

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.

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March 11, 2015

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., to express our concern that the Commission, for months, deliberately withheld critical record evidence and has now submitted that evidence into the record in a fashion designed to prevent public comment on the NANC evaluation process. The NANC meeting transcript at issue – which demonstrates that both the Commission staff and the NANC chair acted unlawfully – is not available to the public because it has been submitted as a highly confidential document subject to protective order.<sup>1</sup> Almost the entirety of the document contains information that has no arguable competitive sensitivity; all of that information should be placed into the public record immediately. This effort to shield the unlawful actions of the Wireline Competition Bureau, other Commission staff, and the NANC Chair from public scrutiny must not be allowed to continue.

Late on Tuesday, March 3, 2015, the evening before issuing its “Status Update,”<sup>2</sup> the Commission staff placed into the record of this proceeding a 180-page transcript of a closed NANC meeting that took place nearly a year earlier, on March 26, 2014. The failure to place that transcript into the record as soon as it was available – or at least no later than the date when the NANC recommendation and supporting documentation were placed into the record in June 2014 – is inexplicable and inexcusable.

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<sup>1</sup> Nor, at present, is the transcript available to Neustar itself.

<sup>2</sup> See Status Update: Local Number Portability Administrator Contract (FCC rel. Mar. 4, 2015).

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Perhaps most disturbing, Neustar sought this very information and was led to believe it did not exist. On July 30, 2014, Neustar sent an e-mail to the designated federal representative to the NANC and another FCC staffer seeking to “view the records of the NANC and the Select[ion] Working Group, including any ‘records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents’ that have been maintained pursuant to 5 U.S.C. [app.] § 10.”<sup>3</sup> After a follow-up e-mail and phone call, Neustar received an e-mail from another member of the Commission staff, who pointed Neustar to the NANC and FCC websites for public information and stated that “[n]on-public information associated with the LNPA proceeding may be obtained from Neustar, Telcordia, or the NAPM pursuant to the Revised Protective Order.”<sup>4</sup> Neustar did not have access to the transcript of the non-public NANC meeting; presumably Telcordia did not either; and counsel to the NAPM confirmed to Neustar’s counsel that all non-public information in the NAPM’s possession related to the LNPA proceeding had been placed in the record.

Whatever the motivation behind this pattern of behavior, it is imperative that the Commission act to correct it. The transcript of the March 26, 2014, NANC meeting reveals critical information concerning the decision not to solicit additional proposals from all parties. The presentation to the NANC of NAPM’s counsel, the comments of the NANC chair, and the response to questions during the NANC’s discussion are all matters that were placed in the record for the first time last week; they remain inaccessible to the public. There is nothing confidential about the decision to shut down competitive bidding – in particular, it did not involve any competitively sensitive information. Yet that decision may very well dictate the outcome of the selection process.<sup>5</sup> Because that decision was unlawful, the entire NANC recommendation is tainted, as is the Bureau’s recommendation to the Commission.

Neustar has consistently objected to the Commission’s failure to make public non-competitively sensitive information concerning the selection process to ensure that the public is able to evaluate both the substance of the NANC’s recommendation and the process leading up to it.<sup>6</sup> Now that the Bureau has recommended that the Commission act on the NANC

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<sup>3</sup> See Exhibit A.

<sup>4</sup> See *id.*

<sup>5</sup> A copy of the cover letter submitting the revised Neustar proposal and the revised pricing proposal – which the FoNPAC did not consider – is attached hereto as Exhibit B. To preserve the opportunity for further price competition, Neustar is filing its pricing proposal as Highly Confidential information subject to the protective order.

<sup>6</sup> See, e.g., Reply Comments of Neustar, Inc., CC Docket No. 95-116; WC Docket No. 09-109, at 2 n.2, 33 (Aug. 22, 2014); Comments of Neustar, Inc., CC Docket No. 95-116; WC Docket No. 09-109, at 8, 61-62, (July 25, 2014); Letter from Aaron M. Panner, Counsel to Neustar, to Marlene H. Dortch, FCC, CC Docket No. 95-116; WC Docket No. 07-149; WC Docket No. 09-109 (May 6, 2014); Letter from Aaron M. Panner, Counsel to Neustar, to Marlene H. Dortch,

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recommendation without a Notice of Proposed Rulemaking, it is imperative that the Commission provide the public with access to the record and an opportunity to comment on it without artificial and unlawful obstacles.<sup>7</sup>

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: Chairman Wheeler  
Commissioner Clyburn  
Commissioner Rosenworcel  
Commissioner Pai  
Commissioner O'Rielly  
Jonathan Sallet  
Julie Veach  
Ruth Milkman  
Daniel Alvarez  
Rebekah Goodheart  
Travis Litman  
Nicholas Degani  
Amy Bender  
Michele Ellison

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FCC, CC Docket No. 95-116; WC Docket No. 07-149; WC Docket No. 09-109 (Apr. 8, 2014). Numerous parties have reinforced this call for transparency. *See* Reply Comments of Neustar, Inc. on Petitions for Declaratory Ruling, CC Docket No. 95-116; WC Docket 09-109, at 15 n.49 (Dec. 3, 2014).

<sup>7</sup> Neustar reserves its right to challenge the Commission's failure to ensure compliance by the SWG and the NANC with FACA obligations, including those related to meeting minutes and work papers. *See* Neustar, Inc., Petition for Declaratory Ruling, CC Docket No. 95-116; WC Docket No. 09-109 (Oct. 22, 2014).

# EXHIBIT A

-----Original Message-----

From: Sanford Williams [mailto:Sanford.Williams@fcc.gov]  
Sent: Wednesday, August 06, 2014 5:04 PM  
To: Stewart, Beth  
Subject: RE: NANC Records

Ms. Stewart,

It was a pleasure speaking with you yesterday. In response to your request, public documents from NANC meetings, pursuant to 5 U.S.C. § 10, may be found at the NANC Chair Home page:  
<http://www.nanc-chair.org/docs/documents.html>

Transcripts and agendas of NANC meetings may be found at:  
<https://urldefense.proofpoint.com/v1/url?u=http://www.fcc.gov/encyclopedia/north-american-numbering-council&k=lQ50IrZ4n2wmPbDBDzKBYw%3D%3D%0A&r=VBR4rZu4uFH3QVoBmvToStBaF48VdNt0hS5atNDn%2FSo%3D%0A&m=5TTOMjtxFmgaMhcGRmDXHmpKebu5oTCdSoBfv3LD5sE%3D%0A&s=f42f9d7554f8564d1a2f82b26a02496acb0544c1ec88f6e44ec0b4e84fe8600b>

Non-public information associated with the LNPA proceeding may be obtained from Telcordia, Neustar or the NAPM pursuant to the Revised Protective Order (DA 14-881, June 25, 2014).  
Thanks for your time.

- Sanford

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From: Stewart, Beth [mailto:BStewart@wc.com]<mailto:[mailto:BStewart@wc.com]>  
Sent: Monday, August 04, 2014 5:26 PM  
To: Marilyn Jones; Michelle Sclater  
Subject: RE: NANC Records

Ms. Jones and Ms. Sclater -

**REDACTED - FOR PUBLIC INSPECTION**

I am writing to follow up on my email below. Please let me know how we can arrange to view the NANC records.

Or if I should have directed this email to others, please kindly identify them for me.

Very Best,  
Beth

Beth Stewart  
Williams & Connolly LLP  
725 Twelfth Street, N.W., Washington, DC 20005  
(P) 202-434-5075 | (F) 202-434-5029  
bstewart@wc.com<mailto:bstewart@wc.com> |  
www.wc.com/bstewart<https://urldefense.proofpoint.com/v1/url?u=http://www.wc.com/bstewart&k=1Q50IrZ4n2wmPbDBDzKBYw%3D%3D%0A&r=VBR4rZu4uFH3QVoBmvToStBaF48VdNt0hS5atNDn%2FSo%3D%0A&m=5TTOMjtxFmgaMhcGRmDXHmpKebu5oTCdSoBfv3LD5sE%3D%0A&s=dcfa5b53b90040b784153dcfcebde58c3784de9a03181f9930d00453e18c19ad>

From: Stewart, Beth  
Sent: Wednesday, July 30, 2014 4:40 PM  
To: 'marilyn.jones@fcc.gov'; 'michelle.sclater@fcc.gov'  
Subject: NANC Records

Ms. Jones and Ms. Sclater-

I am writing in your capacities as the designated federal officer ("DFO") and alternative DFO for the North American Numbering Council (NANC). On behalf of my client, Neustar, I would like to make arrangements to come view the records of the NANC and the Select Working Group, including any "records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents" that have been maintained pursuant to 5 U.S.C. § 10. Could you kindly let me know how we may do so? We are available immediately.

Best Wishes,  
Beth Stewart

Beth Stewart  
Williams & Connolly LLP  
725 Twelfth Street, N.W., Washington, DC 20005  
(P) 202-434-5075 | (F) 202-434-5029  
bstewart@wc.com<mailto:bstewart@wc.com> |  
www.wc.com/bstewart<https://urldefense.proofpoint.com/v1/url?u=http://www.wc.com/bstewart&k=1Q50IrZ4n2wmPbDBDzKBYw%3D%3D%0A&r=VBR4rZu4uFH3QVoBmvToStBaF48VdNt0hS5atNDn%2FSo%3D%0A&m=5TTOMjtxFmgaMhcGRmDXHmpKebu5oTCdSoBfv3LD5sE%3D%0A&s=dcfa5b53b90040b784153dcfcebde58c3784de9a03181f9930d00453e18c19ad>

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**NOTICE:**

This message is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by

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reply or by telephone (call us collect at (202) 434-5000) and immediately delete this message and all its attachments.

# EXHIBIT B

**CONFIDENTIAL UNDER NON-DISCLOSURE AGREEMENT**

October 21, 2013

*Via Electronic Mail & Federal Express*

Mr. Tim Decker  
Co-Chair, North American Number Portability LLC  
c/o Verizon  
MC: HQE02D37  
600 Hidden Ridge  
Irving, TX 75038

Mr. Tim Kaegle  
Co-Chair, North American Portability Management LLC  
c/o Comcast  
5800 South Quebec Street  
Greenwood Village, CO 80111

Re: Request for Consideration of Neustar's Revised LNPA Proposal

Dear Messrs. Decker and Kaegle:

On September 18, 2013, NeuStar Inc. ("Neustar") submitted its most recent proposal in connection with the LNPA selection process. Since that time, we have reviewed our proposal and believe that we can materially improve upon it. Therefore, we request that the North American Portability Management LLC ("NAPM, LLC"), through its Future of the NPAC ("FoNPAC") Subcommittee, extend the deadline for the submission of revised best and final offers from all eligible bidders.

In a competitive procurement such as this one, obtaining revised offers from bidders is in the best interest of the industry, regulators, and consumers as it will result in improved proposals to better meet the needs of these stakeholders. For Neustar's part, we have reviewed our proposal and now seek to revise its pricing terms to reduce significantly the cost to the industry for the next LNPA contract term.

We suggest the FoNPAC provide bidders five days to submit revised proposals. In April 2013, the FoNPAC decided to open a new window for the submission of initial proposals for five days after the deadline had expired to afford respondents additional time. The FoNPAC presumably deemed the extension important for purposes of robust competition. Similarly, affording bidders the opportunity to submit revised proposals that foster competition will benefit the industry, regulators and consumers and serve the public interest.

Furthermore, we believe the FoNPAC can still remain on the current timeline by allowing a short period of time to submit new proposals. However, were an extension of the timeline needed for the FoNPAC to consider revised proposals, Neustar would be in support of such an extension.

October 21, 2013

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Consequently, we hereby submit the enclosed revised proposal, which is identical to our September 18, 2013 proposal except for the reduction in our price offering.

This letter and the enclosure are confidential to Neustar and both are submitted pursuant to the Non-Disclosure Agreement between Neustar and the NAPM, LLC.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Lisa Hook  
President and Chief Executive Officer

cc w/ Encl: Todd Daubert, Dentons  
Dan Sciullo, Berenbaum, Weinshienk, PC

cc w/o Encl: Honorable Geoffrey G. Why, Tri-Chair, NANC Selection Working Group  
Ann Berkowitz, Tri-Chair, NANC Selection Working Group  
Tiki Gaugler, Tri-Chair, NANC Selection Working Group

**REDACTED**

**REDACTED**

**REDACTED**

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