

§ 52.12

47 CFR Ch. I (10–1–12 Edition)

make oral and written presentations, a reasoned recommended solution, and a written report summarizing the recommendation and the reasons therefor;

(d) [Reserved]

(e) Recommending to the Commission an appropriate mechanism for recovering the costs of NANP administration in the United States, consistent with § 52.17;

(f) Carrying out the duties described in § 52.25; and

(g) Carrying out this part as directed by the Commission;

(h) Monitoring the performance of the NANPA and the B&C Agent on at least an annual basis; and

(i) Implementing, at the direction of the Commission, any action necessary to correct identified problems with the performance of the NANPA and the B&C Agent, as deemed necessary.

[61 FR 47353, Sept. 6, 1996, as amended at 62 FR 55180, Oct. 23, 1997; 71 FR 65750, Nov. 9, 2006]

§ 52.12 North American Numbering Plan Administrator and B&C Agent.

The North American Numbering Plan Administrator (“NANPA”) and the associated “B&C Agent” will conduct their respective operations in accordance with this section. The NANPA and the B&C Agent will conduct their respective operations with oversight from the Federal Communications Commission (the “Commission”) and with recommendations from the North American Numbering Council (“NANC”).

(a)(1) *Neutrality.* The NANPA and the B&C Agent shall be non-governmental entities that are impartial and not aligned with any particular telecommunication industry segment. Accordingly, while conducting their respective operations under this section, the NANPA and B&C Agent shall ensure that they comply with the following neutrality criteria:

(i) The NANPA and B&C Agent may not be an affiliate of any telecommunications service provider(s) as defined in the Telecommunications Act of 1996, or an affiliate of any interconnected VoIP provider as that term is defined in § 52.21(h). “Affiliate” is a person who controls, is controlled by, or is under

the direct or indirect common control with another person. A person shall be deemed to control another if such person possesses, directly or indirectly—

(A) An equity interest by stock, partnership (general or limited) interest, joint venture participation, or member interest in the other person ten (10%) percent or more of the total outstanding equity interests in the other person, or

(B) The power to vote ten (10%) percent or more of the securities (by stock, partnership (general or limited) interest, joint venture participation, or member interest) having ordinary voting power for the election of directors, general partner, or management of such other person, or

(C) The power to direct or cause the direction of the management and policies of such other person, whether through the ownership of or right to vote voting rights attributable to the stock, partnership (general or limited) interest, joint venture participation, or member interest) of such other person, by contract (including but not limited to stockholder agreement, partnership (general or limited) agreement, joint venture agreement, or operating agreement), or otherwise;

(ii) The NANPA and B&C Agent, and any affiliate thereof, may not issue a majority of its debt to, nor may it derive a majority of its revenues from, any telecommunications service provider. “Majority” shall mean greater than 50 percent, and “debt” shall mean stocks, bonds, securities, notes, loans or any other instrument of indebtedness; and

(iii) Notwithstanding the neutrality criteria set forth in paragraphs (a)(1) (i) and (ii) of this section, the NANPA and B&C Agent may be determined to be or not to be subject to undue influence by parties with a vested interest in the outcome of numbering administration and activities. NANC may conduct an evaluation to determine whether the NANPA and B&C Agent meet the undue influence criterion.

(2) Any subcontractor that performs—

(i) NANP administration and central office code administration, or

(ii) Billing and Collection functions, for the NANPA or for the B&C Agent

must also meet the neutrality criteria described in paragraph (a)(1).

(b) *Term of administration.* The NANPA shall provide numbering administration, including central office code administration, for the United States portion of the North American Numbering Plan (“NANP”) for an initial period of five (5) years. At any time prior to the termination of the initial or subsequent term of administration, such term may be renewed for up to five (5) years with the approval of the Commission and the agreement of the NANPA. The B&C Agent shall provide billing and collection functions for an initial period of five (5) years. At any time prior to the termination of the initial or subsequent term of administration, such term may be renewed for up to five (5) years with the approval of the Commission and the agreement of the B&C Agent.

(c) *Changes to regulations, rules, guidelines or directives.* In the event that regulatory authorities or industry groups (including, for example, the Industry Numbering Committee—INC, or its successor) issue rules, requirements, guidelines or policy directives which may affect the functions performed by the NANPA and the B&C Agent, the NANPA and the B&C Agent shall, within 10 business days from the date of official notice of such rules, requirements, guidelines or policy directives, assess the impact on its operations and advise the Commission of any changes required. NANPA and the B&C Agent shall provide written explanation why such changes are required. To the extent the Commission deems such changes are necessary, the Commission will recommend to the NANP member countries appropriate cost recovery adjustments, if necessary.

(d) *Performance review process.* NANPA and the B&C Agent shall develop and implement an internal, documented performance monitoring mechanism and shall provide such performance review on request of the Commission on at least an annual basis. The annual assessment process will not preclude telecommunications industry participants from identifying performance problems to the NANPA, the B&C Agent and the NANC as they occur, and from seeking expeditious resolution. If

performance problems are identified by a telecommunications industry participant, the NANC, B&C Agent or NANPA shall investigate and report within 10 business days of notice to the participant of corrective action, if any, taken or to be taken. The NANPA, B&C Agent or NANC (as appropriate) shall be permitted reasonable time to take corrective action, including the necessity of obtaining the required consent of the Commission.

(e) *Termination.* If the Commission determines at any time that the NANPA or the B&C Agent fails to comply with the neutrality criteria set forth in paragraph (a) of this section or substantially or materially defaults in the performance of its obligations, the Commission shall advise immediately the NANPA or the B&C Agent of said failure or default, request immediate corrective action, and permit the NANPA or B&C Agent reasonable time to correct such failure or default. If the NANPA or B&C Agent is unwilling or unable to take corrective action, the Commission may, in a manner consistent with the requirements of the Administrative Procedure Act and the Communications Act of 1934, as amended, take any action that it deems appropriate, including termination of the NANPA's or B&C Agent's term of administration.

(f) *Required and optional enterprise services.* Enterprise Services, which are services beyond those described in § 52.13 that may be provided by the new NANPA for specified fees, may be offered with prior approval of the Commission.

(1) *Required Enterprise Services.* At the request of a code holder, the NANPA shall, in accordance with industry standards and for reasonable fees, enter certain routing and rating information, into the industry-approved database(s) for dissemination of such information. This task shall include reviewing the information and assisting in its preparation.

(2) *Optional Enterprise Services.* The NANPA may, subject to prior approval and for reasonable fees, offer “Optional Enterprise Services” which are any services not described elsewhere in this section.

§ 52.13

47 CFR Ch. I (10–1–12 Edition)

(3) *Annual report.* NANPA shall identify and record all direct costs associated with providing Enterprise Services separately from the costs associated with the non-enterprise NANPA functions. The NANPA shall submit an annual report to the NANC summarizing the revenues and costs for providing each Enterprise Service. NANPA shall be audited by an independent auditor after the first year of operations and every two years thereafter, and submit the report to the Commission for appropriate review and action.

[63 FR 55180, Oct. 23, 1997, as amended at 73 FR 9481, Feb. 21, 2008]

§ 52.13 North American Numbering Plan Administrator.

(a) The North American Numbering Plan Administrator (NANPA) shall be an independent and impartial non-government entity.

(b) The NANPA shall administer the numbering resources identified in paragraph (d) of this section. It shall assign and administer NANP resources in an efficient, effective, fair, unbiased, and non-discriminatory manner consistent with industry-developed guidelines and Commission regulations. It shall support the Commission's efforts to accommodate current and future numbering needs. It shall perform additional functions, including but not limited to:

(1) Ensuring the efficient and effective administration and assignment of numbering resources by performing day-to-day number resource assignment and administrative activities;

(2) Planning for the long-term need for NANP resources to ensure the continued viability of the NANP by implementing a plan for number resource administration that uses effective forecasting and management skills in order to make the industry aware of the availability of numbering resources and to meet the current and future needs of the industry;

(3) Complying with guidelines of the North American Industry Numbering Committee (INC) or its successor, related industry documentation, Commission regulations and orders, and the guidelines of other appropriate policy-making authorities;

(4) Providing management supervision for all of the services it provides, including responsibility for achieving performance measures established by the NANC and the INC in industry guidelines;

(5) Participating in the NANC annual performance review as described in §§ 52.11 and 52.12;

(6) Establishing and maintaining relationships with current governmental and regulatory bodies, and their successors, including the United States Federal Communications Commission, Industry Canada, the Canadian Radio-television and Telecommunications Commission, and other United States, Canadian, and Caribbean numbering authorities and regulatory agencies, and addressing policy directives from these bodies;

(7) Cooperating with and actively participating in numbering standards bodies and industry fora, such as INC and, upon request, the Canadian Steering Committee on Numbering (CSCN);

(8) Representing the NANP to national and international numbering bodies;

(9) Developing and maintaining communications channels with other countries who also participate in the NANP to ensure that numbering needs of all countries served by the NANP are met;

(10) Attending United States Study Group A meetings and maintaining a working knowledge of Study Group 2 International Telecommunications Union activities on behalf of the United States telecommunications industry;

(11) Reviewing requests for all numbering resources to implement new applications and services and making assignments in accordance with industry-developed resource planning and assignment guidelines;

(12) Referring requests for particular numbering resources to the appropriate industry body where guidelines do not exist for those resources;

(13) Participating in industry activities to determine whether, when new telecommunications services requiring numbers are proposed, NANP numbers are appropriate and what level of resource is required (e.g., line numbers, central office codes, NPA codes);