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

MAILED  
MAY 18 2011  
FCC Mail Room

In the Matter of	)	
	)	
Petition of Telcordia Technologies Inc. to Reform	)	WC Docket No. <u>09-109</u>
or Strike Amendment 70, to Institute Competitive	)	
Bidding for Number Portability Administration	)	
and to End the NAPM LLC's Interim Role in	)	
Number Portability Administration Contract	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116

**ORDER**

Adopted: May 16, 2011

Released: May 16, 2011

By the Chief, Wireline Competition Bureau:

1. In this Order, the Wireline Competition Bureau (Bureau) takes two actions toward selection of the next local number portability administrator (LNPA). The Bureau details the procedures that the North American Numbering Council (NANC) and the North American Portability Management LLC (NAPM) must follow in the LNPA selection process. We then outline the Bureau's role in overseeing the LNPA selection process.

2. **Background.** Section 251(e)(1) of the Communications Act of 1934, as amended (the Act), requires the Commission to create or designate one or more impartial entities to administer telecommunications numbering.<sup>1</sup> One of the issues associated with numbering administration is how to manage the porting of telephone numbers so that customers may switch service providers without changing their phone numbers. In the *First LNP Order*, the Commission concluded that it is in the public interest to manage the porting of local numbers from one service provider to another through regional databases administered by one or more neutral third parties.<sup>2</sup>

3. In the *First LNP Order*, the Commission directed the NANC to recommend one or more independent, non-governmental entities, not aligned with any particular telecommunications segment, to serve as LNPA(s).<sup>3</sup> The Commission's action was consistent with the duties established for the NANC in the *Numbering Plan Order*<sup>4</sup> and the NANC Charter.<sup>5</sup> The NANC established the LNPA Selection

<sup>1</sup> 47 U.S.C. § 251(e)(1).

<sup>2</sup> *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996) (*First LNP Order*).

<sup>3</sup> 47 CFR § 52.25(c). The Commission directed the NANC to make a recommendation within seven months of its initial meeting. The Commission also directed the NANC to recommend the administrator selection process, the duties of the local number portability administrator(s), the location of regional databases, the overall national architecture, and technical specifications for the regional databases. *First LNP Order*, 11 FCC Rcd at 8401, para. 93.

<sup>4</sup> *Administration of the North American Numbering Plan*, Report and Order, 11 FCC Rcd 2588 (1995) (*Numbering Plan Order*).

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Working Group to review and give advice on LNP administration issues.<sup>6</sup> The LNPA Selection Working Group recommended a process for selecting the LNPA. The LNPA Selection Working Group also recommended that service providers organize as limited liability companies (LLCs) to perform their LNPA selection duties.<sup>7</sup>

4. Based on these recommendations, the Commission approved an administrative structure to allow non-profit industry regional LLCs to select and oversee porting contractors in a competitive market.<sup>8</sup> The LLC structure ultimately resulted in the creation of the NAPM, an industry consortium.<sup>9</sup> Under that structure, the NAPM contracted for an administrator for the Number Portability Administration Center/Service Management System (NPAC/SMS)<sup>10</sup> to provide LNP services.<sup>11</sup> Currently, Neustar is the LNPA. Neustar's contract to maintain, administer, and operate the NPAC/SMS expires on July 31, 2015.<sup>12</sup>

5. The Commission directed the NANC to recommend the LNPA(s) within seven months. That initial delegation was for a limited duration and has since expired. On March 8, 2011, the Bureau issued an Order and Request for Comment that: (1) delegated authority to the NANC, working in consultation with the NAPM, to implement a process for selecting the next LNPA(s); (2) directed the NANC to recommend to the Commission the next LNPA(s); and (3) outlined the Bureau's role in overseeing the LNPA process.<sup>13</sup> The *March 2011 Order* also sought comment on a joint proposal by the NANC Chair and the NAPM regarding their respective roles in the LNPA selection process.<sup>14</sup>

6. **Discussion.** In the *March 2011 Order*, pursuant to our authority in section 251(e)(1) of the Act, we delegated to the NANC responsibility for developing a process to select the next LNPA(s) and to

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<sup>5</sup> *First LNP Order*, 11 FCC Rcd at 8401, para. 93, citing *Charter of the North American Numbering Council*, approved Oct. 5, 1995.

<sup>6</sup> See Letter from Alan C. Hasselwander, Chairman, NANC, to Reed Hundt, Chairman, FCC, CC Docket No. 95-116 (May 1, 1997), transmitting the report from the NANC's Local Number Portability Administrator Selection Working Group, dated Apr. 25, 1997 (*Working Group Report*).

<sup>7</sup> *Working Group Report* at § 4.

<sup>8</sup> *Telephone Number Portability*, Second Report and Order, 12 FCC Rcd 1228, 12297-98 (1997) (*Second LNP Order*).

<sup>9</sup> Initially, there were seven separate LLCs, one for each of the seven Bell Operating Company regions. In 1999, the seven LLCs consolidated into one and became the NAPM LLC.

<sup>10</sup> The NPAC/SMS consists of hardware and software platform(s) that host a national information database and serve as the central coordination point of LNP activity.

<sup>11</sup> *Second LNP Order*, 12 FCC Rcd at 12303, para. 33.

<sup>12</sup> See *Neustar Reply Comments at 3; NAPM Reply Comments at 8*. On March 8, 2011, the Bureau issued an Order and Request for Comment that listed the contract termination date as December 31, 2015. *Petition of Telcordia Technologies Inc. to Reform or Strike Amendment 70, to Institute Competitive Bidding for Number Portability Administration and to End the NAPM LLC's Interim Role in Number Portability Administration Contract; Telephone Number Portability*, Order and Request for Comment, WC Docket No. 09-109, CC Docket No. 95-116, DA-11-454 (rel. Mar. 8, 2011) (*March 2011 Order*), *March 2011 Order at 2*.

<sup>13</sup> See *March 2011 Order*.

<sup>14</sup> See *March 2011 Order at 3*. The NANC Chair and the NAPM submitted their joint proposal on February 14, 2011. The full NANC adopted the proposal on March 9, 2011. We hereafter refer to this proposal as the NANC/NAPM Proposal.

recommend to the Commission one or more LNPAs. We further directed the NANC to obtain assistance from the NAPM in developing this process.<sup>15</sup> We adopt the NANC/NAPM Proposal for the LNPA Selection Process with the few modifications discussed below.<sup>16</sup>

7. *NANC/NAPM Proposal.* Seven parties filed comments or reply comments in response to the *March 2011 Order*.<sup>17</sup> The commenters generally support the NANC/NAPM Proposal.<sup>18</sup> NASUCA and Telcordia, however, suggest specific modifications to the NANC/NAPM Proposal and the LNPA Selection Process.<sup>19</sup>

8. NASUCA questions “the advisability of the FCC authorizing the NAPM to ‘negotiate a contract(s) with the selected vendor(s) upon final approval of the vendor(s).’”<sup>20</sup> NASUCA submits that the NANC/NAPM Proposal should be “amended to include FCC involvement with the negotiation process or, in the alternative, be amended to clarify that the FCC has final approval authority of the contract negotiated by NAPM.”<sup>21</sup> The Bureau finds that the NAPM has the expertise, experience and is in the best position to negotiate a contract with the selected vendor(s). However, the Bureau agrees with NASUCA that the Proposal should reflect that the Commission has final approval authority of the contract. We therefore modify the NANC/NAPM Proposal to the extent necessary to clarify that the Commission, or the Bureau acting on delegated authority, has authority to select the LNPA(s), and the NANC/NAPM Proposal does not delegate that authority to the NANC or the NAPM.<sup>22</sup>

9. NASUCA also seeks clarification of what constitutes “Commission approval” of the NANC’s selection of the LNPA.<sup>23</sup> NASUCA specifically asks whether “Commission approval” is action by the Commissioners, the Bureau, or some other FCC entity.<sup>24</sup> We clarify that Commission approval will occur through Commission action, or through the Bureau acting on delegated authority.

10. Telcordia suggests several changes and clarifications to the NANC/NAPM proposal.<sup>25</sup> Telcordia maintains that the NANC/NAPM Proposal requires changes to reflect the *March 2011 Order*.<sup>26</sup> Specifically, Telcordia notes that the NANC/NAPM Proposal should reflect that: (1) the NANC has authority to recommend LNPA(s) to the FCC; and (2) the Bureau must approve the “Request for

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<sup>15</sup> *Id.*

<sup>16</sup> See attached revised NANC/NAPM Proposal.

<sup>17</sup> See Massachusetts Department of Telecommunications and Cable Comments (MDTC Comments); National Association of State Utility and Consumer Advocates Comments (NASUCA Comments); Telcordia Technologies, Inc. Comments (Telcordia Comments); AT&T Inc. Reply Comments (AT&T Reply Comments); Connecticut Department of Public Utility Control Reply Comments (CTDPUC Reply Comments); Neustar, Inc. Reply Comments (Neustar Reply Comments) and North American Portability Management LLC Reply Comments (NAPM Reply Comments).

<sup>18</sup> See MDTC Comments at 2; NASUCA Comments at 3; AT&T Reply Comments at 1; CTDPUC Reply Comments at 1; Neustar Reply Comments at 2-3; and NAPM Reply Comments at 1.

<sup>19</sup> See NASUCA Comments and Telcordia Comments.

<sup>20</sup> See NASUCA Comments at 7.

<sup>21</sup> *Id.*

<sup>22</sup> See revised NANC/NAPM Proposal.

<sup>23</sup> See NASUCA Comments at 6.

<sup>24</sup> *Id.* at 7.

<sup>25</sup> See Telcordia Comments at 2-3.

<sup>26</sup> *Id.* at 2.

Proposals” (RFP), “Request for Information” (RFI), and the “Technical Requirements Document” (TRD).<sup>27</sup> We agree with Telcordia on these points, and revise the NANC /NAPM Proposal accordingly.

11. Telcordia also recommends that the LNPA Selection Working Group (SWG) not be disbanded prior to implementation of a new contract.<sup>28</sup> We decline to implement this recommendation. The Bureau stated in the *March 2011 Order* that the SWG will disband after the Commission approves the vendor(s) selection.<sup>29</sup> Once the Commission approves the vendor(s) selection, the SWG’s work will be complete. The NANC has authority to establish working groups. Thus, after vendor selection, the NANC may establish a working group to address contract implementation issues if the NANC deems it appropriate.

12. Telcordia suggests that the SWG’s membership should be balanced in terms of NANC member entities, and that one of the SWG Chairs should be a state utility commissioner or consumer advocate.<sup>30</sup> The Bureau agrees with Telcordia on the need for balance within the SWG’s membership and in its leadership. We see no evidence, however, that mandating leadership of the SWG is required to achieve that balance. Therefore, we defer to the NANC to establish the composition of the SWG’s membership and Chairs. We agree with AT&T, which notes in its comments, “The members of the SWG will elect three chairs to administer their work. This proposal is fair, straight-forward, and consistent with basic democratic principles for the functioning of such a group.”<sup>31</sup> AT&T adds that, “the selection of the SWG chairs ought to be within the hands of the SWG members themselves and not imposed from above, especially without some significant evidence that, in the absence of such a requirement, the selection process would be unfair or corrupted.”<sup>32</sup> We note that both the Chair and Vice-Chair of the NANC are State Commissioners, and the NANC is a diverse body with consumer, state government, and industry constituencies represented. The Bureau is confident that the membership and leadership of the SWG will reflect this balance, and thus we decline to impose a specific directive about the composition of the SWG Chairs.

13. Telcordia advocates for the SWG to have authority to modify any draft procurement documents submitted by the FoNPAC Subcommittee (FoNPAC).<sup>33</sup> The FoNPAC is a private membership organization created by the NAPM to perform certain tasks.<sup>34</sup> Telcordia contends that the FoNPAC should be more transparent, and that the Bureau should specify a process that the FoNPAC must use to develop the TRD. The *March 2011 Order* states that the SWG’s proposed responsibilities include reviewing and approving the FoNPAC’s RFI and RFP.<sup>35</sup> We affirm these responsibilities, and extend them to require SWG review and approval of all procurement documents submitted by the FoNPAC. These responsibilities include the authority to modify draft procurement documents. The *March 2011 Order* also outlines the Bureau’s role in overseeing the selection process, and the NANC/NAPM Proposal

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 3.

<sup>29</sup> See *March 2011 Order* at 3.

<sup>30</sup> See Telcordia Comments at 2-3.

<sup>31</sup> See AT&T Comments at 3.

<sup>32</sup> *Id.* at 3.

<sup>33</sup> See Telcordia Comments at 2-3. The FoNPAC is the NAPM’s Future of the Number Portability Administration Center Subcommittee, which operates pursuant to the NAPM LLC Operating Agreement to administer the LNPA selection process. The FoNPAC will oversee the NAPM’s role in that process and will develop draft procurement documents such as the RFI, RFP, and the TRD.

<sup>34</sup> *Id.* at 2-3.

<sup>35</sup> See *March 2011 Order* at 3.

lists the FoNPAC's role in that process.<sup>36</sup> As noted in that Order, the SWG will review the FoNPAC's work.<sup>37</sup> Having the SWG perform this review should address Telcordia's concerns and will help ensure that the procurement is open and transparent.

14. Telcordia also states that if at any point in the selection process a NANC recommendation is required, and there is a dispute or no consensus about the recommendation, the matter should be sent directly to the FCC.<sup>38</sup> We agree that, if the NANC does not achieve consensus approval, the NANC Chair shall inform the Commission, and forward any relevant evaluation information to the FCC. Beyond that, we do not specify how or when the NANC must notify the Commission of disputes or lack of consensus. We are confident the NANC Chair will relay such information to the Commission, and we will defer to the NANC Chair to decide when and how to notify the Commission about disputes and a lack of consensus on recommendations.

15. Finally, Telcordia maintains that the Commission "does not need now to designate the NAPM as the entity to manage the new LNPA contract(s)."<sup>39</sup> We agree with Telcordia. The Commission will determine the management structure for the LNPA contract(s) at a later date.

16. We attach the complete revised NANC/NAPM Proposal to this order. The substance of the original proposal is largely unchanged. The revised Proposal reflects the changes discussed above, and a few other minor changes.<sup>40</sup> We are confident that the revised NANC/NAPM Proposal establishes a transparent, concrete, and efficient LNPA Selection Process. Anything in this Order, or in any previous or subsequent Orders by the Bureau or Commission, controls over apparently conflicting or inconsistent language in the Proposal.

17. ***Bureau Involvement in LNPA Selection Process and Other Issues.*** As stated in the *March 2011 Order*, the Bureau will have involvement in and oversight of the LNPA selection process to ensure that the process runs efficiently and is impartial to all potential vendors and all segments of the industry.<sup>41</sup> To ensure efficiency and fairness, the Bureau will adhere to the requirements it imposed in that Order. They include the requirements that the NANC/NAPM: (1) provide a timeline for the LNPA selection process and provide any information requested by the Bureau; (2) inform the Bureau of its progress; (3) issue procurement documents only after receiving Bureau authorization; and (4) submit a ranked evaluation of bidders and a recommendation to the Bureau at the end of the evaluation process.<sup>42</sup>

18. A few commenters seek additional clarification about the LNPA Selection Process. The MDTC requests clarification that the terms "Request for Qualifications" and "Request for Information" are interchangeable.<sup>43</sup> We clarify that the terms, as they have been used in the context of this selection process, are interchangeable. Going forward, we will use the term Request for Information to eliminate confusion. The MDTC also requests clarification about the definition of the term "Technical

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<sup>36</sup> See *NANC/NAPM Proposal*.

<sup>37</sup> See note 35, *infra*.

<sup>38</sup> See Telcordia Comments at 3.

<sup>39</sup> *Id.*

<sup>40</sup> We have amended the Proposal to state that Commission staff may attend any meeting of the SWG or the FoNPAC. We have also deleted the Proposal's requirement that the NANC Chair submit documents to the Commission with a request that the documents be released within a specific number of days.

<sup>41</sup> See *March 2011 Order* at 3.

<sup>42</sup> *Id.* at 3-4.

<sup>43</sup> See MDTC Comments at 2.

Requirements Document.”<sup>44</sup> We clarify that the TRD is the document used in the procurement process that contains the technical requirements that a vendor must meet to perform the LNPA functions.

19. NASUCA cautions that decisions regarding the LNPA contract, including the expenditure of money, should be made by the Commission.<sup>45</sup> We agree. As noted in our order, the Commission or the Bureau, acting on delegated authority, must review and approve the procurement process, including the procurement documents, and make a final decision about the contract award. In addition, once the LNPA contract is in place, the Commission or the Bureau will retain ultimate oversight and control over the contract.

20. This Order is one of several actions that the agency will take to implement the LNPA contract(s). For example, after the NANC submits its recommendations, the Commission – or Bureau acting on delegated authority – will select the vendor(s) to serve as the LNPA(s). The Commission or the Bureau will also decide at a later date who should manage the LNPA contract(s).

21. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i) and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 251(e), sections 1.3 and 52.111 of the Commission’s rules, 47 C.F.R. §§ 1.3 and 52.111, and pursuant to authority delegated under sections 0.91 and 0.291 of the Commission’s rules, 47 C.F.R. §§ 0.91 and 0.291,<sup>46</sup> that authority is delegated to the North American Numbering Council, with assistance from the North American Portability Management LLC, as set forth above.

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

FEDERAL COMMUNICATIONS COMMISSION

  
Sharon E. Gillett  
Chief, Wireline Competition Bureau

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<sup>44</sup> *Id.* at 2-3.

<sup>45</sup> See NASUCA Comments at 5.

<sup>46</sup> See 47 U.S.C. § 155(c).

**ATTACHMENT A****I. SUMMARY OF THE PROPOSED LNPA SELECTION PROCESS**

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

1. The FCC will reaffirm the following delegations of authority:
  - a. NANC is authorized to oversee the selection of one or more independent, non-governmental entities that are not aligned with any particular telecommunications segment to serve as the LNPA(s) and to make recommendations to the Commission regarding such selection; and
  - b. The NANC, in consultation with the NAPM, will use the selection process approved by the Commission.
  - c. The Commission or the Wireline Competition Bureau will select the LNPA(s).
  - d. Approval of the NANC selection(s) will occur through an action by the Commission or the Wireline Competition Bureau.
  
2. The NANC will establish an LNPA Selection Working Group ("SWG") to oversee the selection process of the LNPA(s).
  - a. The SWG will be comprised of and open to any individual who (a) is a NANC Member, NANC Alternate or technical staff of a NANC Member company, association or governmental entity and (b) who:
    - i. does not have a conflict of interest, or the appearance of a conflict of interest, with any vendor or potential vendor;
    - ii. signs a non-disclosure agreement which prohibits (a) disclosure of confidential information to anyone who is not a member of the SWG or the NANC Chair and (b) the use of confidential information for any other purpose or in any other venue or hearing; and
    - iii. is not a potential vendor.
  - b. For reasons of confidentiality, the NANC will delegate the authority to reach consensus on behalf of the NANC to the SWG with respect to the request for information ("RFI"), request for proposals ("RFP") and the technical requirements document ("TRD").
  - c. Membership and participation in meetings is unrestricted, but each participating NANC Member company, association or governmental entity may exercise only one (1) vote on any given issue regardless of how many individuals associated with the NANC Member company, association or governmental entity are participating in the SWG. Decisions must be reached by consensus, which does not require unanimous consent, but is not reached if the majority of any affected industry segment disagrees with the proposed decision.
  - d. The SWG members will elect three chairs for the SWG to administer the SWG activities and determine consensus when required.
  - e. FCC staff may attend any meeting of the SWG.

3. The NAPM LLC will utilize its Future of the NPAC Subcommittee (“FoNPAC Subcommittee”), which operates pursuant to the NAPM LLC Operating Agreement, to administer the selection process of the LNPA(s).
4. The SWG will work with, provide policy guidance as outlined by the FCC to, and oversee the technical work by, the FoNPAC Subcommittee.
5. The SWG and the FoNPAC Subcommittee will follow the LNPA vendor selection process set forth below:
  - a. The SWG will oversee the development of the draft RFI by the FoNPAC Subcommittee.
  - b. The FoNPAC Subcommittee will submit the draft RFI to the SWG for approval.
  - c. The SWG will review and either approve the draft RFI or suggest revisions to the draft RFI for the FoNPAC Subcommittee. The FoNPAC Subcommittee will consider all suggested revisions and work with the SWG to reach agreement regarding suggested revisions. The SWG will prepare a status report and submit the approved RFI to the NANC Chair.
  - d. The NANC Chair will submit the approved RFI to the FCC and will submit the SWG status report to the NANC.
  - e. Once the FCC publicly announces the release date of the RFI, the NAPM LLC may activate website software to receive public and vendor responses to the RFI.
  - f. The FoNPAC Subcommittee will review and analyze the RFI responses and present recommendations regarding the outline for the TRD and RFP to the SWG.
  - g. The SWG will review and approve the outline for the TRD and RFP or suggest revisions regarding NPAC policy issues and vendor qualifications selection criteria to be included in the TRD and RFP for the FoNPAC Subcommittee. The FoNPAC Subcommittee will consider all suggested revisions and work with the SWG to reach agreement regarding suggested revisions to the outline for the RFP.
  - h. The FoNPAC Subcommittee will draft the TRD and RFP and submit it to the SWG for review and approval.
  - i. The SWG will review and approve the TRD and RFP or suggest revisions regarding the TRD and RFP for the FoNPAC Subcommittee. The FoNPAC Subcommittee will consider all suggested revisions and work with the SWG to reach agreement regarding suggested revisions. The SWG will prepare a status report and will submit the TRD, RFP and status report to the NANC Chair.
  - j. The NANC Chair will submit the TRD and RFP to the FCC and the SWG status report to the NANC.
  - k. Once the FCC publicly announces the release date of the TRD and RFP, the NAPM LLC may activate website software to receive vendor responses to the TRD and RFP.
  - l. The FoNPAC Subcommittee will review and evaluate vendor responses to the TRD and RFP, and prepare a vendor selection recommendation to the SWG.
  - m. The SWG will review and evaluate the FoNPAC Subcommittee’s vendor selection recommendation. The SWG may approve the FoNPAC Subcommittee’s vendor selection recommendation or provide specific reasons for not approving the selection recommendation to the FoNPAC Subcommittee. The FoNPAC Subcommittee will consider this feedback and may revise its vendor selection recommendation.
  - n. The SWG will present the FoNPAC Subcommittee’s final vendor selection recommendation to the NANC.

- o. The NANC will utilize a consensus process to approve the FoNPAC Subcommittee's vendor selection recommendation or suggest specific reasons why the FoNPAC Subcommittee should consider an alternative recommendation, which the FoNPAC Subcommittee will consider and, if appropriate, revise its recommendation.
  - p. Upon consensus approval of the FoNPAC Subcommittee's vendor selection recommendation, the NANC Chair will submit the recommended vendor(s) and evaluation report to the NANC for final approval, including the number of votes for each prospective vendor. The NANC will have final approval of the recommendation that will be transmitted to the FCC by the NANC Chair.
  - q. If the NANC does not achieve consensus approval, the NANC Chair shall inform the FCC, and forward the FoNPAC's, the SWG's, and the NANC's evaluation information to the FCC.
  - r. Upon final approval of vendor(s) selection by the FCC, the NANC will disband the SWG.
  - s. FCC staff may attend any meeting of the FoNPAC.
6. The FCC will authorize the NAPM LLC to approve and oversee system design, development, industry testing and activation.
7. If the SWG is unable to reach consensus regarding any issue, the issue shall be referred for resolution to the FCC, subject to appropriate protections for confidential information.