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June 29, 2016

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

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

Dear Ms. Dortch:

On behalf of the LNP Alliance,¹ the undersigned writes in response to the ex parte letter filed by Telcordia Technologies, Inc., dba iconectiv on June 22, 2016 (“iconectiv Letter”).² The iconectiv Letter—in the most preachy and pedantic tone—implies that the LNP Alliance and other concerned parties are “spooked” because they don’t understand the simplest, basic details of the LNPA Transition.³ In fact, the LNP Alliance’s acute concern with the LNPA Transition emanates from decades of experience with the manner in which even the most routine telecom process changes have so often become a pretext for large carriers to engage in anticompetitive and anticonsumer mischief. Whether changes to ordering, provisioning, billing or porting processes, large carriers have routinely taken advantage of process changes to shake loose hard-earned customers and increase competitive pressure on new entrants. The LNPA Transition has all the earmarks of the worst of such transitions—poor transparency, a process controlled by nine (9) of the nation’s largest carriers, and de minimis oversight by regulatory authorities, including no state oversight role whatsoever. The iconectiv letter addresses a series of straw man issues never raised by the LNP Alliance, and neglects to address the principal issues it has raised, while unfairly maligning the integrity of the consumer groups that have duly weighed in on this issue.

¹ The LNP Alliance is a consortium of small and medium-sized providers that currently consists of Comspan Communications, Inc., Telnet Worldwide, Inc., the Northwest Telecommunications Association (“NWTa”), and the Michigan Internet and Telecommunications Alliance (“MITA”). The LNP Alliance is focused on ensuring that the LNPA selection process takes into account the concerns of its S/M provider members and other similarly situated providers.

² Letter from John T. Nakahata, Counsel to Technologies, Inc., dba iconectiv, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, Telephone Number Portability, *et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109 and 07-149 (June 22, 2016).

³ *Id.* at 2.

The following provides a point-by-point response to both the issues addressed and those ignored by the iconectiv Letter.

- The iconectiv Letter repeats NAPM’s claim that Neustar is delaying the LNPA Transition and that Neustar is unilaterally depriving the public of valuable savings.⁴ The iconectiv Letter neglects to highlight the role that iconectiv itself has played in delaying the LNPA Transition by employing foreign nationals to write code, causing it to have to start rewriting code in March 2016. Iconectiv did not publicly release the iconectiv Master Service Agreement (“iconectiv MSA” or “MSA”) for review until April 1, 2016, then delayed review by a month more by filing it as entirely confidential.⁵
- Iconectiv has never made a compelling case that small carriers will see net cost decreases as a result of the LNPA Transition. Here’s a few reasons why:
 - The IP Transition, as discussed further below, is being put on hold until the completion of the LNPA Transition. The lost savings for smaller carriers from timely implementation of the IP Transition far outweigh any net benefits that may or may not accrue to them from the LNPA Transition.⁶
 - Iconectiv points out that “service bureaus that serve small providers similarly will see recurring charges drop”⁷ There is no regulatory or other structure in place to ensure that these savings will be passed on to carriers and consumers.
 - Iconectiv makes no effort to consider the internal personnel costs associated with tracking the ever-changing timelines of the LNPA Transition, implementing testing, and completing the transition.
 - As with any transition, there are risks of process failures, unsuccessful ports, and lost customers. Small carriers would be better off if resources were focused on the IP Transition and there were no LNPA Transition at all.
- The iconectiv Letter claims that a paper written by the Wireless Future Program at New America’s Open Technology Institute (“OTI”) for Neustar 18 months ago on a different topic raises “serious questions” about OTI’s independence.⁸ Yet Public Knowledge and Common Cause have previously weighed in on the same issue highlighting the importance to consumers of the LNPA Transition.⁹ FISPA, TEXALTEL, CCA,

⁴ *Id.*

⁵ The LNP Alliance and the public have a right to be concerned about transparency because, if not for a whistleblower, it’s not clear that anyone would have learned about the role of the foreign nationals.

⁶ Letter from James C. Falvey, Counsel to the LNP Alliance, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, Telephone Number Portability, *et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109 and 07-149, at 3 (June 6, 2016).

⁷ *Id.* at 1.

⁸ *Id.*

⁹ Letter from the LNP Alliance, the Open Technology Institute at New America, Public Knowledge, Common Cause, FISPA, and TEXALTEL, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, Telephone Number Portability, *et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109 and 07-149 (Dec. 4, 2015).

Incompas, and other trade associations representing smaller carriers have also highlighted the importance of this issue for non-NAPM carriers.¹⁰

The iconectiv Letter provides straw man responses to issues, like changed porting intervals¹¹ that the LNP Alliance has never raised. But it also fails to address most if not all of the LNP Alliance's most critical concerns with the current state of the LNPA Transition:

- The iconectiv Letter fails to address the fact that the LNPA Transition is putting the IP Transition on hold, costing smaller carriers much more than any ostensible savings from the LNPA Transition. This is the big success for the NAPM carriers, a delay that CenturyLink has now openly declared is necessary.¹²
- The Commission should accelerate the IP Transition by requiring as a precondition to approval of the MSA that the Transition Oversight Manager (“TOM”) provide a detailed Gantt chart of the LNPA Transition that incorporates intervals to adapt the NPAC for the IP Transition.¹³ Absent such Commission oversight, the main accomplishment of the LNPA Transition will be a multibillion dollar delay in implementing the IP Transition.
- On this point, the iconectiv Letter says the exact opposite of what smaller carriers have requested:
 - “For GUI users, the fields that must be submitted and the information flow will not change.”
 - “All the industry porting data and process flows remain the same.”
 - “This ensures that the new NPAC will be able to interact with existing provider or service bureau gateways in the same manner as they do today.”
- It would be more accurate to say “in the same manner as they did in 1997.” This cementing of the status quo circa 1997 for two more years or longer is not a productive use of small carrier and consumer resources. The iconectiv Letter repeatedly “reassures” smaller carriers that ‘everything will remain the same,’ when in fact the LNP Alliance has been repeatedly urging the Commission to adapt the NPAC for the IP Transition, a technological tsunami which is fast washing away the increasingly archaic regulatory infrastructure.¹⁴

¹⁰ *Id.* See also Reply Comments of COMPTTEL, Telephone Number Portability, *et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109 and 07-149 (June 1, 2015); Comments of Competitive Carriers Association, Telephone Number Portability, *et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109 and 07-149 (May 21, 2015).

¹¹ *Id.* at 3.

¹² Letter from Jeffrey S. Lanning, Vice President, Federal Regulatory Affairs, CenturyLink, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, Telephone Number Portability, *et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109 and 07-149 (May 20, 2016).

¹³ Letter from James C. Falvey, Counsel to the LNP Alliance, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, Telephone Number Portability, *et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109 and 07-149, at 4-5 (June 9, 2016) (“June 9 LNP Alliance Ex Parte”).

¹⁴ Note that the SMS/800 database is adapting faster than the NPAC due to aggressive, forward-looking management, direction that is now sorely lacking with the NPAC. The SMS/800 registry has supported text-enabled toll-free numbers since 2013. The following article is almost a year old.

- The iconectiv Letter fails to address the fact that the NAPM dues structure has resulted in just nine (9) of the nation’s largest carriers joining the NAPM.¹⁵ The LNP Alliance has recommended a dues structure like Incompas’ that effectively encourages the diversity required of a federal advisory committee.¹⁶ While NAPM has claimed that trade associations can join, it is telling that not a single trade association has joined NAPM under the current dues structure. Trade associations representing smaller carriers typically lack the resources and manpower to fund and staff such an initiative.
- The iconectiv Letter fails to address the fact that the LNPA Transition has been a closed process with no meaningful input invited or accepted from smaller carriers. The MSA was initially filed as confidential, then only portions were made public, and then the NAPM carriers immediately called for its swift approval.¹⁷ The Commission should make the entire MSA public absent specific objections by NAPM as to why any particular portion should be confidential.
- The iconectiv Letter fails to address the LNP Alliance’s recommended revisions to the MSA. Neither NAPM nor iconectiv has accepted a single revision proposed by the LNP Alliance, which is typical of the lack of any two-way exchange of information in all communications between smaller carriers and the TOM, the NAPM, and iconectiv. NAPM and iconectiv ex partes have discussed a smattering of provisions raised by the LNP Alliance, but the vast majority of constructive edits have fallen on deaf ears.
- The iconectiv Letter fails to make a firm commitment that the NPAC will remain a neutral, independent database and iconectiv fails to agree, as the LNP Alliance has requested, to a Commission precondition to MSA approval, that the NPAC remain neutral, without third party interlopers or surcharges.¹⁸

In short, iconectiv and the NAPM have not begun to address any of the material concerns of smaller carriers and consumers, particularly if the changes do not conform to the rigid preconceived NAPM framework for LNPA Transition implementation. In response to an earlier request by the LNP Alliance, questions and answers relating to the LNPA Transition are now

<http://www.fiercewireless.com/story/sms800-launches-registry-text-enable-toll-free-numbers-gets-ctias-endorseme/2015-08-19> (website last checked on June 24, 2016). If iconectiv neglects to make such adaptations during the LNPA Transition, it will lose its place as the sole, neutral numbering administrator and will be overtaken by more nimble, but potentially discriminatory third party databases that incorporate the IP Transition faster than iconectiv. The Commission has a statutory duty to ensure that does not happen. See 47 U.S.C. 251(e).

¹⁵ The NAPM members are the three Regional Bell Operating Companies (“RBOCs”), AT&T, Verizon, and CenturyLink; the two largest U.S. wireless providers not affiliated with an RBOC, Sprint and T-Mobile; the two largest U.S. cable companies, Comcast and TW Cable; Vonage; and Bandwidth. XO was a member but was acquired by Verizon. The first year of NAPM membership would cost a carrier \$44,000, and typically \$34,000/year thereafter. See NAPM New Recruit Deck Revised 10Feb2015 at <https://napmlc.org/pages/MembershipInfo.aspx> (website last visited June 24, 2016).

¹⁶ June 9 LNP Alliance Ex Parte at 5.

¹⁷ *Id.*

¹⁸ *Id.* at 6.

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sometimes posted by the TOM on the NAPM website. But there still remain many more questions than answers.

As required by Section 1.1206(b), this *ex parte* notification is being filed electronically for inclusion in the public record of the above-referenced proceedings. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

/s/ James C. Falvey

James C. Falvey

cc:	Nick Degani	Amy Bender
	Diane Cornell	Rebekah Goodheart
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