

July 15, 2016

VIA ECFS

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

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

Dear Secretary Dortch:

The North American Portability Management LLC ("NAPM LLC"), by its attorneys, respectfully submits this ex parte in response to the July 6, 2016 filing by Neustar, Inc. In its filing, Neustar urges the Federal Communications Commission ("FCC" or "Commission") to delay approving the Master Services Agreement between the NAPM LLC and Telcordia Technologies, Inc. d/b/a iconectiv (the "New MSA") so that the issues Neustar raises in its filing can be considered "carefully, fully, and *on the record*" by the Commission.¹ However, the Commission has already carefully and fully considered -- on the record -- all of the relevant issues, and Neustar's claims about these issues are not accurate.

Neustar's filing is nothing more than another attempt to delay the transition to iconectiv as the new Local Number Portability Administrator ("LNPA") for the benefit of Neustar's own financial gain. None of the issues raised by Neustar warrants further consideration as explained below:

First, Neustar claims that Ericsson conceded violations of its national security commitments, and that these alleged violations must be addressed by the Commission on the record.² However, as the NAPM LLC has explained in past filings, Telcordia -- the legal entity at issue in this proceeding -- has not violated any national security commitments or made any misrepresentations, and the NAPM LLC, with the oversight of the Commission, will ensure that the Number Portability Administration Center delivered by Telcordia was in fact built in America from the ground up using only U.S. citizens.³

Second, Neustar claims that delays in approving the New MSA have changed the costs associated with transition in a way that requires the FCC to reevaluate the bids.⁴ This is patently untrue. While each day of delay in approving the New MSA causes the public to lose out on **approximately \$1M**

¹ Letter from Thomas J. Navin and Aaron M. Panner, Counsel, Neustar, Inc., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109, at 2 (filed July 6, 2016) ("Neustar Letter").

² See Neustar Letter at 2-3.

³ See, e.g., Letter from Todd D. Daubert, Counsel, the NAPM LLC, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109 (filed June 6, 2016) ("NAPM Ex Parte").

⁴ See Neustar Letter at 3-7.

in savings,⁵ delay that occurs before transition is fully completed cannot reduce the thousands of millions of dollars in cost savings under the New MSA, because the New MSA features a fixed term that begins upon the full completion of transition.⁶ As such, the same cost savings over the same time frame that led the NAPM LLC, the North American Numbering Council ("NANC"), and the Commission to approve the selection of Telcordia's bid will remain unchanged despite any delay that occurs at any time before transition is fully completed.⁷ Since iconectiv will not collect any fees for any period before the full completion of transition, only Neustar is compensated for transition-related activities, but Neustar is prohibited by law and contract from double-billing or to seeking to increase the total costs of transition, so transition delays should not have a material impact on the charges that Neustar seeks for the activities it is explicitly requested to undertake in order to facilitate transition.⁸

Third, Neustar claims that the Commission's actions have undermined the integrity of the competitive bidding process. Importantly, the Commission fully considered and rejected these claims, which Neustar had fully briefed in the proceeding, when the agency selected Telcordia as the LNPA.⁹ The sole issue before the Commission at this time is whether the contract terms in the New MSA are consistent with the Commission's requirements regarding neutrality and security matters.¹⁰ The contract terms in the New MSA are fully consistent with the Commission's requirements regarding neutrality and security matters, and they represent a quantum leap forward over the existing MSA with Neustar. Moreover, the results of the well-vetted selection process likely would not have been materially different even if both bidders had been permitted to participate in an unlimited number of additional rounds of bidding. Specifically, the NAPM LLC, the NANC and the Commission all agreed that both Neustar and

⁵ See, e.g., NAPM Ex Parte at 2-3 (explaining that the current MSA costs approximately \$496M per year, while the New MSA would cost approximately \$175M during the first year).

⁶ See Article 2 of the New MSA ("The Agreement shall commence as of the Effective Date and shall continue for a term ending on the fifth anniversary of the Actual Final Acceptance Date (the "**Initial Term**"); Section 31 of the New MSA ("Actual Final Acceptance Date shall mean that Final Acceptance has occurred pursuant to Article 7."); *id.* ("Final Acceptance Date shall mean the date that Final Acceptance is scheduled to occur . . ."); *id.* ("Final Acceptance shall mean the time at which the NPAC/SMS, including the provision of all Services and Ancillary Services, shall be deemed to have been accepted in all Regions . . .").

⁷ It is not surprising that pre-execution delays will force adjustments to the relevant transition milestones in order to account for those delays, but these adjustments will not reduce the thousands of millions of dollars in cost savings under the New MSA.

⁸ Indeed, unless explicitly requested by the NAPM LLC, Neustar is prohibited from providing any services or performing any tasks for which it seeks compensation. The NAPM LLC does not foresee material changes to transition-related services or tasks based on the duration of the transition, and thus the total cost of transition-related charges is not expected to materially change based on the length of the transition period.

⁹ See, e.g., Order, Telcordia Technologies, Inc. Petition to Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration, et al., WC Docket No. 07-149, FCC 15-35 at ¶ 193 (rel. Mar. 31, 2015) ("*Selection Order*").

¹⁰ *Id.* (conditioning selection on the negotiation of contract terms that are consistent with the Commission's requirements regarding neutrality and security matters). Since the negotiations between the NAPM LLC and Telcordia resulted in an acceptable contract, the sole condition that the FCC imposed upon the selection of Telcordia as the LNPA undeniably has been fully satisfied.

Telcordia are qualified to serve as the LNPA,¹¹ but Telcordia's bid was, over the term of the New MSA, thousands of millions of dollars lower than Neustar's bid.¹²

In sum, none of the issues that Neustar has raised warrants further consideration by the Commission. Accordingly, the NAPM LLC respectfully urges the Commission to promptly approve the New MSA so that the important security enhancements of the New MSA can be implemented as soon as possible and the American public will not unnecessarily continue to incur approximately \$1M for each day of delay.

Please contact the undersigned if you have any questions or would like any additional information about the issues discussed herein.

Respectfully submitted,



Todd D. Daubert
Counsel to the NAPM LLC

cc: Diane Cornell
Rebekah Goodheart
Travis Litman
Nicholas Degani
Amy Bender
Matt DelNero
Jonathan Sallet
Rear Admiral (ret.) David Simpson
Kris Monteith
Deborah Jordan
Michele Ellison
Ann Stevens
Sanford Williams
Marilyn Jones

¹¹ See generally the *Selection Order*; see also Letter from A. Todd McCall, Assistant Director, Operational Technology Division, Federal Bureau of Investigation, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116, WC Docket No. 09-109 (filed June 27, 2016) ("Consistent with the prior point filing by the Federal Bureau of Investigation, the Drug Enforcement Administration, and the U.S. Secret Service, the FBI continue to believe that accurate, confidential, affordable and secure provisioning and administration of the LNPA database is in the best interests of the FBI and all of the United States law enforcement. The FBI does not possess any information, as of this date, to reasonably question Telcordia's ability to meet these needs or to otherwise object to the FCC's selection of Telcordia as the LNPA").

¹² In light of the enormous disparity between the bids, it defies credulity to suggest that further rounds of bidding would have led Neustar to lower its bid to anything remotely close to Telcordia's bid, particularly since Neustar already knew when it submitted Best and Final Offer that it was participating in a competitive bidding process in which another party had already submitted an initial bid.

Ms. Marlene Dortch
July 15, 2016
Page 4

Salans FMC SNR Denton
dentons.com

Terry Cavanaugh
Michelle Sclater
Neil Dellar