

January 29, 2018

VIA ELECTRONIC FILING & E-MAIL

Ms. Kris Anne Monteith
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Telephone Number Portability, et al.*, WC Docket Nos. 07-149 & 09-109, CC
Docket No. 95-116.

Dear Ms. Monteith:

On behalf of Telcordia Technologies, Inc., dba iconectiv (“iconectiv”), I write to respond to Neustar’s letter of January 24, 2017.¹ In its letter, Neustar challenges confidentiality designations related to two documents submitted in this proceeding: the Transition and Implementation Plan submitted with iconectiv’s 2013 bid and Article 19 of the Master Services Agreement (“MSA”) between the North American Portability Management (“NAPM”) LLC and iconectiv.

iconectiv objects to Neustar’s request to remove the confidentiality protections provided for Article 19 of the MSA pursuant to the Revised Protective Order.² Article 19 contains provisions regarding delays, damages, performance credits, and default. As iconectiv has previously explained in responding to Neustar’s application for review of the *Second Protective Order*, “knowing details such as contractual penalties, conditions for acceptance, termination rights, and similar details could enable Neustar to undermine the transition by strategically withholding its cooperation in ways calculated to cause delay (which would allow Neustar to continue charging the industry more than \$40 million per month as the LNPA in addition to any fees for transition services), trigger penalties, or cause default.”³ When it rejected Neustar’s

¹ Letter from Thomas Navin, Counsel for Neustar, to Kris Anne Monteith, Chief, Wireline Competition Bureau, WC Docket Nos. 07-149 & 09-109, CC Docket No. 95-116 (filed Jan. 24, 2018) (“Neustar Letter”).

² *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*, Revised Protective Order, DA 14-881, WC Docket No. 09-109 & CC Docket No. 95-116 (rel. June 25, 2014).

³ *Opposition of Telcordia Technologies, Inc., d/b/a iconectiv to Neustar’s Application for Review of the Second Protective Order* at 1, WC Docket Nos. 07-149 & 09-109, CC Docket No. 95-116 (filed Apr 25, 2016). *See also id.* at 13 (“Second, revealing specific information about the contract—including specific contractual requirements, penalties for their breach,

Application for Review, the Commission noted that “Telcordia [iconectiv] also claims that such details would enable Neustar to undermine the transition and cause delay, cost the industry millions of dollars, trigger penalties, or cause default.”⁴ It then concluded: “We agree with Telcordia and the NAPM, and disagree with Neustar’s arguments that such a broad dissemination of the MSA is either appropriate or necessary.”⁵

Neustar has presented no changed circumstances that would allow the Bureau to depart from the Commission’s analysis of this issue. Indeed, Neustar’s actions to date give every reason for concern that it will attempt to delay or undermine the transition. Neustar claims that circumstances have changed because the D.C. Circuit has now rejected its appeal of the *Selection Order*. But the fact that the court cannot now order a rebid does not change the fact that release of Article 19 would enable Neustar to undermine the transition, potentially costing the industry millions of dollars and generating millions of dollars of undeserved profit for Neustar.

Moreover, this information needs to remain confidential in order to protect iconectiv from misuse of the confidential terms of Article 19, which are protected by non-disclosure agreements and use restrictions. All users of the NPAC (including Neustar as a Provider of Telecommunications Related Services) already have access to Article 19 of the MSA under a nondisclosure and restricted use agreement that prohibits public disclosure and prohibits use of confidential information “for any purpose other than the performance of its obligations under this [User or PTRS] Agreement.” All users of the NPAC can evaluate this information to the extent necessary to perform their obligations, but not for other purposes. Neustar clearly seeks to have this information declared non-confidential under the Revised Protective Order so that it can then disclose it and use it for purposes other than performing its duties as a PTRS user, including in any possible rebid. Neustar nowhere explains why that would be necessary. With access already provided to NPAC users for these permitted purposes, Neustar’s claims that “NPAC stakeholders need access to the requested information so they can accurately evaluate whether and to what extent their interests are impacted”⁶ is specious.

iconectiv does not object to the public release of the Transition and Implementation Plan submitted with iconectiv’s 2013 bid. While the potential for a rebid remains until the transition is complete, and thus a general removal of confidential treatment for bid information is unwarranted, those concerns are obviated with respect to this particular document because it is obsolete. The final executed MSA contains specific provisions regarding transition processes. Moreover, the Commission directed NAPM to hire a third party manager—the Transition Oversight Manager (“TOM”)—to oversee the transition, and to provide status reports to the Wireline Competition and Public Safety and Homeland Security Bureaus every 30 days. To the

and termination provisions—could enable Neustar to strategically undermine the transition in an effort to prevent Telcordia from taking over as the LNPA.”).

⁴ *In the Matter of Telcordia Techs., Inc. Petition to Reform Amendment 57 & to Order a Competitive Bidding Process for No. Portability Admin. et al.*, 31 FCC Rcd. 8444, 8449 ¶15 (2016).

⁵ *Id.* ¶ 16.

⁶ Neustar Letter at 3.

Ms. Kris Anne Monteith

January 29, 2017

Page 3 of 3

extent that there have been further modifications to the transition schedule necessitated by subsequent developments, including Neustar's failure to accurately maintain the Industry Requirements, the NAPM and the TOM have been parties to developing those changes, with NAPM ultimately agreeing to schedule revisions.

Accordingly, the Bureau should deny Neustar's challenge to the confidentiality designations of Article 19 of the MSA.

Sincerely,



*Counsel to Telcordia Technologies,
Inc., d/b/a iconectiv*

cc: Tom Navin, Counsel for Neustar (by email and first-class mail)
Todd Daubert, Counsel for the NAPM, LLC (by email)
Michele Ellison, Deputy General Counsel, FCC (by email)
Neil Dellar, Office of the General Counsel, FCC (by email)
Ann Stevens, Wireline Competition Bureau, FCC (by email)
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