

Before the  
Federal Communications Commission  
Washington, DC 20554

FILED/ACCEPTED  
SEP 21 2007

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
)  
Telcordia Technologies, Inc. ) WC Docket No. 07-149  
Petition Regarding Number Portability )  
Administration Services )

**REPLY COMMENTS OF COX COMMUNICATIONS, INC.**

Cox Communications, Inc. ("Cox"), by its attorney, hereby submits its reply comments in the above-referenced proceeding.<sup>1</sup> Cox has reviewed the comments in this proceeding, and particularly the comments of NeuStar, Inc., the current number portability administration services contractor, and has concluded that it is important to address certain claims in those comments. As shown below, Cox submits that it would serve the public interest to introduce competition into the number portability administration contracting process, following the practice adopted when the contract first was awarded a decade ago.

**I. Introduction**

Cox is the leading competitive provider of facilities-based local telephone service in the United States, with more than 2.2 million residential lines and more than 180,000 business customers in service. Cox now offers telephone service in all thirty-five of its systems in eighteen states across the country. Cox anticipates that its 2007 costs for all activities under the current database administration contract will exceed \$1 million.

<sup>1</sup> See Public Notice, "Wireline Competition Bureau Seeks Comment on Telcordia Technologies, Inc's Petition Regarding Number Portability Administration Services," DA 07-3380, WC Docket No. 07-149 (rel. July 23, 2007).

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Cox was a founding member of North American Portability Management, LLC (“NAPM”), the entity that contracts for number portability database administration, and participated actively in NAPM for many years.<sup>2</sup> Cox chose not to renew its membership in NAPM earlier this year. With Cox’s withdrawal, NAPM no longer has any competitive LEC or cable members.

As a former member of NAPM, Cox is bound by certain non-disclosure requirements and as a consequence cannot comment on the specifics of the most recent negotiations with NeuStar. However, there are aspects of the vendor selection process that Cox believes should be considered by the Commission in evaluating the current state of number portability administration. In particular, the process undertaken by NAPM did not consider the possibility that technological changes might affect the best mechanisms for maintaining and delivering number portability data and did not take advantage of the potential benefits of competitive bidding.

Moreover, it is important to emphasize that the contract between NeuStar and NAPM is not a standard commercial agreement between willing parties. Rather, NAPM has been charged to act on behalf of and in the interests of all carriers that use and support number portability and specifically is subject to oversight by NANC and the Commission.<sup>3</sup> That means that NAPM has an obligation to ensure that the number portability database is administered as efficiently, reliably and securely as possible. As

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<sup>2</sup> As the Commission is aware, originally there were seven distinct regional limited liability companies that managed number portability for the seven Bell telephone company regions. Cox was a member of the original companies for the Northeast and West Coast regions and joined NAPM when the companies were consolidated. Cox also was a member of the North American Numbering Council (“NANC”) working group on number portability during the initial implementation period.

<sup>3</sup> 47 C.F.R. § 52.26(b)(2), (3). Despite this obligation, NAPM agreed with NeuStar that it would support the approval of the contract before NANC and the Commission. This contractual provision could have had an effect on NAPM’s comments in this proceeding.

shown below, Cox submits that NAPM has not taken the steps necessary to meet that obligation.

## **II. The Current Agreement Reflects Technological Assumptions Made a Decade Ago.**

NeuStar's corporate ancestor, Lockheed Martin IMS, was awarded four of the original seven regional database administration contracts in 1997, and took over administration for the remaining regions soon after that when the other successful bidder proved incapable of fulfilling its obligations.<sup>4</sup> The current number portability database administration agreement is in the form of an amendment to the original 1997 agreement, and the basic form and substance of the agreement are little changed in that time.<sup>5</sup>

During that ten year period, there have been no significant changes to the way the database is operated and maintained, at least from the point of view of database users. The essential protocols and methods for using the database remain the same, and the new functionalities that have been added to the database in effect have been grafted onto the new structure. Similarly, the means by which carriers upload and download information have not changed meaningfully in that time.

In that same period, however, there have been enormous changes in information technology. The capabilities and capacities of data processing facilities have been transformed by advances in computer and storage technologies; packet-switched and IP-based technologies have become widespread; and myriad other new technologies have

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<sup>4</sup> See Telephone Number Portability, *Second Report and Order*, 12 FCC Rcd 12281, 12303 (approving award of contracts to Lockheed Martin IMS and Perot Systems); Telephone Number Portability, *Third Report and Order*, 13 FCC Rcd 11701, 11709-10 (1998) (describing replacement of Perot Systems with Lockheed Martin IMS). NeuStar was created when Lockheed Martin IMS spun off its numbering administration operations in 1999. See Transfer of the Lockheed Martin Communications Industry Services Business, *Order*, 14 FCC Rcd 19792 (1999).

<sup>5</sup> The current extension actually is at least the second extension of the agreement. An extension previously was adopted in 2003. As a technical matter, there are seven agreements, one for each of the original regions, but the agreements are effectively identical.

been introduced. All of these advances have the potential to make the number portability database more efficient, more reliable and more secure.<sup>6</sup>

Unfortunately, NAPM has not taken advantage of the opportunities that new technologies have presented. The repeated extension of the NeuStar agreement without a serious evaluation of the impact of these changes in information technology means that the provision of number portability, in effect, is stuck in 1997, while the telecommunications industry has been moving forward. This state of affairs is unacceptable because it means that telecommunications providers and customers bear the burden of the use of old technology and do not gain any of the benefits that would be available if the latest technologies were used to facilitate portability.

### **III. NAPM's Decision to Negotiate Only with NeuStar Precluded Any Opportunity to Obtain the Benefits of Competitive Bidding.**

NeuStar's primary defense of the current contract is that it was negotiated at arm's length.<sup>7</sup> This claim is true. However, it does not address the more significant question of whether one-on-one negotiations were the correct course for NAPM to follow, or if there was another approach that would have led to lower prices, more innovative service arrangements or other benefits unavailable from one-party negotiations. Fundamentally, no party presently involved in porting telephone numbers addresses the potential benefits of a competitive bidding process in the record of this proceeding.

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<sup>6</sup> NeuStar argues that it has met or exceeded the Service Level Requirements under the Master Agreements on a consistent basis. Comments of NeuStar, Inc. ("NeuStar Comments") at 7. This statement does not address the question of whether the requirements in the Master Agreements are consistent with current best practices or the capabilities of currently-available technology.

<sup>7</sup> *Id.* at 9-11.

The Commission is familiar with the benefits of competitive bidding. In the context of the sale of wireless spectrum, for instance, the Commission has noted that bidding is a way to maximize the value received by the party seeking the bids.<sup>8</sup> Indeed, when potential vendors know they are bidding against each other, they have significant incentives to offer the best prices they can. In contrast, a vendor that does not have any competition is more likely to set its price based on what it believes the buyer is willing to pay, which almost certainly will be higher than a competitively bid price. Indeed, in the previous round of contract negotiations, NeuStar reduced its supposed best price for portability database services after Cox raised concerns at the North American Number Council about the results of those negotiations, which demonstrates that the initial, one-to-one negotiated price was not the best price available.<sup>9</sup>

Obtaining the best price is particular important in this case because telecommunications carriers do not have any choice but to pay for the services provided by the portability database administrator and do not have any individual control over how much they pay for those services. The only check on their costs is NAPM's willingness to obtain the best price.<sup>10</sup>

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<sup>8</sup> See generally Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Second Report and Order*, 9 FCC Rcd 2348, 2349-50 (1994) (discussing benefits of auctions, including ensuring that government receives appropriate value for spectrum and that party that values spectrum most highly obtains it); Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Fifth Report and Order*, 9 FCC Rcd 5532, 5535 (adopting bidding rules for PCS).

<sup>9</sup> See North American Numbering Council, Meeting Minutes, Nov. 5, 2003, at 3-4, at [http://fjallfoss.fcc.gov/edocs\\_public/attachmatch/DOC-245175A1.pdf](http://fjallfoss.fcc.gov/edocs_public/attachmatch/DOC-245175A1.pdf).

<sup>10</sup> In this context, the complaints of BellSouth and Verizon that the costs of number portability should be shifted to competitive carriers as “cost causers” are somewhat ironic, since as members of NAPM both companies had significant influence over the actual cost of portability services. See Petition of BellSouth Communications for Rulemaking to Change the Distribution Methodology for Shared Local Number Portability and Thousands-Block Pooling Costs, RM-11299, filed Nov. 11, 2005; Letter of Ann D. Berkowitz, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, RM-11299, filed Jan. 18, 2007.

*Pricing is not the only potential benefit of competitive bidding, however, and may not even be the most important one in the context of number portability administration.* By foregoing the opportunity to obtain bids from multiple parties, such as Science Applications International Corporation, Syniverse, Telcordia and Verisign, NAPM also missed the chance to obtain better, more reliable and more flexible services that would more closely meet the needs of carriers and consumers alike. As noted above, given the decade that has elapsed since the original portability contracts were awarded to NeuStar and the significant technological changes that have ensued, there is every reason to believe that significant improvements in the operation and maintenance of the number portability database could have been achieved.<sup>11</sup> Because NAPM did not seek competitive bids, however, there was no opportunity to obtain those improvements.

In fact, by choosing not to adopt a competitive bidding process, NAPM also avoided the important work of defining the current and future needs of the carrier community in a structured, coherent way. Such an analysis would have been a central part of any competitive bidding process, but was not undertaken prior to the one-party negotiations with NeuStar. As a result, the negotiations did not lead to any meaningful changes in technology or capabilities from the previous agreement. Rather, nearly all of the changes from the previous agreement related to financial and business terms.

Indeed, the contrast between the initial procurement for number portability database services and the last round of negotiations is quite instructive. As NeuStar describes, the regional limited liability companies each “conducted a separate, rigorous competitive bidding process,” “screened bidders” and put those bidders through “a

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<sup>11</sup> NANC’s Local Number Portability Administration Working Group is now considering a proposal to move from the current CMIP interface to XML/SOAP. This proposal, however, is not a substitute for competitive bidding.

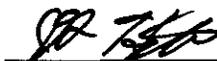
thorough pre-qualification procedure.”<sup>12</sup> In the last round of negotiations, not only was there no competition, there were no pre-negotiation efforts to define specific operational standards the incumbent vendor would be expected to meet, to determine whether there were was a need for additional or modified capabilities to benefit users of the database or even to request that other potential bidders come forward. In the absence of these efforts, it is impossible to conclude that the current terms are the best terms that NAPM could have obtained or that the current agreement benefits the telecommunications industry or the public interest.

#### **IV. Conclusion**

It is appropriate for the Commission to inquire into the processes that led to the latest extension of the number portability database contract. For the reasons described above, Cox submits that NAPM missed important opportunities to improve the terms on which number portability database services are provided, and that it would be reasonable for the Commission to conclude that the contract should be reopened.

Respectfully submitted,

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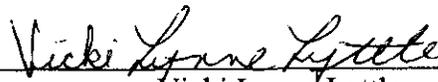
<sup>12</sup> NeuStar Comments at 5.

**CERTIFICATE OF SERVICE**

I, Vicki Lynne Lyttle, a legal secretary at Dow Lohnes PLLC, do hereby certify that on this 21st day of September, 2007, copies of the foregoing Reply Comments of Cox Communications, Inc. were served by via hand delivery to the following:

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