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October 17, 2014

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Electronically Filed

Re: CC Docket No. 95-116; WC Docket No. 09-109

Dear Ms. Dortch:

I write on behalf of Neustar, Inc. ("Neustar"), in response to the letter filed by Ericsson's wholly-owned subsidiary, Telcordia Technologies, Inc., d/b/a iconectiv,[1] on September 17, 2014, in the above-captioned proceedings.

Ericsson's letter provided a response to the letter from Julie Veach, Chief, Wireline Competition Bureau ("WCB"), dated September 10, 2014, which directed Ericsson to provide "additional information to clarify the scope of iconectiv's relationships with United States telecommunications service providers (TSPs)."[2] Among other things, Section 251(e)(1) and the

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[1] Telcordia Technologies Inc., d/b/a iconectiv, is a wholly-owned subsidiary of Ericsson, and unless otherwise noted will be referred to here by the name of the corporate parent. As Neustar has explained, Telcordia is disqualified from serving as the LNPA for the same reasons that Ericsson is disqualified. *See* Neustar Comments at 23-24; Neustar Reply Comments at 8 & n.11. None of Ericsson's proposed safeguards will make Telcordia impartial and neutral. *See* Neustar Comments at 28 ("[B]ecause Telcordia is a wholly owned subsidiary of Ericsson, Telcordia's directors owe their fiduciary duties to Ericsson."); Neustar Reply Comments at 27; Letter from Aaron M. Panner, Counsel for Neustar, to Marlene H. Dortch, Secretary, FCC, at 14-16 (Sept. 23, 2014).

[2] Because Ericsson is a multinational corporation with numerous relationships with carriers having direct and indirect interests in the United States, the Bureau must inquire into how those relationships affect the U.S. market and telecom carriers.

Commission's implementing regulations require WCB to evaluate whether Ericsson: (a) is aligned with any particular segment of the telecommunications industry; (b) is subject to undue influence from any party with a vested interest in the outcome of numbering administration; or (c) is a manufacturer of telecommunications network equipment.[3] Ericsson's September 17 response strongly supports the conclusion that Ericsson is aligned with the U.S. wireless industry as a result of its substantial business relationships with the largest U.S. wireless carriers.[4] Under the Commission's rules, Ericsson therefore cannot serve as the local number portability administrator ("LNPA"). The Commission needs no further information to exclude Ericsson from serving as a neutral numbering administrator. Even setting aside the evidence of Ericsson's alignment with the U.S. wireless industry, which by itself compels the conclusion that Ericsson is not neutral and therefore ineligible to serve as LNPA, Ericsson has failed to provide information essential to supporting its claims of neutrality. Consequently, the Commission must investigate the full extent of Ericsson's entanglement with the wireless industry.

Ericsson's letter omits critical details, but it is fair to conclude that selling equipment and services to U.S. wireless carriers is Ericsson's most important line of business in its most important global market. *See* Neustar Attachments 1 & 4.[5] It is fair to assume that more than **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** of Ericsson's managed services sales of **BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** are derived from the U.S. wireless industry **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** It is also fair to assume that more than **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY**

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[3] 47 C.F.R. §§ 52.12(a)(1), 52.21(k), 52.26(a); Vendor Qualification Survey § 3.4 at Telcordia05009 - 10.

[4] Neustar Comments at 14-33; Neustar Reply Comments at 8-16. We have also demonstrated that Ericsson fails the other neutrality criteria. *See* Neustar Comments at 33-34; Neustar Reply Comments at 16-17.

[5] Ericsson's U.S. sales in 2013 were US $9.062 billion (converted to US Dollars at 6.52SEK to US$1). *See* Neustar Attachments 1 & 4; Ericsson 2013 Form 20-F, at 61, *available at* http://www.ericsson.com/res/investors/docs/2013/ericsson-20f-2013.pdf. Ericsson attempts to minimize the extent of undue influence of these carriers by calculating its *U.S.* telecommunications service provider ("TSP") sales as a percentage of its total *global* sales or revenues. *Compare* Ericsson Attachments 1 & 4. Further, Ericsson does not focus specifically on sales to the U.S. wireless industry. Neustar has calculated Ericsson's U.S. wireless sales as a percentage of its total U.S. sales. *See* Neustar Attachments 1 & 4. Because Ericsson would be administering the NPAC in the United States, Ericsson's U.S. sales are the relevant denominator, not its global sales, for purposes of determining alignment with a U.S. telecommunications industry segment. U.S. wireless sales are the relevant numerator, because this is the industry segment in which Ericsson is most entrenched.

[6] *See* Ericsson Reply Comments at 22-29.

CONFIDENTIAL INFORMATION] of Ericsson's equipment sales - **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** - are derived from the U.S. wireless industry **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** Put together, a conservative estimate puts Ericsson's revenues from the sale of equipment and services to the U.S. wireless industry at more than **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** every year, which represents almost **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** of Ericsson's annual U.S. sales. In addition, Ericsson loaned close to **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** to TSPs in 2012 and 2013, including almost **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** to just one provider. *See* Ericsson Attachment 2.[7] Ericsson's U.S. sales are poised to increase in 2014-15, as T-Mobile has selected Ericsson to build out its new LTE network.[8] The U.S. market is by far Ericsson's top selling market, accounting for 26% of its global sales, with Japan a distant second at 6%.[9]

Ericsson has not revealed whether all of these sales are exclusively to the wireless industry, but given the very large volume of sales and its concentration among a small number of providers, it is reasonable to infer that most of these sales are to the wireless industry.[10] Because Ericsson is dependent on wireless carriers for **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** of its U.S. sales, Ericsson is uniquely dependent on the success of a few major U.S. wireless providers. Ericsson is thus aligned with and subject to undue influence from the U.S. wireless industry.

Ericsson has offered no viable legal argument that its ties to the wireless industry are consistent with statutory and regulatory requirements that the LNPA be impartial and neutral. Ericsson claims that the *NANP Third Report and Order* establishes that its ties to the wireless industry are "*de minimis*,"[11] but that *Order* actually establishes the opposite. There, the Commission found that Lockheed Martin would not be subject to undue influence from Loral

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[7] These debtor, creditor, manufacturer relationships establish extensive ties between Ericsson and the wireless industry.

[8] Kevin Fitchard, *T-Mobile Picks Ericsson to Build Its New Tricked-Out LTE Network*, Gigaom (Sept. 23, 2014), https://gigaom.com/2014/09/23/t-mobile-picks-ericsson-to-build-its-new-tricked-out-lte-network/.

[9] Ericsson Fourth Quarter and Full Year Report for 2013, at 37, *available at* http://www.ericsson.com/res/investors/docs/q-reports/2013/12month13-en.pdf.

[10] *See* Ericsson 2013 Form 20-F, at 95 (explaining that Ericsson's "business depends upon the continued growth of mobile communications" and that a "significant portion of [Ericsson's] revenue is currently generated from a limited number of key customers").

[11] Ericsson Reply Comments at 13 & n.18.

because "the revenues that the Lockheed Martin Corporation received as a result of its affiliation with Loral Space represent only a small portion of the revenues of the Lockheed Martin Corporation" – "approximately 0.26 percent of its total assets."[12] Unlike Lockheed's "extremely small financial stake" in Loral relative to Lockheed's overall assets, Ericsson derives almost **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** of its U.S. sales from the sale of equipment and services to wireless carriers. Given the extent of Ericsson's ties to the U.S. wireless industry, it cannot plausibly claim, and the Commission cannot find, that Ericsson is not aligned with the wireless segment of the telecommunications industry or that it would not be subject to undue influence from an industry segment that accounts for more than **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]** in sales for Ericsson every year.

Ericsson claims that it would be "unrealistic" to believe that Ericsson would favor wireless customers over other carriers using the NPAC.[13] Given the extent of its financial ties to the wireless industry, including stepping into the shoes of wireless carriers to manage their networks, it is unrealistic to assume that Ericsson would give first priority to maintaining neutrality when the interests of its largest customers are at stake. Indeed, the revenue that Ericsson would receive from administering the NPAC **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **[END HIGHLY CONFIDENTIAL INFORMATION]**

On the record before the Commission, the only plausible conclusion is that Ericsson is not neutral and therefore ineligible to serve as LNPA. In addition, the Commission should require Ericsson to disclose the full extent and nature of its entanglement with the wireless industry. *First*, the Commission should require Ericsson to identify which industry segments are associated with each of the anonymous TSPs listed on Attachments 1, 3, and 4.

Second, the Commission should demand that Ericsson make all of its managed services agreements ("MSA") part of the record. Ericsson has put the contents of these MSAs at issue by selectively describing the contents of its current MSAs and averring that **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [redacted] **END HIGHLY CONFIDENTIAL INFORMATION]** The Commission cannot simply take Ericsson's word for it; it must investigate these claims to determine whether the MSAs implicate a "vested interest in the

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[12] *Administration of the North American Numbering Plan*, Third Report and Order, 12 FCC Rcd 23040, 23081, ¶ 80 (1997) ("*NANP Third Report and Order*"); *see also id.* ¶ 81 (finding that "the extremely small financial stake of the Lockheed Martin Corporation in Loral SKYNET relative to the Lockheed Martin Corporation's overall assets" did not warrant disqualification of Lockheed).

[13] Ericsson Reply Comments at 19-21.

[14] *See* Ericsson Reply Comments at 23-29.

outcome of numbering administration and activities."[15] To the extent Ericsson has any concerns about confidentiality, those concerns are adequately addressed by the protective order.[16]

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact me.

Sincerely,

Aaron M. Panner

cc: Daniel Alvarez
Nicholas Degani
Rebekah Goodheart
David Goldman
Amy Bender
Julie Veach
Jonathan Sallet
Lisa Gelb
Michele Ellison
Randy Clarke
Ann Stevens
Richard Hovey
Sanford Williams
Michelle Sclater
Diane Griffin Holland
Neil Dellar
Laurence Bourne
Myrva Freeman

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[15] 47 C.F.R. § 52.12(a)(1)(iii).

[16] Ericsson's failure to represent that it will comply with all of the Commission's neutrality requirements raise additional questions that Ericsson should be required to answer before the Commission acts on the NANC's recommendation. *See* Letter from Aaron M. Panner, Counsel for Neustar, to Marlene H. Dortch, Secretary, FCC, at 17-18 (Sept. 23, 2014).

ATTACHMENT 1

Ericsson 2013 U.S. Managed Services Revenues

U.S. TSP	Net U.S. Managed Services Sales in US Dollars (Millions)	Managed Services as a % of total Ericsson Sales	Managed Services as a % of Ericsson U.S. Sales
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]

[redacted]

[redacted]

ATTACHMENT 4

Ericsson 2013 U.S. Equipment Sales

U.S. TSP	Net U.S. Equipment Sales in U.S. Dollars (Millions)	Net U.S. Equipment Sales as a Percentage of Ericsson 2013 Revenues	Net U.S. Equipment Sales as a Percentage of Ericsson 2013 U.S. Revenues
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]

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