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June 13, 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 9, 2016, Michael Calabrese, Director, Wireless Future Program at New America's Open Technology Institute,¹ and the undersigned on behalf of the LNP Alliance² (together, the "Parties"), met with Nick Degani, Wireline Legal Advisor to Commissioner Pai. The purpose of the meeting was to discuss the Parties' concerns with the current state of the LNPA Transition, to recommend improvements to the Transition, and to urge the Commission to adopt certain constructive revisions to the iconectiv Master Service Agreement ("iconectiv MSA" or "MSA").

The Parties continued to endorse many of the recommendations offered by the LNP Alliance in its June 9 *ex parte*, including improved transparency, the need for a strong Commission endorsement of a neutral and independent Number Portability Administration Center ("NPAC"), and specific improvements that need to be made to the MSA.³ As a threshold matter, the Parties emphasized that the Commission need not, as some have suggested, limit its

¹ 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.

² 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.

³ Letter from James C. Falvey, Counsel to the LNP Alliance, to Marlene H. Dortch, Secretary, Federal Communications Commission, Telephone Number Portability, *et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109 and 07-149 (June 9, 2016).

review of the MSA to the issues of neutrality and security. As detailed in the Parties' June 6 *ex parte*, there is no question that "the Commission has 'final approval of the contract.'"⁴ Based on the Commission's reliance on the Commission's prior, May 2011 order in this proceeding, the Commission's broad approval authority was intended to address NASUCA's concern that consumer concerns are given voice by ensuring that the Commission has the last word in approving the MSA.⁵ The Parties have taken the time to point to specific issues that need to be addressed and the Commission should, in the interests of promoting consumer and competitive interests, incorporate the recommendations set forth by the Parties.

The Parties expressed concern with the lack of transparency in the current process. Of particular concern is that the Transition Oversight Manager ("TOM") either has not developed or will not share with carriers that are not members of the North American Portability Management LLC ("NAPM") a detailed LNPA Transition timeline. There is no reason to delay the public disclosure of such a timeline until after the MSA is approved, as NAPM has recommended.⁶ A Gantt chart showing the anticipated intervals for each stage of the LNPA Transition and interdependencies between those intervals can begin with the anticipated MSA approval date as Day 1, and need not include specific months and dates. The Commission should also ensure that the User Agreement that carriers will be subject to in the future is available to non-NAPM carriers so that their business executives can review that agreement *before* it is presented as a contract of adhesion that cannot be revised in any way.

The Parties also urged the Commission, if and when it approves the MSA, to provide a strong endorsement of a neutral and independent NPAC. The Parties have previously expressed concern that it was Telcordia itself that, in a May 2014 White Paper,⁷ recommended third party ENUM registries that would supplant the one-stop neutral, independent NPAC with potentially discriminatory, for-profit databases. The recently released ATIS Packet Technologies and Systems Committee ("PTSC") draft technical report for Nationwide Number Portability ("NNP") ("PTSC NNP Report")⁸ suggests that some of the largest industry players are contemplating a system of private, for-profit alternatives to the NPAC:

The NPAC can be used for TN to IP resolution as considered in ATIS/SIP forum IP NI Task Force routing Report. Alternatively, it can be replaced by a secure,

⁴ Letter from James C. Falvey, Counsel to the LNP Alliance, to Marlene H. Dortch, Secretary, Federal Communications Commission, Telephone Number Portability, *et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109 and 07-149 (June 6, 2016).

⁵ *Telephone Number Portability et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109, Order, 26 FCC Rcd 6839, ¶ 8 (Wireline Comp. Bur. 2011) ("May 2011 Order") (citations omitted).

⁶ See Letter from Todd D. Daubert, Counsel to the NAPM LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Telephone Number Portability, *et al.*, CC Docket No. 95-116; WC Docket Nos. 09-109 and 07-149, at 3 (June 2, 2016) ("NAPM Ex Parte").

⁷ *IP Inter-Carrier Routing, Capabilities to Support IP Services Interconnection*, Telcordia (dba iconectiv) (May 2014).

⁸ ATIS PTSC Technical Report on a Nationwide Number Portability Study, M. Dolly (AT&T), PTSC Chair ("PTSC NNP Report").

possibly distributed, registry infrastructure that directly resolves dialed numbers to interconnected addresses on a portability corrected basis.⁹

For smaller carriers that have seen the erosion of other statutory rights, the PTSC NNP Report raises significant concerns that their Section 251(e) right to impartial and equitable number administration and portability may be the next to fall. The Commission should draw a clear line in the sand by clearly stating in its Order ruling on the MSA that the NPAC must continue to function as the neutral, one-stop, and universal database for number portability.

The parties also urged the Commission to adopt the specific revisions recommended by the Parties that would demonstrably improve the MSA and its associated user agreements. In the June 9 and May 17 *ex partes* filed by the Parties, we recommended a series of specific improvements to the MSA. These revisions have been provided late in the MSA-approval process but only because the Parties, non-NAPM carriers, and the public at-large were not given any access to the MSA until recent weeks. If the Commission's review process is to be a meaningful one and is to take into account consumer interests as previously advocated by NASUCA and supported by the Commission, it should consider and adopt the revisions recommended by the Parties. As we have said in the past, adopting these changes would improve the MSA and need not materially delay the Commission's approval of the MSA.

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

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

⁹ PTSC NNP Report, § 12.5.2.4.