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June 6, 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 June 2, 2016, Michael Calabrese, Director, Wireless Future Program at New America's Open Technology Institute,<sup>1</sup> and the undersigned on behalf of the LNP Alliance<sup>2</sup> (together, the "Parties"), met with Commissioner Michael O'Rielly and Amy Bender, Wireline Legal Advisor to the Commissioner. The purpose of the meeting was to discuss the need for the Commission to address the shortcomings of the LNPA Transition at this stage of review and make improvements to all aspects of the iconectiv Master Service Agreement ("iconectiv MSA" or "MSA").

The Parties expressed their concern about the fact that the MSA went directly on circulation when it was filed by Telcordia as a confidential document about two months ago. Because the item is on circulation and there is no public information available as to who has voted the item, the Parties are in a position where the MSA could be approved at any time. During the two months the MSA has been on file, it was entirely Confidential for the month of April and, even now, the business executives who run smaller carriers have no access to key documents like the user agreements. The LNP Alliance has asked the Commission to remove the item from circulation so that it can be reviewed in the normal course and with due deliberation.

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<sup>1</sup> New America's Open Technology Institute is a non-profit policy institute that develops and advocates policies that promote universal, ubiquitous and affordable access to communications technology, including more robust mobile market competition.

<sup>2</sup> 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.

As it turns out, Commissioner O’Rielly, the day before our meeting, posted a blog raising similar concerns about the Commission procedures relating to items on circulation.<sup>3</sup> One of the issues raised by Commissioner O’Rielly is that an item can be moved from circulation to the Open Meeting agenda as late as a week before the Open Meeting.<sup>4</sup> Although this outcome seems unlikely on this item, the Parties’ share Commissioner O’Rielly’s concern with the lack of transparency of the current process. The Parties’ have encouraged the Commission to make more portions of the MSA public and to require the North American Portability Management LLC (“NAPM”), the Transition Oversight Manager (“TOM”), and iconectiv to open up the LNPA Transition itself to make it more transparent for smaller carriers.

The Parties filed a separate ex parte of even date relating to a meeting with Diane Cornell, Special Counsel to Chairman Wheeler and Bureau staff which also took place on June 2, 2016. We will not repeat the details of that letter here but the following are some of the key points made by the Parties:

- The review of the MSA is not, as Telcordia and others have suggested, limited to the issues of neutrality and security. The MSA can and should be reviewed as to all issues and Commission orders are very clear that it is within the Commission’s authority to review every aspect of the MSA.
- The IP Transition will produce significantly more savings for smaller carriers and consumers than the LNPA Transition. As such, it is worth taking the time to ensure that the IP Transition is incorporated into the LNPA Transition and that the latter does not delay the former.
- The Parties left behind in our meeting with Commissioner O’Reilly a recent draft ATIS Packet Technologies and Systems Committee (“PTSC”) draft Technical Report on a Nationwide Number Portability Study (“PTSC NNP Report”).<sup>5</sup> The PTSC NNP Report recommends as one alternative that “administrative processes that are handled today by a single authoritative registry can be handled by multiple distributed registries, all managing the same information.”<sup>6</sup> The Parties urge the Commission to include express language in the MSA order that reinforces the statutory mandate for a neutral, independent, and mandatory NPAC to ensure that third party ENUM registries do not supplant the current neutral number porting system.
- The Parties recommend that the Commission make approval of the MSA contingent upon the NAPM opening up its membership to smaller carriers,

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<sup>3</sup> *Improving the FCC Circulation Process*, blog post by Commissioner Michael O’ielly, <https://www.fcc.gov/news-events/blog/2016/05/31/improving-fcc-circulation-process> (last reviewed June 6, 2016).

<sup>4</sup> *Id.*

<sup>5</sup> ATIS PTSC Technical Report on a Nationwide Number Portability Study, M. Dolly (AT&T), PTSC Chair.

<sup>6</sup> PTSC NNP Report, § 8.2.

consumer representatives, and state PUC representatives, in good faith consultation with each of these groups.

- The Parties recommend increased transparency in the form of publicly available Gantt charts for the LNPA Transition so that smaller carriers can make important personnel and budgeting decisions with reasonable planning horizons.
- The Parties urge the Commission to review and adopt the specific revisions to the MSA recommended by the Parties in our May 17 *ex parte* filing in this docket.

The recommendations made by the Parties are reasonable and constructive. They can be adopted in short order and need not significantly delay the execution of the MSA. The Parties have made past efforts to reach out to the TOM to attempt to effect substantive changes to the LNPA Transition. The TOM, while making superficial changes like publicly posting questions and answers, has not been willing to alter its course on any substantive issues. By way of example, attached are a series of questions recently posed by the Parties, and the cursory responses of the TOM. The consistent theme of those responses is that the TOM is going to continue to proceed on the course that they have apparently previously agreed upon with NAPM and iconectiv.

The Parties request that the Commission require the above changes to the LNPA Transition and the MSA to effect the reasonable changes that the TOM, NAPM, and iconectiv have not been willing to discuss or implement.

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

Enclosures

cc:	Diane Cornell	Nick Degani
	Kris Monteith	Rebekah Goodheart
	Ann Stevens	Travis Litman
	Sanford Williams	Neil Dellar
	Marilyn Jones	Michael Calabrese
	Michelle Sclater	Dave J. Malfara, Sr.
	Amy Bender	