

To: Rona I. Gertz
Manager, IEEE-SA Governance, IEEE Standards Activities

From: Paul Nikolich
Chair, IEEE 802 LMSC

Date: 31 May 2006

Subj: Reply Brief, in the matter of "Appeal Brief Regarding Executive Committee Vote Disapproving the 802.20 Working Group PAR Extension Request" of 7 April 2006 by Jerry Upton

Attachment: 802.20 PAR extension agenda item extract from the unapproved minutes of the 10 March 2006 closing EC meeting

Purpose

The document replies to the appeal of Appellant Jerry Upton regarding the failure of the IEEE 802 Executive Committee (EC) to approve a motion of 10 March to forward an IEEE-SA Standards Board Extension Request (PAR extension request) for P802.20.

Summary

In the view of the IEEE 802 EC, the appeal of the Appellant is without merit. The 802 EC acted fully within its authority and procedures in addressing the motion of the Appellant to forward a P802.20 PAR extension request.

Response to Arguments in Support of the Appeal

The Appellant, alleges that the decision of the 802 EC was erroneous because "the 802.20 Working Group did not violate any IEEE 802 Policies and Procedures" and because the EC decision was "arbitrary because it was without any procedural basis." More specifically:

(1) the Appellant states that "the vote by the Executive Committee was arbitrary because it was without any procedural basis."

The IEEE 802 EC is not required to demonstrate specific authoritative procedural grounds for denial of a motion. EC motions are settled by vote, and members base their votes on a variety of perspectives after participating in open debate. A member of the EC moving to adopt a particular motion requesting EC action has the burden of documenting, to the satisfaction of the EC members, the justification for that action. In the absence of convincing documentation, the EC is within its rights to reject the proposal without citing a rationale.

Furthermore, in this case, while the EC as a whole did not articulate its procedural concerns, a number of EC members did articulate specific concerns. At least one

member began indicating a specific concern to the Appellant on 7 March (see **Timely advance warning to appellant of EC member concerns** below).

Additional concerns of EC members were debated openly and extensively in an open meeting. It may reasonably be inferred that those articulated procedural arguments represented the views of at least some of the EC members voting in the negative. Evidence of the active debate comes from draft (unapproved) minutes of the meeting, which include the following:

A question was asked about when the working group approved the PAR extension form. The working group approved only the editorial changes that were made after the working group chair completed the PAR extension form.

Another question was “did a completed form exist at the time the motion passed in January?” Jerry indicated that the form was not approved by the working group at that time. He indicated that the understanding was that the chair would forward the form.

A point was made that the motion to approve the editorial changes to the extension form did not pass by 75%. Jerry indicated that he ruled that the motion was procedural. An observation was made about the degree of opposition to this editorial change to the form and whether that indicated opposition to more than the editorial items.

A point was made that the content of this form is not trivial, as the chair had submitted more than one version of it.

A question was asked whether other documents were approved at a 50% level. Jerry responded that no technical documents had been approved at less than 75%. He indicated that the original motion was approved by 86% of the working group.

A question was asked if the working group had voted on the PAR extension form, according to required procedure, during the current session. Jerry replied that it had not.

A point was made that we consider only PARs submitted by working groups and study groups, not by chairs.

The same draft minutes show that the EC had allocated 15 minutes on the agenda time for discussion of this issue but that the Chair had allowed it to continue for over 30 minutes. This extent of this debate is indicative of the fact that the EC carefully

considered the merits of the motion and that the textual records in the minutes are only a sample and/or summary of the issues raised.

(2) The Appellant states that “The 802.20 Working Group did not violate any 802 Policies and Procedures.”

The 802 EC has not claimed that the 802 WG violated the 802 Policies and Procedures in this matter, but that does not bear upon the 802 EC decision. More germane to an EC decision is whether the motion at hand was properly supported by WG action. The debate and vote suggests that many EC members did not believe that the motion was properly supported. For instance, evidence presented to the 802 EC during the discussion indicated that the 802.20 Working Group had not acted affirmatively to endorse the PAR extension request form that was presented to the 802 EC; in fact, no version of the form existed at the time (the only time) that the WG voted to submit an extension request form. The Appellant acknowledged this fact during the discussion, as noted in the (unapproved) minutes:

- Another question was “did a completed form exist at the time the motion passed in January?” Jerry indicated that the form was not approved by the working group at that time. He indicated that the understanding was that the chair would forward the form.
- A question was asked if the working group had voted on the PAR extension form, according to required procedure, during the current session. Jerry replied that it had not.

(3) The Appellant states that “The instructions given by the 802 Chair to the Chair of 802.20 following the non-approval vote cannot be executed. The Chair of 802.20 Working Group was instructed to have a re-vote of the PAR Extension completed form at an Interim or a Plenary. The Chair of 802.20 cannot unilaterally and arbitrarily overrule a valid motion passed by the Working Group members.”

The request of the 802 Chair was a constructive suggestion, not a mandate. Furthermore, note that any such WG action would not be a “re-vote” on the PAR extension request form but instead an initial vote on the form, since no vote on the content of that form had previously occurred.

Nothing in that suggestion would require the 802.20 Chair to overrule a valid motion. The suggestion is that the 802.20 Chair first seek Working Group approval of a specific PAR extension request document before asking the 802 EC to approve the same document.

(4) The Appellant states that “Disapproving a legitimate PAR Extension Request made by a Working Group that has a draft specification in Working Group Letter Ballot is without precedent.”

It appears that approving a PAR form that had not been approved by the relevant WG would be without precedent.

Response to “Requested Remedial Action”

The Appellant requests that either (a) “the 802.20 PAR Extension Request be forwarded to NesCom for its approval” or, (b) “if the Appeal Panel remands this matter to the 802 Executive Committee for another vote, it is requested that the Executive Committee members, by a roll call, state their procedural rationale for not approving the PAR extension if they vote “NO” or “Abstain” on the motion. This requested roll call vote will provide an open process for this matter.”

Option (a) is clearly inappropriate. Per the IEEE-SA Standards Board Operations Manual (Clause 5.2), Sponsor approval is required for a referral to NesCom of the PAR Extension Request.

Option (b) would be pointless. The EC has already voted, by roll call in a fully open process, to decline the motion. There is no requirement in any governing procedural document for each EC member to articulate a voting rationale. The arguments for and against the motion were thoroughly discussed in an extensive open debate during an open meeting.

Response to Claim of “Adverse Effects if Remedial Action is not granted”

As a statement of “adverse effects if remedial action is not granted,” the Appellant claims that “if a PAR Extension is not granted, then the 802.20 Working Group “will not be allowed to finish their standardization work.”

The Appellant’s cited adverse effect does not follow logically. The actual adverse affect, in case remedial action is not granted, is that the 802.20 Working Group will face the option of whether or not to approve a PAR Extension request form and forward it to the IEEE 802 EC. The IEEE 802 EC meets in both July 2006 and November 2006 and can, in addition, vote by electronic ballot between meetings. The P802.20 PAR is valid until December 2006. The 802.20 Working Group has reasonable opportunities (including at 802 Plenaries) to review and vote on a motion concerning a PAR extension request document.

Timely advance warning to appellant of EC member concerns

The record shows that the Appellant was provided with timely advance notice of concern by at least one EC member on this issue.

The IEEE 802 Policies and Procedures (subclause 17.3) specifies the review of PAR proposals during an 802 Plenary Session. It says that “Working Groups, other than the proposing Working Group, must express concerns to the proposing Working Group as soon as possible and must submit written comments to the proposing Working Group and the Executive Committee not later than 5:00 p.m. on Tuesday.” At 4:08 pm on Tuesday 7 March, during the 802 Plenary, one EC member (a WG Chair) notified the

Appellant, with a copy to the 802 EC reflector, as follows
<<http://www.ieee802.org/secmail/msg07862.html>>:

As I mentioned to you earlier, I think it is always important that a PAR form be approved by the WG, as a technical decision.

It is my understanding that your PAR Extension Form was created after the WG's interim session. Therefore, I think it would be prudent to have the specific form approved by the WG at this Plenary Session before it is reviewed by the EC on Friday.

The Appellant responded on 8 March
<<http://www.ieee802.org/secmail/msg07888.html>>:

The Motion for the PAR Extension was approved by a Technical Vote. The Motion instructed the Chair to forward a completed form. The mover of the Motion was Mark Klerer who will also agree with the intent of the motion. The Motion is below. I did review the text this week and made some minor editorial changes with Working Group.

A further indication of concern to the Appellant was raised on the EC reflector at 12:21 am on 9 March <<http://www.ieee802.org/secmail/msg07890.html>>:

Thanks for this information.

I can understand a WG authorizing its Chair to draft PAR text for 30-day advance submittal to the EC. I cannot understand, however, why a WG would not take the time during the Plenary to vote on the text as submitted.

Unless you can show me that the 802.21 Working Group approved the explicit form that you are asking the EC to approve, I expect to be voting No on this motion.

Did the WG approve the PAR extension request form?

As noted above, the 802 EC acted appropriately within its authority and expert judgment on this matter. The 802 EC is not bound to convince the Appeals Panel that denying the motion of the Appellant on 10 March was the one and only "correct" decision, just that the process by which it was made was fair [and that the outcome was within a range that the EC could reasonably make based on the issues raised and the evidence presented]. However, the Appeals Panel may be interested in better understanding the reasons for the failure of the motion. As noted earlier the 802 EC is not able to state these reasons unequivocally, because the reasons are those of the individuals who cast their votes after hearing and participating in the open-forum debate. However, information on this topic is available and will be presented here.

The Appellant argues that, according to the IEEE 802 Policies and Procedures, “Not only is there no requirement for approving the completed PAR Extension form; there are also no statements regarding the manner in which a Working Group should approve a motion for a PAR Extension Request.” In fact, the IEEE 802 Policies and Procedures specify that “The Working Group members and the Chair decide technical issues by vote,” and the 802 EC has long taken for granted that PAR proposals are considered technical issues that require a technical vote of the submitting Working Group. This fact is embodied in the *IEEE 802 LMSC Guidelines* <<http://ieee802.org/chairguides.html>>. According to the web page for the *Guidelines*, “IEEE 802's standards development activities are governed by a clear and concise set of rules. We also adhere to a set of less formal policies and guidelines as described below.” According to the relevant version (1.8.1) of the *Guidelines*, “This document is intended to provide guidance to IEEE 802 members for the orderly conduct of IEEE 802 business. These guidelines are intended to provide clarity and direction in areas that have been identified by the IEEE 802 chair or IEEE 802 EC motions.”

The table in Clause 2 of the *Guidelines* clearly indicates that affirmative WG approval is required for any type of PAR, including a PAR Extension.

The WG approved a motion in January to submit an extension request, stipulating that “The chair will forward the completed PAR Extension Form to the 802 Executive Committee for approval.” The evidence indicates that, at the time of the vote, no specific version of the form contents were presented to the WG for review. The evidence also appears to indicate that there were no other votes by the WG to approve submission of an extension request form. The testimony of the Appellant (from the closing EC meeting minutes) shows that the WG never held a technical vote on the completed form. Therefore, it is apparent that the WG never voted to approve the textual content of the form.

The Appellant argues that this motion “directed the Chair to complete the form and forward it without any further actions by the Working Group.” It is well within normal practice for an EC member to submit a draft PAR proposal in advance of an 802 Plenary Session without full authorization of the contents. The 802 Policies and Procedures (subclause 17.2) says “All PARs must be accompanied by supporting documentation, which must include... expository remarks on the status of the development of the PAR (e.g., approved by WG, Draft pending Working Group approval at next meeting, etc.)” Given that the WG had never seen the contents of the submittal, the contents can at best have been considered to be “pending Working Group approval at next meeting.” The WG members had every right to assume that, following the Appellant’s submittal of the draft to the 802 EC for consideration at the March 802 Plenary, the WG would have an opportunity at that Plenary to vote on approval of the text.

The longstanding position of the 802 EC is that submittal of a PAR is a technical decision of the WG. The appeal argues that “the PAR Extension request does not

change the PAR Scope, Purpose or any other sections of the PAR except as to the expected completion date.” This seems to imply that none of the content of the PAR extension form is substantive. Not all 802 EC members agree. For example, three estimated completion dates are mentioned in Item 8b. In the past, target completion dates have been hotly debated issues during WG discussion. In this case, the WG had no opportunity to discuss them. Also, Item 5 of the extension form (“Statement of why an extension is required. This should include a description of what the working group has accomplished and what remains to be accomplished, along with the reasons why the work was unable to be completed in the allotted timeframe”) is clearly substantive. In fact, the Appellant found this topic significant enough that he expanded the content from six lines (in his first submittal of the form to the 802 EC, on 1 Feb 2006 <<http://www.ieee802.org/secmail/msg07859.html>>) to 15 lines (in his second submittal of the form to the 802 EC, on 6 Feb 2006 <<http://www.ieee802.org/secmail/msg07875.html>>). So, while the Appellant created and edited the fields, the WG did not have opportunity to technically consider and vote on approving any version of them.

Finally, the revised draft minutes of the 802.20 session that occurred the week of the March 802 Plenary <http://www.ieee802.org/20/WG_Docs/802.20-06-04R1_March_Draft%20Minutes.doc>, which were not available at the time of the 802 EC decision on the Appellant’s motion and were not cited in the Appeal, are relevant to this issue because they demonstrate that the contents of and approval of this PAR extension form were a significant topic of discussion at that March 802.20 WG meeting but that the Appellant specifically refused to allow a vote to consider approval (“*The chair denied the request for a motion for the group to re-approve the PAR extension form for the text, as it was not required.*”). Relevant quotes from those minutes include:

Request from Jiezhen Lin for a specific time to discuss the PAR extension. Chair stated that this item will be discussed under the agenda item: WG Activities. Request to amend statement of agenda to add “Discussion of PAR Extension” after this item. Mover and second agreed to the request.

Brian Kiernan asked that Chair about how the group would deal with responses from other working groups about PAR extension. The Chair stated he would review them with the group when they were received.

Under Agenda item on PAR Extension:

Monday 245pm: Agenda item for discussion of other WG activities and PAR Extension. Request from Jiezhen Lin that Chair show the group the motion passed about PAR extension in January, and the PAR extension form sent by the chair to the EC. Chair put both documents on the projector and went through them. There was some discussion on item 5 in the PAR extension form.

Request from Jose Puthenkulam to have version 1 of the PAR Extension form posted on the website. Chair stated he agreed he would post all version of the text.

Further request from Jose to make some changes to item 5. Chair spoke with 802 Chair (who was present in the room) and the 802 chair stated that editorial changes to the item may be made. Two minor editorial changes were proposed by Jose Puthenkulam and the Chair noted one grammar issue.

Jose Puthenkulam stated that there should be a motion in the group to approve the PAR extension form again, and to approve the changes in the PAR extension form. Jim Ragsdale and Jim Tomcik and Mark Klerer, the original mover of the motion, argued against having such a vote, because the approval have been voted by the group earlier in the January session, and the group had given the chair the right to complete the PAR extension form and forward to the 802 Executive Committee. Jose also stated that the Chair did not share the forms with the working group. The Chair stated the form was and is posted in the Working Group documents. The chair denied the request for a motion for the group to re-approve the PAR extension form for the text, as it was not required.

Under New Business:

Chair put on the screen the PAR extension form and editorial changes in item 5 of the PAR extension form based upon the previous inputs from group members. All the minor editorial changes made earlier were accepted by the Chair. Chair agreed to post the PAR Extension with the minor editorial changes and forward to the Executive Committee.

*530pm: **Motion** from Mark Klerer, second by Jose Puthenkulam to “Accept changes to the PAR extension form”. Chair ruled the motion as a procedural and that the changes are editorial. Jose questioned if this is procedural, and argued that this is a technical, but did not withdraw his second.*

Motion passes 69 accept, 31 opposed, 9 abstains

Attachment 1: 802.20 PAR extension agenda item extract from the unapproved 10 March 2006 Closing EC Meeting Minutes (for the agenda item concerning the approval of the 802.20 PAR extension request)

5.00 IEEE Standards Board Items -

5.01 ME 802.20 PAR Extension - Upton 15 01:24 PM

Moved: To approve the IEEE 802.20 WG PAR extension request and form for forwarding to NeSCom for its approval.

Moved: Jerry Upton/Bob Heile

A question was asked about when the working group approved the PAR extension form. The working group approved only the editorial changes that were made after the working group chair completed the PAR extension form.

Another question was "did a completed form exist at the time the motion passed in January?" Jerry indicated that the form was not approved by the working group at that time. He indicated that the understanding was that the chair would forward the form.

A point was made that the motion to approve the editorial changes to the extension form did not pass by 75%. Jerry indicated that he ruled that the motion was procedural. An observation was made about the degree of opposition to this editorial change to the form and whether that indicated opposition to more than the editorial items.

A point was made that the content of this form is not trivial, as the chair had submitted more than one version of it.

A question was asked whether other documents were approved at a 50% level. Jerry responded that no technical documents had been approved at less than 75%. He indicated that the original motion was approved by 86% of the working group.

A question was asked if the working group had voted on the PAR extension form, according to required procedure, during the current session. Jerry replied that it had not.

In response to a number of the Executive Committee Members who stated the Working Group had to approval by a re-vote the completed PAR extension form, the Chair of 802.20 stated that the 802 P&P does not require this vote given the motion passed by the Working Group. The Chair of 802.20 stated he could not request a revote by the Working Group unless a Motion to "Reconsider" was approved or unless a Motion to "Rescind" the already approved Motion was made in Working Group and approved. In response to a statement from Roger Marks regarding an email sent by an 802 member concerning motions in the March Plenary on the PAR Extension request, the Chair of 802.20 stated he met with Ms. Lin and resolved her concerns and misunderstandings. The Chair of 802.20 stated that he ruled that the text in the PAR form were not technical. Others members of the Executive Committee disagreed. Chair of 802.20 disagreed with the statements from a number of Executive Committee members who stated the 802 P&P requires a vote of a PAR extension form at a Plenary. The Chair of 802.20 attempted to show the 802 P&P sections related to approving PARs to illustrate and explain his positions.

A point was made that we consider only PARs submitted by working groups and study groups, not by chairs.

Hand vote: 6/8/1, the motion fails

A request for a roll call vote was made.

Vote by Roll Call:

Pat Thaler	nay
Bob O'Hara	nay
Buzz Rigsbee	nay

John Hawkins	nay
Tony Jeffree	nay
Bob Grow	nay
Stuart Kerry	abstain
Bob Heile	aye
Roger Marks	nay
Mike Takefman	nay
Mike Lynch	aye
Steve Shellhammer	aye
Jerry Upton	aye
Ajay Rajkumar	aye
Carl Stevenson	aye

Fails: 6/8/1

A question was asked as to whether a vote at an interim session where a quorum is present is acceptable. After querying the EC Paul determined that it would be appropriate for the 802.20 PAR extension request to be considered for approval at either a Working Group Interim Session with quorum or a Plenary Session.

5.02 ME 802.11k PAR maintenance - Kerry 1 01:55 PM