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Honorable Betty Ann Kane
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District of Columbia Public Service Commission
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RE: COMPTEL Comments on Update on Telcordia Technologies, Inc. Request for Dispute Resolution.

On May 21, 2010, the Telcordia Dispute Resolution Committee (“Committee”) of the North American Numbering Council (“NANC”) provided a memorandum – or *Interim Report* – to update the NANC membership on its progress.¹ The *Interim Report* first states that the Committee has “concluded that (1) the Federal Communications Commission has clearly placed this matter before the NANC to address, and (2) there is a real question as to whether the 47 CFR 52.25 allows UR[I] elements to be included in the NPAC database.”² The *Interim Report* also raised, and asked for comment on, “four specific policy issues that the NANC’s Future of Numbering Working Group (“FoN WG”) believed should be addressed,” stating that “[w]e note with interest that these policy issues are as valid today as they were in 2004.”³

Although COMPTEL agrees with the Committee that this dispute is appropriately before the NANC to address, COMPTEL vigorously disagrees with the Committee that there is a real question as to whether the Commission’s rules allow URIs to be included in the NPAC database. As demonstrated in comments filed by COMPTEL with the Committee last July and with the Federal Communications Commission (“Commission” or “FCC”) in September, the URIs at issue in the Telcordia dispute are clearly necessary to route certain telephone calls to the appropriate telecommunications carriers. Indeed, the question does not even appear to be in dispute since, as COMPTEL pointed out, Telcordia seems to acknowledge this fact as it pertains

¹ Memo from Betty Ann Kane, Chairman to the North American Numbering Council re: Update on Telcordia Technologies, Inc. Request for Dispute Resolution (May 21, 2010) (“Interim Report”).

² *Id.* at 1.

³ *Id.* at 4.

to IP-IP calls.⁴ Telcordia’s argument, that because there are alternative database options for obtaining this information the data must be excluded from the NPAC, directly contradicts the FCC’s intent in the *Telephone Number Portability Order* that providers not be required “to rely on databases, other network facilities, or service provided by other telecommunications carrier in order to route calls to the proper termination points.”⁵ And, as explained in COMPTTEL’s previous comments, the claim that the services these codes support are not “telephone calls” is inconsistent with decisions by the FCC and the Ninth Circuit.⁶

With respect to the four policy issues raised by the FoN WG, much has transpired in the industry since 2004 that needs to be brought to the attention of the Committee.

First, the *Interim Report* asks if “resolution [is] needed on whether services involving only IP-IP versus PSTN should be in the NPAC.”⁷ In the intervening five years, it has become clear that services involving only IP-IP should be supported by the NPAC. This was reinforced in 2008 when the Chief of the Wireline Competition Bureau allowed the industry to resume consideration of Change Order 400,⁸ even though those opposing the inclusion of Change Order 400 in the NPAC noted (in the Report and Recommendation on the matter initiated at the Commission’s request) that all parties agreed that the field was not necessary for routing through the PSTN (in reference to its historical circuit-based configuration).⁹ The Bureau’s allowing consideration of the issue, despite being informed of this fact, is consistent with a finding that IP-IP calls are within the scope of the NPAC and inclusion of the codes is not a violation of Commission rules. After all, it is merely a switch in technology platforms from circuit-based to packet-based and, as discussed below, the Commission has indicated its support for this transformation.

The notion that only services routed through the circuit switched PSTN should be supported by the NPAC disregards both the letter and the spirit of the Commission’s rules. As COMPTTEL previously stated, nothing in the Commission rules explicitly restricts the information contained in the NPAC to that which is necessary for routing through the PSTN, let alone routing through the PSTN as it existed at the time the rules were adopted, nor should the Commission’s rules be interpreted in such a stagnate manner. Such a requirement would not only be tantamount to the Commission dictating the routing and technology used for call completion, but also basing this limitation on dated technology. Such an interpretation of the Commission’s rules would be inconsistent with the policies promoting innovation as articulated in the *Telephone Number Portability Order*, exemplified by the Commission’s stated principle of

⁴ Letter from Karen Reidy, COMPTTEL, to Hon. Betty Ann Kane, Chair, DC PSC, *et al*, at pp. 2-3 (Aug. 14, 2009).

⁵ *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8378 (1996)(“Telephone Number Portability Order”).

⁶ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 18 FCC Rcd 14014, ¶ 165 (2003); *Satterfield v. Simon & Schuster, Inc.*, No. 07-16356, 7329, 7343-4 (9th Cir. June 19, 2009), available at <http://www.ca9.uscourts.gov/datastore/opinions/2009/06/07-16356.pdf>.)

⁷ *Interim Report* at 4.

⁸ Letter from Dana R. Shaffer, Chief, Wireline Competition Bureau, to Thomas M. Koutsy, Chair, North American Numbering Council at 1 (Feb. 4, 2008).

⁹ Report and Recommendation on NANC Change Orders 399 & 400, Prepared by the Future of Numbering Working Group, p. 25, Revised June 10, 2005.

“encourage[ing] technological development.”¹⁰ The inclusion of these URIs in the NPAC fosters much needed technological innovation in the routing of telephone calls as currently the PSTN is being transformed from a circuit switched network to an all packet network.

Indeed, limiting the NPAC in such a manner makes no sense given that, as the Commission has acknowledged, an all IP-network is an evolution of the circuit switched PSTN. In fact the Commission recently issued a Public Notice seeking comment on the *transition* from the circuit switched PSTN to an all IP-network.¹¹ The NPAC must accommodate this transformation of the “PSTN” from circuit switched to packet-based. It is only for the Commission, not the NANC, to make the *unlikely* determination that the NPAC is no longer necessary given the advancement in technology.

Second, the *Interim Report* asks “[i]f adding this information will impose costs upon those that do not use these features, should the entire industry be forced to pay (will they pay?) for it?”¹² The answer to this question is drastically different than it might have been in 2004. In 2004, pricing for the NPAC was based on a fee per transaction model, which meant that a carrier causing a large number of transactions could drive up the overall cost of LNP, which would then be shared by the entire industry. In January 2009, NPAC pricing moved from the transaction based model to a flat fee model bounded by a floor and ceiling on transactions. Under the new flat fee model, with substantial headroom to accommodate additional transactions that might be generated by URIs, there may be no increase in cost to the industry. The Change Orders 429, 430 and 435 have already been implemented in the NPAC at no cost to the industry. With no installation fee and no usage fee, the URI parameters do not impose additional costs on anyone in the industry, let alone the entire industry. In fact, it is quite possible that the Change Orders will introduce cost savings and efficiency gains for the industry, thus benefiting service providers and the consumers they serve.

Third, the *Interim Report* says that the “two change orders [399 and 400] will be separated for policy considerations and analysis” and continues with “Change Order 399 does not appear to have the same impacts and issues as Change Order 400.”¹³ Change Order 399, which proposed to add the altSPID field to the NPAC, was adopted and implemented in the NPAC in 2006, and has been beneficial to the industry and to law enforcement.¹⁴ There appears to be no controversy as to the inclusion of Change Order 399 in the NPAC, but it is noteworthy that those opposing the inclusion of Change Orders 429, 430 and 435 have provided no explanation as to why Change Order 399 meets the statutory and regulatory standard for inclusion while the ones at issue here do not.

The *Interim Report* also says that the purpose of the NPAC is to avoid limiting an end-user’s ability to port and notes, as example, a carrier’s statement that “it is able to port numbers

¹⁰ See *Telephone Number Portability Order* at 8354.

¹¹ See Public Notice, *Comment Sought on Transition from Circuit-Switched Network to All-IP Network*, NBP Public Notice #25, DA 09-2517 (rel. Dec. 1, 2009)(“NBP Public Notice #25”).

¹² *Interim Report* at 4.

¹³ *Id.*

¹⁴ AltSPID enables telecommunications service provider users of the NPAC to indicate the service provider identification of a reseller of its services. Change Order 399 is not the subject of this dispute.

without impacting services today without needing the NPAC change orders.”¹⁵ The purpose of the NPAC is more than simply “to avoid limiting an end-user’s ability to port.” As the Commission itself noted, number portability should be provided “without impairment of quality, reliability, or convenience.”¹⁶ Additionally, in its Public Notice on the transition to an all IP-network the Commission brings to light that, in all the communications transitions our country has been through, policy has not only played an important role in ensuring against the loss of essential services, but also in “providing a glide path for industry players, enabling *more efficient* planning and adjustment over the course of the transition.”¹⁷ The URI parameter in Change Orders 429, 430 and 435 enable the porting of IP services “without impairment of quality, reliability, or convenience” and very much belong in the NPAC. The NANC would be remiss to interpret the Commission’s rules in a manner that thwarts its policy objectives.

Fourth and finally, the *Interim Report* asks “[d]o these change order make sense relative to the long-term needs of the industry?”¹⁸ Given the wide industry support for these change orders in the LNPA WG, NAPM LLC and the comments filed with the NANC and the FCC, it is clear that most members of the industry believe that these changes orders make sense. Rather than focusing on a dated review of Change Orders 399 and 400, the Committee should strongly consider the more recent work of its LNPA WG, which found that there is a clear need for these Change Orders to facilitate porting and routing of IP-based services.

The URIs in the NPAC can play a critical role in the transition to an all IP-network by helping to ensure that consumers have the same opportunity to port their IP-based services as they do their circuit switched-based services. Moreover, by facilitating the porting and routing of IP-based services, URIs in the NPAC may encourage greater use of broadband Internet in support of the National Broadband Plan.

The *Interim Report* also contains an assertion that the “FCC’s recognition of existing needs for portability when the NPAC was created limits addressing future needs.”¹⁹ This is simply not a true statement. The assertion contradicts the Commission’s own expressed view that “Congress’s intent is that number portability be a ‘dynamic concept’ that accommodates [technological] changes.”²⁰ For the NPAC to meet this vision, the LNPA WG, the NAPM LLC and the NANC need to be forward looking and willing to help the NPAC stay abreast of technological change. To meet this challenge, these Change Orders should be allowed to remain in the NPAC.

Respectfully submitted,

/s/ Karen Reidy

¹⁵ *Interim Report* at 4.

¹⁶ *Telephone Number Portability Order* at 8366-67.

¹⁷ *NBP Public Notice #25*.

¹⁸ *Interim Report* at 5.

¹⁹ *Id.*

²⁰ *VoIP LNP Order*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 19531, 19544 (2007).