



March 20, 2015

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. 07-149 & 09-109

Dear Ms. Dortch:

On March 19, 2015, Richard Jacowleff, President and Chief Executive Officer of Telcordia Technologies, Inc., d/b/a iconectiv (“Telcordia”), Tara O’Neill Diaz, Executive Vice President and General Counsel of Telcordia, and Rear Admiral Jamie Barnett, USN, ret., and I, on behalf of Telcordia, met with Travis Litman, Legal Advisor to Commissioner Rosenworcel, regarding the above-referenced proceedings. The Telcordia representatives made the following points summarized below during this meeting.¹

The LNPA selection process has been fundamentally open and transparent, given the limits of a competitive bidding situation addressing critical infrastructure. The basic selection process, utilizing the North American Portability Management LLC’s (“NAPM”) Future of the Number Portability Administration Center (“FoNPAC”) and the North American Numbering Council’s (“NANC”) Selection Working Group (“SWG”) is one that was subject to public comment and which Neustar endorsed. Similarly, all of the procurement documents (Request for Proposals, Technical Requirement Document, and Vendor Qualification Statement) were subject to public comment, and were endorsed by Neustar before initial bids were submitted. Neustar only started questioning the selection process and the content of the procurement documents after it became apparent that its bid was in trouble. Neustar’s argument that a rulemaking must be conducted to designate a different LNPA is simply wrong, as Telcordia has previously pointed out.²

Moreover, although protective orders have been necessary to protect confidential bid information—particularly in the situation in which Neustar has been advocating for a reopening of competitive bidding—and to honor the confidentiality under which NANC, the SWG and the

¹ Mr. Jacowleff and Ms. Diaz were not present for any discussion of NAPM, NANC, SWG, or Neustar confidential or highly confidential materials.

² Reply Comments of Telcordia Technologies, Inc., d/b/a iconectiv at 51-61, WC Docket No. 09-109 and CC Docket No. 95-116, (filed Aug. 22, 2014) (errata filed Sept. 3, 2014) (errata at 52-62) (“Telcordia Reply Comments”).

Ms. Marlene H. Dortch
 March 20, 2015
 Page 2 of 5

FoNPAC conducted their evaluations and deliberations, the protective orders have been structured to permit all parties, including public interest groups, to view all documents (other than the “Critical Infrastructure” documents and excerpts) either themselves or through representatives not involved in competitive decisionmaking. Nor does the belated introduction into the record of the transcript of NANC’s closed meeting—at which it evaluated competitive bids—create any material prejudice to any party. ****BEGIN HIGHLY CONFIDENTIAL****

[REDACTED]
 [REDACTED]
****END HIGHLY CONFIDENTIAL****

Neustar’s attempt to submit a second Best and Final Offer (“BAFO”) is highly suspicious and fully justified proceeding to a decision based on the September 2013 BAFOs. Both Neustar and Telcordia were told during interviews conducted by the FoNPAC in August 2013 that the FoNPAC would be requesting a BAFO. Neustar, like Telcordia, submitted its BAFO on September 18, 2013. The events that followed strongly suggest that Neustar received nonpublic information regarding its competitive standing, which precipitated its attempt to submit its revised BAFO. ****BEGIN CONFIDENTIAL**** [REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
****END**

CONFIDENTIAL **BEGIN HIGHLY CONFIDENTIAL**** [REDACTED]

[REDACTED]
 [REDACTED]

****END HIGHLY CONFIDENTIAL**** It strains credibility beyond breaking to believe that this was mere coincidence—especially ****BEGIN CONFIDENTIAL**** [REDACTED]

****END CONFIDENTIAL****. In the face of a likely leak of competitive bidding-related information, NANC, NAPM and the Commission would have significantly prejudiced Telcordia had they proceeded with subsequent rounds of bidding, as Neustar advocates. This was not an arbitrary, premature cessation of competitive bidding, as Neustar contends.⁶

We also discussed that both Telcordia and Ericsson are in businesses that depend on being neutral, as well as being perceived as neutral, such that it would be contrary to their overall

³ *Id.* at 46; Telcordia Reply Comments at 81. At the meetings summarized in this letter, Telcordia provided each FCC attendee with copies of pages 81 and 82 of Telcordia’s reply comments, which are incorporated by reference herein.

⁴ NAPM LNPA Selection Process Report at 46.

⁵ Letter from Aaron M. Panner, Counsel to Neustar, to Marlene Dortch, Secretary, FCC, Exhibit B, CC Docket No. 09-109 and CC Docket No. 95-116 (filed Mar. 11, 2015).

⁶ *Id.* at 2.

Ms. Marlene H. Dortch
 March 20, 2015
 Page 3 of 5

business interests to act in ways that were not neutral.⁷ Telcordia, for example, has many small carriers as customers of its existing products. In addition, as part of its bid, Telcordia proposed a set of safeguards, which was also backstopped by a structure in which three of five board members will be independent—which is a greater percentage of independent directors than Neustar had when it was owned by Warburg, which as owner of the LNPA also owned stakes in telecommunications carriers. Notably, all of these directors will be subject to Telcordia’s LNPA code of conduct, compliance with which will be part of the semiannual neutrality audits required per the RFP. Furthermore, if the Commission were to require Ericsson to place some of its interests in Telcordia into a voting trust, and if the Commission were to require FCC approval of the trustee, the Commission would actually have greater oversight over the selection of the trustee than it did with respect to the Neustar/Warburg voting trust.⁸ In that case, Warburg unilaterally selected the trustee.⁹ We also discussed that the Commission did not subsequently ban any use of a voting trust with respect to an LNPA, but only stated that a voting trust would not be permitted in order to cure a situation in which a telecommunications services provider acquired a greater than five percent ownership of Neustar’s publicly traded shares.¹⁰ That is very different than the situation presented here.

We further discussed that arguments that the selection of Telcordia will create a bias in favor of large wireless carriers to the detriment of smaller competitors are wrong.¹¹ First, Telcordia’s selection has been supported by a wide range of providers, as evidenced by those within NANC who voted to recommend Telcordia’s selection. ****BEGIN HIGHLY**

CONFIDENTIAL** [REDACTED]
 [REDACTED]
 [REDACTED] ****END HIGHLY**

⁷ Neither Telcordia nor Ericsson are telecommunications services providers, and neither issues a majority of its debt to, nor derives a majority of its revenues from, a single telecommunications provider.

⁸ We reiterated that we did not believe that a voting trust was necessary to address any present neutrality issue, and that the Commission could, alternatively, address any future issues at that time.

⁹ See Draft Voting Trust Agreement, attached as Exhibit B to Amended Request for Expedient Review of the Transfer of Lockheed Martin Communications Industry Services Business, CC Docket No. 92-237 and NSD File No. 98-151 (filed Aug. 16, 1999).

¹⁰ See *North American Numbering Plan Administration; Neustar, Inc.*, Order, FCC 04-203, 19 FCC Rcd. 16,982, 16,992 ¶ 25 (2004).

¹¹ See e.g. Letter from James C. Falvey, Counsel to The LNP Alliance, to Marlene Dortch, Secretary, FCC, WC Docket No. 09-109 and CC Docket No. 95-116 (filed Mar. 12, 2015); Letter from Michael Calabrese, Director, Wireless Future Project, Open Technology Institute, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 07-149 & 09-109, CC Docket No. 95-116, and GN Docket No. 13-5 (filed Mar. 9, 2015).

Ms. Marlene H. Dortch
March 20, 2015
Page 4 of 5

CONFIDENTIAL**¹² Second, small entities frequently interact with the Number Portability Administration Center (“NPAC”) database through larger intermediaries that interact with the database in the same way as large carriers. For example, interconnected VoIP providers who are not carriers, with one exception, all obtain numbers, and thus interact with the LNPA, through a numbering partner—usually a larger CLEC such as Sprint, Level 3, Bandwidth.com or XO. As another example, many small entities do not directly interact with the NPAC database but use a mechanized service bureau, which interfaces with the NPAC in a manner similar to the large carriers. Third, for those small entities that interact with the NPAC directly using a web-based graphical user interface (“GUI”), that GUI is very simple and requires little effort to transition. Nonetheless, all carriers will have the opportunity to test, and the small carriers will directly benefit from testing performed by the larger carriers and mechanized and manual services bureaus. It is thus extremely unlikely for Telcordia to be able to disadvantage small providers to favor large wireless carriers.

With respect to any current use of the NPAC data for ENUM, to the extent that Neustar has implemented this using NPAC fields and authorized specifications, Telcordia cannot change that absent changes from the Commission or NANC and its LNPA Working Group. Under the Request for Proposals (“RFP”) and related procurement documents, Telcordia must operate according to all specifications, and all fields that are specified. Whether and how the NPAC will be used to support ENUM going forward is a matter of ongoing discussion within the industry and at the FCC and the RFP requires the LNPA to administer whatever decisions are made with respect to ENUM and the IP transition. This is the appropriate way to address the IP transition and ENUM, around which there is no current industry consensus. A two-year delay to await an industry consensus that may never arrive, as the LNPA Alliance suggests, would simply continue to allow Neustar to overcharge the industry and consumers.

In response to Neustar’s ex partes filed March 12, 2015 seeking additional transition provisions,¹³ Telcordia presented the concerns summarized in my letter dated March 19, 2014, which is incorporated by reference herein.¹⁴

As Telcordia has repeatedly observed, a competitive bidding process cannot work if the incumbent cannot lose. Neustar was the beneficiary of at least four no-bid major modifications of its contract between 1999 and 2008, which have allowed the contract price to mushroom far beyond reasonable levels and none of which were the subject of public notice and comment or FCC approval. That has now been tested through the submission of competitive bids, based on procurement documents that Neustar itself endorsed, and has demonstrated that Neustar

¹² A list is attached as Exhibit 1, and was provided to Mr. Litman.

¹³ Letters from Aaron M. Panner, Counsel to Neustar, to Marlene Dortch, Secretary, FCC, at 1-2, WC Docket No. 09-109 and CC Docket No. 95-116 (filed Mar. 12, 2015).

¹⁴ Letter from John T. Nakahata, Counsel to Telcordia Technologies, Inc., d/b/a iconectiv, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 09-109 & 07-149, CC Docket No. 95-116 (filed Mar. 19, 2015) (two total pages).

Ms. Marlene H. Dortch
March 20, 2015
Page 5 of 5

has been gouging the industry and consumers for years. It is time to complete the selection process and to move on to contract negotiation and transition, so that the industry and consumers can see their number portability administration costs drop dramatically.

Please contact me if you have any questions.

Sincerely,



John T. Nakahata
*Counsel for Telcordia Technologies, Inc.,
d/b/a iconectiv*

cc:

Commissioner Mignon Clyburn
Commissioner Ajit Pai
Commissioner Michael O'Rielly
Rebekah Goodheart
Nicholas Degani
Amy Bender
Daniel Alvarez
Travis Litman

Lisa Gelb
Randy Clarke
Ann Stevens
Sanford Williams
Michelle Sclater
Michele Ellison
Neil Dellar
Ken Moran
Allan Manuel

Exhibit 1

HIGHLY CONFIDENTIAL INFORMATION
SUBJECT TO REVISED PROTECTIVE ORDER IN WC DOCKET NO. 09-109 &
CC DOCKET NO. 95-116 BEFORE THE FEDERAL COMMUNICATIONS
COMMISSION

