes were “not necessary to support PSTN (Public Switched Telephone Network) call completion and that changes to PSTN elements (switches, Service Control Points, and Signal Transfer Points) were not contemplated. Instead, the proposal to add URIs to the NPAC is to support diverse IP-enabled services beyond call completion, including MultiMedia Messaging (MMS, e.g., exchange of camera phone pictures via email), Push-to-Talk (PTT, using VoIP), Presence (as in Instant Messaging “buddy lists”), and VoIP interconnection (i.e. completing calls using IP-based networks without traversing the PSTN.)”¹⁸

⁹ Exhibit D at 13.

¹⁰ *Id.*

¹¹ NANC Minutes (March 15, 2005) at 18-19, *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-260510A1.pdf.

¹² Letter of Karen N. Mulberry, Chair, CC1 ENUM LLC, to Gary Sacra and Paula Jordan, Co-Chairs, LNPA WG, (March 28, 2005) (attached as exhibit F), *embedded in* LNPA WG April 2005 Minutes at 12 *available at* http://www.npac.com/cmas/co_docs/04-05_LNPA_Final_Minutes.lnp.zip (“Exhibit G”) (selected pages attached at Exhibit G).

¹³ *Exhibit G* at 14.

¹⁴ *Id.*

¹⁵ *Id.* at 13.

¹⁶ *Id.*

¹⁷ *Id.* at 22-27; *Exhibit C* at 25.

¹⁸ *See Exhibit C* at 25-26.

10. At the April 14, 2005 meeting, Telcordia made a presentation objecting to the inclusion of these URI fields in the NPAC database on the grounds that such fields exceeded the permitted scope of the NPAC under 47 C.F.R. § 52.25(f).¹⁹

11. Both the Future of Numbering Working Group, and ultimately NANC itself, were unable to reach a consensus to add the URIs, at least in part because some NANC members believed that 47 C.F.R. § 52.25(f) precluded including the URIs in the NPAC because they were not necessary for the routing of telephone calls.²⁰

12. In June 2005, NANC forwarded Change Order 400 to the FCC without recommendation or approval.²¹

13. The FCC did not approve Change Order 400, but on February 4, 2008 returned it to the industry for reconsideration.²²

14. No further action has been taken by NANC as a whole with respect to Change Order 400. NANC last met on February 22, 2008, and did not take any action with respect to Change Order 400 at that meeting. There have been no NANC meetings since February 22, 2008.

15. In May 2008, the LNPA WG separated Change Order 400 into four Change Orders, with one for each URI field. Change Order 429 is for a Voice URI, Change Order 430 for MMS URI, Change Order 431 for PoC URI, Change Order 432 for a Presence URI.²³

16. At its June 2008 meeting, the LNPA Working Group added Change Order 435, an SMS URI. At that meeting, a participant asked “if the chartered purpose of the NPAC was being exceeded by the LNPA WG in adding [Next Generation Network] data fields to the NPAC.”²⁴ At that time, “AT&T and Comcast voiced objections to moving forward with this Change Order,” but “[i]t was determined by the Co-Chairs that consensus was reached to accept this Change Order and place it in the candidate pool of Change Orders to be prioritized at the July 2008 LNPA WG meeting.”²⁵ The LNPA WG made no finding that Change Order 435 was necessary to route telephone calls to appropriate telecommunications carriers.

¹⁹ Adam Newman and Gary Richenaker, Telcordia Technologies, Inc., VoIP Routing Alternatives (Apr. 14, 2005) at 7-8, *available at*, [Telcordia_VOIP_NPAC_FON_Final.doc](#) (attached as Exhibit G), *embedded in Exhibit J* at 25.

²⁰ *See Exhibit C* at 31-33.

²¹ *See* NANC Minutes (June 28, 2005) at 2-3, *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-260515A1.pdf.

²² *See* Letter from Dana Shaffer, Chief, Wireline Competition Bureau, to Tom Koutsky, Chair, NANC (Feb. 4, 2008), *available at* http://www.nanc-chair.org/docs/mtg_docs/Change_Order_400.pdf (attached as Exhibit I) (“Exhibit I”).

²³ LNPA WG May 2008 Minutes at 19, *available at* http://www.npac.com/cmas/co_docs/05-08_LNPA_WG_Final_Minutes.zip (attached as Exhibit J).

²⁴ *See* LNPA WG June 2008 Minutes at 4, *available at* http://www.npac.com/cmas/co_docs/06-08_LNPA_WG_Final_Minutes.doc (attached as Exhibit K).

²⁵ *Id.* at 4-5.

17. At its July 2008 meeting, the LNPA WG prioritized the change orders for potential inclusion in the next NAPM. No separate vote was taken with respect to including Change Orders 429, 430, 431, 432 or 435 in the package for prioritization. The LNPA WG prioritized Change Orders 429, 430 and 435 as the 15th, 16th and 18th in priority, and included those in the change orders for the next service release.²⁶ At this meeting, a participant wanted to discuss the inclusion of the URI change orders and was told that the prioritization procedures did not permit such a vote.

18. The LNPA WG never specifically voted individually to approve each of Change Orders 429 and 430. The LNPA WG never specifically voted to approve a Voice or MMS URI be provisioned in the NPAC database in an “active” state whereby it could be provisioned by Users. The LNPA WG never made a specific finding that the URI fields in Change Order 429 and 430 were necessary to route telephone calls to the appropriate telecommunications carriers.

19. The NANC has never voted to adopt Change Orders 429, 430 and 435.

Issue 1: Can Change Orders 429, 430 and 435 lawfully be implemented in the NPAC database without an express NANC or FCC finding that these URIs are “necessary to route telephone calls to telecommunications carriers”?

Change Orders 429, 430 and 435 cannot lawfully be implemented in the NPAC dataset without an express NANC or FCC finding that these URIs are “necessary to route telephone calls to telecommunications carriers.” The FCC’s rules are clear and unambiguous.

Section 52.25(f) of the Commission’s rules limits the information that can be placed in the NPAC regional databases: “The information contained in the regional databases shall be limited to the information necessary to route telephone calls to the appropriate telecommunications carriers.” It further provides “The NANC shall determine what specific information is necessary.”²⁷ In the *Number Portability First Report and Order*, the Commission made clear, “We believe that, at this time, the information contained in the number portability regional databases should be limited to the information necessary to route telephone calls to the appropriate service providers. The NANC should determine the specific information necessary to provide number portability.”²⁸

Rule 52.25(f) expressly requires that the determination of whether a particular piece of information is necessary to the routing of telephone calls to the appropriate telecommunications carrier be made by the NANC. Thus, at least when the necessity of including a particular piece of information in the NPAC is contested, the NANC must

²⁶ LNPA WG July 2008 Minutes at 14.

²⁷ 47 C.F.R. § 52.25(f).

²⁸ *Telephone Number Portability*, First Report and Order and Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8403 ¶99 (1996) (“*Number Portability First Report and Order*”).

find such information to be necessary to the routing of telephone calls to the appropriate telecommunications carrier *before* such information can be placed in the NPAC. Here, the necessity of Change Order 429, 430 and 435's URI fields to the routing of telephone calls to the appropriate telecommunications carriers has been clearly contested since inclusion of these fields was first proposed in 2005. The Future of Numbering Working Group Report, dated June 10, 2005, specifically articulated objections to NANC Change Order 400 – the predecessor to Change Orders 429, 430 and 435 – on the grounds that inclusion of those URIs violated 47 C.F.R. § 52.25(f). Under these circumstances, an affirmative finding of necessity by NANC must be a condition precedent to the adoption and implementation of change orders with these contested fields.²⁹

There is also another procedural reason why an affirmative NANC finding of necessity must be a condition precedent to adoption and implementation of change orders for data fields whose necessity is contested. NANC and its working groups operate by consensus. As the NANC Training Binder explains,

Because determining consensus is inherently a subjective judgment by the Chair, due process requires a Members [sic] who are disappointed by the Chair's decision have an appeal. In NANC, any Member who disputes the finding of a 'consensus' may bring their point of view to the next higher authority as a minority opinion. (The higher authority is the full NANC in the case of subsidiary groups' decisions and the FCC in the case of the full NANC's decisions).³⁰

Implementing contested data fields (in this case URI fields) in the NPAC without the NANC making an express determination would deny dissenters the procedural right to a minority opinion and to appeal to the next higher authority.

The only possible exception to rule 52.25(f)'s requirement that NANC make an express finding of necessity prior to including contested information in the NPAC database would be if the Commission itself made such a necessity finding. However, either the Commission or the NANC must make the necessity determination required by rule 52.25(f).

Accordingly, Change Orders 429, 430 and 435 cannot be implemented in the NPAC database without an express NANC or FCC finding that these URIs are "necessary to route telephone calls to telecommunications carriers."

²⁹ Technically, under the Federal Advisory Committee Act, 5 U.S.C. app. 2 §§ 1-15, NANC cannot be a final decision-maker but may make recommendations to the Commission, which is the final decision-maker. *See* 41 U.S.C. § 251(e).

³⁰ NANC Training Binder (September 9, 2006) at 8, *available at* http://www.nanc-chair.org/docs/V2_NANC_Training_Binder_090906.doc.

Issue 2: Did the NANC or the FCC determine that the URI codes specified in Change Orders 429, 430 and 435 are “necessary to route telephone calls to the appropriate telecommunications carrier”?

Neither the NANC nor the FCC has determined that the URI codes specified in Change Orders 429, 430 and 435 are “necessary to route telephone calls to the appropriate telecommunications carrier.”

At its June 28, 2005 Conference Call, the NANC was specifically unable to reach a consensus regarding Change Order 400, the predecessor to Change Orders 429, 430 and 435. Thus, the NANC made no finding that the URIs contained in those change orders were necessary to route telephone calls to the appropriate telecommunications carrier.

The NANC has not made any such finding since that time. After the Wireline Competition Bureau returned Change Order 400 to the industry for reconsideration, the NANC held only one meeting – on February 28, 2008. No finding of necessity was made at the February 18, 2008 NANC meeting. There has been no subsequent NANC meeting at which such a finding could have been made.

Neither the Commission nor the Wireline Competition Bureau have made a finding that the Change Order 400 URI codes were necessary to the routing of telephone calls to the appropriate telecommunications carrier. In its February 4, 2008 letter, the Chief of the Wireline Competition Bureau stated only, “[T]he industry may reconsider Change Order 400, rather than continue to hold in abeyance its consideration.”³¹ This letter did not express a view as to whether the URI fields in Change Order 400 were necessary to route telephone calls to the appropriate telecommunications carrier. It also did not constitute a Commission or Bureau finding that it would be proper to place URI codes in the NPAC in an active state.

Issue 3: Can an LNPA WG finding that information is necessary to route telephone calls to the appropriate telecommunications carrier substitute for such a finding by the NANC under 47 C.F.R. § 52.25(f)?

Assuming for the sake of argument that the LNPA WG actually made such a finding (which it did not), an LNPA WG finding that information is necessary to route telephone calls to the appropriate telecommunications carrier cannot substitute for such a finding by the NANC under 47 C.F.R. § 52.25(f). The LNPA WG is a NANC subgroup; it is not the NANC itself. Rule 52.25(f) specifically requires that NANC determine that information is necessary for the routing of telephone calls to the appropriate telecommunications carrier. This role is not delegable to a subgroup.

³¹ See Exhibit I.

The NANC is a specific body chartered by the Federal Communications Commission.³² It is NANC, not the LNPA Working Group, that has authority to act as an overseer of the activities of NAPM. In the *Second Report and Order*, the Commission adopted the NANC's recommendation that the NANC in turn provide oversight over what is now NAPM, with further review by the Commission.³³ When the Commission created the NANC in 1996,³⁴ it did so pursuant to the provisions of the Federal Advisory Committee Act.³⁵ The Commission designed the structure to be "impartial and pro-competitive."³⁶ Under section 5 of the FACA, an advisory committee must be "fairly balanced in terms of the points of view represented." "The Act also requires that precautions be taken to ensure that the advice and recommendations of the committee 'will not be inappropriately influenced by . . . any special interest.'"³⁷ To that end, the Commission ensured that the "voting members of the NANC include . . . entities from various sectors of the telecommunications industry."³⁸ NANC has voting representatives from among service providers, vendors, state regulators, standards bodies, associations, and more. The FACA also provides other procedural protections: for example, the NANC's meetings must be announced in the Federal Register and are open to the public.³⁹

The LNPA WG is not chartered by the Federal Communications Commission. It does not operate pursuant to the Federal Advisory Committee Act. It has no requirement of a balanced membership. Indeed, the LNPA WG's practice is to only count votes or objections from telecommunications service providers, and not from state regulators, NASUCA or other affected third parties such as vendors. If the LNPA WG were to act in lieu of the NANC, it would be required by the Federal Advisory Committee Act to comply with all of that Act's requirements, including with respect to composition and process.

Furthermore, allowing the LNPA WG to make necessity findings under rule 52.25(f) would short-circuit the due process protections built into the NANC's operating procedures. As explained above, the NANC's operating guidelines provide specifically that, "In NANC, any Member who disputes the finding of a 'consensus' may bring their point of view to the next higher authority as a minority opinion. (The higher authority is

³² *FCC Announces GSA's Approval Of The Renewal Of The North American Numbering Council Charter Through September 27, 2009*, Public Notice, CC Docket No. 92-237, DA 07-4080 (rel. Oct. 2, 2007).

³³ See *Number Portability Second Report and Order*, 12 FCC Rcd at 12351 ¶128.

³⁴ See *FCC Establishes North American Numbering Council Advisory Committee, Announces Members, and Sets Initial Meeting Date*, Public Notice, CC Docket No. 92- 237, DA 96-1495 (rel. Sept. 5, 1996) ("NANC Public Notice").

³⁵ 5 U.S.C. app. 2.

³⁶ *NANC Public Notice* at 1.

³⁷ See *Association of American Physicians and Surgeons, Inc., et al., v. Clinton*, 997 F.2d 898, 903 (D.C. Cir. 1993) (quoting the FACA at § 5(b)(3)).

³⁸ *Number Portability Second Report and Order*, 12 FCC Rcd at 12282 n.3.

³⁹ Section 10 of the FACA requires that committees give advance notice in the Federal Register of any meetings, hold all meetings in public, keep detailed minutes of each meeting, make the records available – along with any reports, records, or other documents used by the committee – to the public. 5 U.S.C. app. 2 §10.

the full NANC in the case of subsidiary groups' decisions and the FCC in the case of the full NANC's decisions)."⁴⁰ If the LNPA WG could substitute for the NANC, then an objecting party would lose the procedural protection of the ability to appeal any LNPA WG findings to the full NANC.

Accordingly, NANC cannot delegate its specific role under FCC rules to the LNPA WG. Doing so would be a blatant attempt to circumvent the Federal Advisory Committee Act, with its balance requirements and procedural protections.

Issue 4: Did the LNPA WG make a finding that the URI fields referenced in Change Orders 429, 430 and 435 is necessary to route telephone calls to the appropriate telecommunications carrier?

Irrespective of whether an LNPA WG finding of necessity may substitute for such a finding by NANC, in this case, the LNPA WG made no finding that the URI fields referenced in Change Orders 429, 430 and 435 are necessary to route telephone calls to the appropriate telecommunications carriers.

In the first instance, it does not appear from the LNPA WG minutes that the LNPA WG ever voted specifically and individually to approve the inclusion of the Voice and MMS URIs in the NPAC database in an active, rather than an inactive, state. In April 2005, when the LNPA WG voted to approve Change Order 400, it approved the inclusion of the Voice and MMS URIs in an inactive state only.⁴¹ The LNPA WG minutes for 2008 do not reflect any vote specifically and individually to approve Change Orders 429 and 430, whether in an active or an inactive state.⁴²

In any event, the LNPA WG minutes for 2008 do not reflect any finding that the URIs contained in Change Orders 429, 430 and 435 are "necessary to route telephone calls to the appropriate telecommunications carriers."⁴³ Nor do the LNPA WG minutes from its April 2005 meeting indicate that the LNPA WG made such a finding at that time.⁴⁴ In fact, as reflected in the Future of Numbering Report, the participants at a joint LNPA WG and Future of Numbering Working Group meeting in April 2005 agreed that these URI codes are "not necessary to support PSTN (Public Switched Telephone Network) call completion and that changes to PSTN elements (switches, Service Control Points, and Signal Transfer Points) were not contemplated."⁴⁵

Accordingly, even if the LNPA WG could substitute for the NANC in making a finding that the URI codes in Change Orders 429, 430 and 435 are necessary for the

⁴⁰ NANC Training Binder (September 9, 2006) at 8, available at http://www.nanc-chair.org/docs/V2_NANC_Training_Binder_090906.doc.

⁴¹ *Exhibit G* at 14.

⁴² See Background Fact ¶18.

⁴³ Background Fact ¶¶16-18.

⁴⁴ *Exhibit G* at 14.

⁴⁵ *Exhibit C* at 25.

routing of telephone calls to the appropriate telecommunications carrier, the LNPA WG has made no such specific finding.

Issue 5: Can the NANC approve URI fields for inclusion in the NPAC database if the fields are not strictly necessary to route telephone calls to the appropriate telecommunications carrier?

Section 52.25(f) of the Commission's rules does not permit the NANC to approve URI fields for inclusion in the NPAC database if the fields are not strictly necessary to route telephone calls to the appropriate telecommunications carrier. The Commission deliberately restricted the NPAC database to including only such information.

Notably, the Commission selected a very high standard for inclusion in the NPAC database – “information necessary to route telephone calls to the appropriate telecommunications carriers.” It did not utilize a lesser standard, such as “helpful” or “desirable” with respect to such routing. It did not use a standard that use of the data field would prevent some features or functions from being “impaired.”⁴⁶ At the time it adopted rule 52.25(f), the Commission construed the scope of permitted information narrowly: it did not even permit inclusion in the NPAC database of information to provide 911 services.⁴⁷

This narrow scope of the information that may be placed in the NPAC database parallels the definition of number portability itself. Number portability is statutorily defined as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”⁴⁸ This statutory definition does not extend to non-telecommunications services, and it does not relate to issues relating to the routing of communications other than when a customer switches from one telecommunications carrier to another.

The Commission also made clear that information not necessary to the routing of telephone calls to the appropriate telecommunications carriers can be placed in separate, downstream databases that are not part of the NPAC database, but that combine information from the NPAC database with other data. Section 52.25(i) specifically provides:

Individual carriers may download information necessary to provide number portability from the regional databases into their own downstream databases. Individual carriers may mix information needed to provide other services or functions with the information downloaded from the regional databases at their own downstream databases.⁴⁹

⁴⁶ Cf. 47 U.S.C. § 251(d)(2)(B).

⁴⁷ *Number Portability First Report and Order*, 11 FCC Rcd at 8403 ¶99.

⁴⁸ 47 U.S.C. § 153(30).

⁴⁹ 47 C.F.R. § 52.25(i).

As the Commission explained in the *Number Portability First Report and Order*: “These carrier-specific databases will allow individual carriers to provide number portability in conjunction with other functions and services.”⁵⁰

This also made sense as a matter of competition policy with respect to database services. As the FCC affirmed two months later in the *Second Report and Order*,⁵¹ there would only be one NPAC database in each region: although the Commission contemplated that there would be two NPAC contractors operating across the country, each region had only a single provider. Thus, by limiting the NPAC database to only information that was “necessary to route telephone calls to the appropriate telecommunications carriers,” the Commission created a structural separation between the monopoly NPAC and adjacent services that could be provided to other providers using the data downloaded from the NPAC. This mirrored the Commission’s longstanding distinction between basic and enhanced services.⁵² The Commission emphasized that carriers could obtain access to regional databases or downstream database services from third parties, and not just from the NPAC.⁵³

Accordingly, rule 52.25(f) precludes the NANC from authorizing the inclusion in the NPAC of any information not necessary to route telephone calls to the appropriate telecommunications carrier. This restriction not only follows from the plain text of the rule, but also makes sense as a matter of competition policy.

Issue 6: Are the URI fields described in Change Orders 429, 430 and 435 necessary to route telephone calls to the appropriate telecommunications carrier?

The URI fields described in Change Orders 429, 430 and 435 are “not necessary to route telephone calls to the appropriate telecommunications carriers.” Change Orders 430 and 435 involve URI fields for MMS and SMS, respectively, which are not even telecommunications services and thus do not fit within the term “telephone calls.” Moreover, as discussed further below, by their terms none of these change orders state that adding these fields is necessary to route MMS and SMS to telecommunications carriers. In the case of each of these change orders, the voice, MMS and SMS communications that are the subject of the change orders are being completed today without these URI fields existing in the NPAC database.

⁵⁰ *Number Portability First Report and Order*, 11 FCC Rcd at 8404 ¶100.

⁵¹ *Telephone Number Portability*, Second Report and Order, 12 FCC Rcd 12281 (1997).

⁵² See *Amendment of Section 64.702 of the Commission’s Rules and Regulations (Second Computer Inquiry)*, Final Decision, 77 FCC 2d 384 (1980).

⁵³ *Number Portability First Report and Order*, 11 FCC Rcd at 8404 ¶101 (“Carriers that choose not to access directly the regional databases or deploy their own downstream databases can seek access to the carrier-specific databases deployed by other carriers. . . . Parties may negotiate third-party access to non-incumbent LECs’ carrier-specific databases on an individual basis.”).

In the first instance, setting aside any issues of the regulatory classification of VoIP services, with respect to Change Orders 430 and 435, it is difficult to see how they can meet the standard of “necessary to route telephone calls to the appropriate telecommunications carriers.” MMS and SMS are not telecommunications services, but are information services, as the June 2005 Future of Numbering Working Group report pointed out.⁵⁴ As the Future of Numbering Working Group report observed, “the NANC may be embarking upon a groundbreaking venture to allow IP-to-IP routing information to reside in this ‘telecommunications services’ database.”⁵⁵

As further reflected in the June 2005 Future of Numbering Working Group report, the industry has been addressing the issues of routing for IP communications through ENUM rather than through the NPAC:

Both the ATIS (Alliance for Telecommunications Solutions) PTSC (Packet Technologies and Systems Committee) and the Country Code 1 ENUM LLC indicated in their liaison responses to the LNPA (see Section 6.0) that, in addressing the problem of routing and addressing across an IP NNI, they were focusing on ENUM and did not see a need for URIs in the NPAC.⁵⁶

Nothing in Change Orders 429, 430 and 435 actually asserts that these URI fields are necessary for the routing of telephone calls to the appropriate telecommunications carrier. Change Order 429, for example, does not suggest that IP-originated and terminated calls are not being routed to the appropriate carrier without this URI. The same is true for Change Order 430 that Change Order states, “query engines need to be provisioned with a portability and pooling correction,”⁵⁷ but does not suggest that MMS communications are not being properly routed today. Similarly, Change Order 435 does not purport to be necessary to route telephone calls to the appropriate carrier, but only to be needed in order for service providers to know when a recipient may not be at an SMS-enabled device.⁵⁸

All of these types of messages – IP-IP voice traffic, MMS and SMS – can be completed today using the NPAC only to identify the service provider ID associated with a ported number. Under the ENUM processes, for example, port correction for IP-to-IP communications is done today using NPAC data to determine the service provider ID (“Service Provider Identification” or SPID) of the company to which the TN is ported, and then the call can be routed to the URI specified in an ENUM database for that service provider if an IP route is available or via the PSTN if it is not. With private ENUM (also known as “service provider ENUM” or infrastructure ENUM), the service provider has provisioned the appropriate routes between its network and another provider’s network in its ENUM database which may be optimized for cost, security, performance etc. This

⁵⁴ Exhibit C at 25.

⁵⁵ *Id.* at 26.

⁵⁶ *Id.* at 27.

⁵⁷ Change Order 430 at 1.

⁵⁸ Change Order 435 at 1.

separates the monopoly NPAC function of the NPAC look-up for the service provider ID, from the downstream database functions of the URI look-up, which can be provisioned by multiple ENUM database operators. This process can be used for voice, MMS and SMS messages, among many others. Accordingly, Change Order 429's suggestion that all interprovider IP-IP calls today must be routed through the PSTN is incorrect.

This was expressly addressed in the 2005 Future of Numbering Working Group Report on NANC Change Order 400:

No additional information beyond that currently in the NPAC is needed to complete telephone calls to ported numbers through the PSTN. At the April 14, 2005 joint meeting of the Future of Numbering and LNPA Working Groups there was agreement of all parties that placement of Internet URIs (Universal Resource Identifiers) in the NPAC (Number Portability Administration Center) was not necessary to support PSTN (Public Switched Telephone Network) call completion and that changes to PSTN elements (switches, Service Control Points, and Signal Transfer Points) were not contemplated.⁵⁹

The result is that today, the value-added service of determining the best route (in this case in IP-to-IP route) is done in a separate service provider database apart from the NPAC, and these calls are being completed.

Proponents of placing a Voice, MMS or SMS URI in the NPAC have argued that addition of this URI to the NPAC is "directly analogous to adding DPC and SSN information to ported and pooled TNs."⁶⁰ This argument, however, was specifically addressed in the opposition section of the Future of Numbering Working Group June 2005 Report, which stated:

Although additional data have been added to the NPAC subsequent to its inception (e.g., data to support wireless Short Message Service (SMS), the data added specify PSTN points of interface, i.e., SS7 (Signalling System 7) Destination Point Codes and Subsystem Numbers, while Change Order 400 proposes the inclusion of Internet addresses representing a wholly separate technology and network outside of the PSTN. In addition, previous NPAC changes have been related to FCC orders or ensuring the continued functioning of existing services. Finally, unlike the previous additions, those proposed in Change Order 400, are not required to fix any services that are broken by LNP since LNP does not 'break' these services.⁶¹

⁵⁹ *Exhibit C* at 25.

⁶⁰ *See, e.g.,* Change Order 429 at 1.

⁶¹ *Exhibit C* at 32-33 (internal footnotes omitted).

Even if in some situations it may be helpful or have some efficiencies to look up URIs through the NPAC, as discussed in Issue 5, above, that is not the standard for inclusion in the NPAC set by FCC rule 52.25(f). To the extent that parties seek to include information in the NPAC that is helpful to efficient routing, but not necessary to the routing of telephone calls to the appropriate carrier, the FCC, not the NANC, must expressly permit the inclusion of such information by rule change or waiver, neither of which has occurred here.

The June 2005 Future of Numbering Working Group Report highlighted competition concerns related to and arising from the inclusion of URI fields in the NPAC – concerns of which NANC should be mindful in determining whether the URI fields contained in Change Orders 429, 430 and 435 are, in fact, necessary for the routing of telephone calls to the appropriate telecommunications carrier:

For any sole source industry solution, multiple vendors should be allowed to bid on an industry proposed solution for storing URI information related to telephone numbers.

- a. Because there is only one vendor associated with the contract for the provisioning of the number portability database, Change Order 400 is the equivalent of predetermining a specific vendor solution for telephone number to URI mapping.
- b. Allowing multiple vendors to bid on an industry proposed solution would create a competitive bidding process that could result in lower costs for the functionality to the entire industry.

We are concerned that Change Order 400 will predetermine a vendor to provide these additional services.

We are also concerned about the impact on the competitive private ENUM marketplace. There are several products and service offering from many companies that show private carrier to carrier exchange of URI data (i.e., private ENUM) is a competitive marketplace. The FCC has expressed in multiple arenas a preference for competition when feasible, and Congress has also said that when possible Internet communication should remain unregulated. Inclusion of the URIs in NPAC effectively adopts a single regulated solution that all SPs are required to use for other regulated purposes and potentially eliminates a competitive marketplace through a process that does not include all affected parties.⁶²

Accordingly, there is no evidence that the URI fields contained in Change Orders 429, 430 and 435 are necessary to route telephone calls to the appropriate telecommunications carriers.

⁶² *Id.* at 30.

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For the foregoing reasons, Telcordia requests that NANC commence a formal dispute resolution proceeding to address the contested question whether Change Orders 429, 430 and 435 meet the requirements of 47 C.F.R. § 52.25(f), or whether they should be rescinded.

Process. Telcordia asks that the NANC attempt to resolve this dispute at its next meeting. To facilitate that process, Telcordia respectfully asks that the NANC Chair establish a schedule for any comments to be filed with respect to this dispute (e.g., within 21 days), and that a brief period (e.g., 10 days) thereafter be permitted for reply submissions. This would permit the collection of submissions to occupy only approximately one month.

Sincerely,



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