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July 11, 2000

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Commissioner Loretta Lynch
President, California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Commission Requests for Confidential Information from
NeuStar, Inc.

Dear President Lynch:

In recent months NeuStar, Inc. ("NeuStar") has received a number of requests for information from the staff of the Public Utilities Commission ("Commission"). These requests have been for proprietary information that NeuStar may have received from telecommunications carriers in its capacity either as the North American Numbering Plan Administrator ("NANPA") of the North American Numbering Plan or as the Pooling Administrator for California ("Pooling Administrator"). In many instances the information sought by the Commission has been deemed confidential by the carriers that have provided it to NeuStar. Because of the confidential nature of this information, in particular the information provided to NeuStar in its capacity as the NANPA, NeuStar has been unable to respond to a number of these requests. NeuStar realizes that its inability to provide the Commission with this confidential information has been a source of some frustration.

I write this letter on behalf of NeuStar in an effort to explain the obligations imposed on NeuStar by the Federal Communications Commission ("FCC") for preserving the confidential nature of information NeuStar receives from carriers in its capacity as the NANPA and to suggest several ways in which the Commission may obtain the carrier specific confidential information without placing NeuStar at risk of violating the FCC regulations. We also note that a recent FCC Order¹ will permit the

¹ *In the Matter of Numbering Resource Optimization*, 15 FCC Rcd 7574, ¶78 (2000) ("NRO Order").

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state commissions to obtain certain information contained in carriers' semi-annual reports to the NANPA under certain circumstances.

As you are aware, NeuStar operates in two capacities in California, as the Pooling Administrator² and as the NANPA. NeuStar provides pooling administrator services pursuant to the Agreement for Interim Number Pooling Administration dated November 18, 1999, between West Coast Portability Services, LLC ("LLC") and NeuStar. Section 16 of that Agreement allows NeuStar to provide Commission staff with confidential carrier information related to number pooling only when provided to the Commission with a written request by NeuStar for confidential treatment.³ The Commission staff and NeuStar have established a procedure for complying with Section 16 which, to date, appears to have worked well. Upon receipt of a written request for information from the staff, NeuStar submits the information to staff with a cover letter requesting confidential treatment of the information contained in the response. Recently, the Commission affirmed the confidential treatment afforded such information.⁴ This procedure, of course, only applies to confidential information that NeuStar receives from carriers and provides to the Commission in its role as the Pooling Administrator.

NeuStar also operates in California as the NANPA.⁵ In performing its duties as the NANPA, NeuStar must adhere to the FCC rules and industry guidelines⁶ ("the NANPA Rules"). The NANPA rules are separate and distinct from the Number Pooling

² The Commission appointed NeuStar (formerly Lockheed Martin IMS) as the interim pooling administrator for California. *See* Assigned Commissioner's Ruling Designating Lockheed Martin as Number Pooling Administrator in R. 95-04-043, I. 95-04-044 (Nov. 4, 1999) and Assigned Commissioner's Ruling Setting Schedule and Rules for the Implementation of Number pooling Trials for the 415 and 714 area codes in R. 95-04-043, I. 95-04-044 (Jan. 31, 2000).

³ Section 16 of the Agreement For Interim Number Pooling Administration between West Coast Portability Services, LLC and Lockheed Martin IMS, dated November 18, 1999.

⁴ Assigned Commissioner's Ruling Revising Number Pooling Guidelines, R. 95-04-043, I. 95-04-044 (May 25, 2000) (applying confidentiality provisions to proprietary data submitted by carriers to NeuStar).

⁵ NeuStar was designated as the NANPA by the FCC pursuant to Section 251 of the Telecommunications Act which provides that the FCC must designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The FCC has exclusive jurisdiction over those portions of the NANPA that pertain to the United States. 47 U.S.C. §253(e)(1)

⁶ 47 C.F.R. § 52.13(b) (1999).

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Agreement between the LLC and NeuStar described above. Any confidential carrier specific information sought by the Commission is subject to the confidentiality provisions of the NANPA Rules, not Section 16 of the Number Pooling Agreement. A number of recent staff requests to which NeuStar has been unable to respond have been for carrier specific information that NeuStar has received in its capacity as the NANPA and which the carriers providing it have deemed to be confidential. As explained in more detail below, absent a waiver of the NANPA Rules, NeuStar has not been able to provide the Commission with confidential carrier specific information obtained in the course of its duties as the NANPA.

The NANPA Rules set out how the NANPA must protect the confidential information it receives from carriers in the performance of its duties. The NANPA Rules do not provide NeuStar with an opportunity to challenge any carrier's designation of information as "confidential." Rather, specific FCC rules require NANPA to "manage proprietary data and competitively sensitive information and maintain the confidentiality thereof."⁷ In addition, industry guidelines governing the assignment of central office codes⁸ require NANPA to maintain the confidentiality of all carrier specific information. The CO Code Assignment Guidelines state that "all information provided on the NXX request form will be considered confidential."⁹ The CO Code Assignment Guidelines also require NANPA to maintain that all carrier forecast reports be treated on a confidential and proprietary basis.¹⁰ In addition, NANPA must "aggregate" information furnished by code holders so as to preserve the confidentiality of carrier specific information.¹¹ Absent an express waiver of these rules by the FCC, NeuStar has been unable to provide the Commission with the carrier specific information it has sought.

The NRO Order relaxes the prohibitions in the NANPA Rules to a certain extent and under certain circumstances. While affirming that "carrier specific forecast and utilization data should be treated as confidential and should be exempt from public disclosure,"¹² the FCC also recognized that state commissions have a legitimate need for

⁷ 52 C.F.R. §52.13(c)(7) (1999).

⁸ Central Office Code (NXX) Assignment Guidelines (INC 95 0407-008, Apr. 11, 2000) ("CO Code Assignment Guidelines"). The CO Code Assignment Guidelines can be accessed on the ATIS web site located at <<http://www.atis.org/atis/clc/inc/incdocs.htm>>.

⁹ CO Code Assignment Guidelines at §4.1.6.

¹⁰ *Id.* at § 6.4.1.

¹¹ *Id.* at § 6.4.2.

¹² NRO Order at ¶78.

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this information when performing their obligations with respect to area code relief and other delegated numbering issues.¹³ Therefore, the NRO Order grants the state commissions access to the federally ordered semi-annual data reported by the carriers, subject to appropriate confidentiality protections.¹⁴ The NRO Order also allows state commissions access to carrier applications for initial or growth numbering resources, provided that the state commissions also treat this information as confidential.¹⁵ This Order will become effective July 17, 2000. As of the effective date of the NRO Order, the Commission can obtain the carrier specific information described in that Order, subject to a yet-to-be executed non-disclosure agreement.¹⁶

In order for NeuStar to provide Commission staff with the confidential carrier specific information beyond that described in the NRO Order, the Commission must receive a waiver from the FCC or request the information directly from the carriers. Should the Commission request a waiver of FCC rules so that it may obtain additional confidential carrier information, NeuStar will cooperate with the Commission's efforts to the extent such efforts are consistent with its NANPA obligations as a neutral administrator.

¹³ NRO Order at ¶75. By allowing state commissions access to certain information subject to appropriate confidentiality protections, the NRO Order also supersedes the authority to require additional carrier reports delegated to some states by other FCC decisions, including the *California Delegation Order*, 14 FCC Rcd 17497, 17499. NRO Order at ¶76.

¹⁴ *Id.*

¹⁵ NRO Order at ¶82.

¹⁶ The NRO Order states that appropriate confidentiality protections may include confidentiality agreements or designation of information as proprietary under state law. NRO Order at ¶81. General Order 66-C and Cal. Pub. Util. Code § 583, as a matter of law, only protect the confidentiality of information provided to the Commission by regulated carriers, not unregulated entities such as NeuStar. Therefore, the Commission and NeuStar must execute a non-disclosure agreement before the Commission can obtain the carrier specific information as permitted by the NRO Order.

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

Sincerely,

Mary E. Wand
Counsel for NeuStar, Inc.

cc: Helen Mickiewicz, CPUC

Sincerely,

Mary E. Wand