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**EX PARTE
VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Petition of Telcordia Technologies, Inc. to Reform or Strike Amendment 70, to Institute Competitive Bidding for Number Portability Administration, and To End the NAPM LLC's Interim Role in Number Portability Administration Contract Management; Renewed Request for Interim Standstill Order; and Request that NANC Resolve Dispute Concerning Necessity of Adding Certain URI Codes for the Completion of Telephone Calls, WCB Docket No. 07-149

Dear Ms. Dortch:

On August 6, 2009, I, along with Jordan Goldstein, Rich Fruchterman, and Michael O'Connor of NeuStar, Inc. ("NeuStar"), met with Nicholas Alexander, Legal Advisor to Commissioner McDowell, to respond to the above-referenced petitions filed by Telcordia Technologies, Inc. ("Telcordia"). Mr. O'Connor participated in the meeting by telephone.

The petitions at issue ask that the Federal Communications Commission ("Commission") impose an interim standstill order preventing NeuStar from implementing Amendment 72 to its number portability contract with the North American Portability Management, LLC ("NAPM").¹ Pursuant to the standard North American Numbering Council ("NANC") process, the elements of this amendment were approved by the NANC's Local Number Portability

¹ See Letter from John Nakahata, Wiltshire Grannis, to Julie Veach, Acting Chief, Wireline Competition Bureau, WC Docket No. 07-149 (filed May 22, 2009) (*Renewed Request for Standstill*); Letter from John Nakahata, Wiltshire Grannis, to Julie Veach, Acting Chief, Wireline Competition Bureau, WC Docket No. 07-149 (filed May 18, 2009) (*Request for Standstill*). Although Telcordia styles its request as a request for "standstill," the scope of action that it seeks is the same as a request for a preliminary injunction. It thus must meet the same exacting standard as any other request for a preliminary injunction. See note 3 *infra*.

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Administration Working Group (“LNPA WG”) before being voted on favorably by the NAPM. The amendment adds three new parameters to the optional data fields of the Number Portability Administrative Center (“NPAC”) database administered by NeuStar. These three new optional parameters were adopted by the industry to provide NPAC users with the opportunity – if they choose to populate and use the parameters – to route Internet-based communications more efficiently with higher quality.

Telcordia is seeking to have the Commission insert itself into a commercial dispute and suspend the judgment of the NANC’s LNPA WG and the NAPM, both of which are comprised of a broad range of industry stakeholders. Rather than following well-established industry procedures, Telcordia has decided to pursue through the regulatory process what it has failed to achieve through the marketplace.

In the request for standstill, Telcordia is clearly seeking regulatory protection for the IP-based routing database it is deploying for the Country Code 1 ENUM LLC. Its goal, simply stated, is to prevent IP-routing information from being included in the NPAC database in order to eliminate the NPAC as a competitive option for carriers seeking to route traffic using Internet-protocol technology. Telcordia’s efforts defy the Commission’s objective in the *Interconnected VoIP LNP Order*, “to ensure that consumers retain [their LNP] benefit as technology evolves [because] we continue to believe that Congress’s intent is that number portability be a ‘dynamic concept’ that accommodates such changes.”² Accordingly, the Commission should reject this barefaced attempt to freeze the NPAC database in time and prevent evolution of the LNP database to reflect technological changes.

To prevail on its request for the extraordinary relief of an interim standstill order, Telcordia bears the burden of establishing each of four criteria: (1) the likelihood of success on the merits; (2) the threat of irreparable harm absent the grant of preliminary relief; (3) the degree of injury to other parties if relief is granted; and (4) that the issuance of the order will further the public interest.³ With an abundance of rhetoric but an absence of substance, Telcordia fails to meet its burden on any of these four requirements.

² *Telephone Number Portability Order*, 22 FCC Rcd 19531, 19544 (2007) (citing *Intermodal Number Portability Order*, 18 FCC Rcd 23697, 23708 (2003)).

³ In considering any request for equitable relief, such as a preliminary injunction, the Commission applies the four criteria articulated in *Virginia Petroleum Jobbers Assn. v. Federal Power Com.*, 259 F.2d 921 (D.C. Cir. 1958). See *AT&T Corp.*, 13 FCC Rcd 14508, 14515 (1998).

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NeuStar discussed all four criteria during its meeting. First, Telcordia will not succeed on the merits of its arguments against Amendment 72. The NANC Change Orders that comprise Amendment 72 were considered and approved by the NANC's LNPA WG and the amendment implementing those change orders in the NPAC database was adopted by the NAPM in accordance with well-established procedures that have been in place since the inception of number portability. Nor can Telcordia show that the Amendment 72 parameters violate Commission Rule 52.25(f) because this rule has been implemented broadly, which is consistent with the technologically dynamic nature of the telecommunications industry and the Commission's and Communications Act's use of the phrase "telephone call."⁴

Telcordia's petition also fails to demonstrate that it will be irreparably harmed by Amendment 72 if a standstill order is not issued. Here, Telcordia fails to establish that it will suffer *any injury at all*. Implementation of the new parameters in the NPAC database imposes no obligation on Telcordia to upgrade its own systems to support the new parameters, and thus Telcordia incurs no costs merely because the new parameters are introduced. The three new parameters are expressly optional to use – there is no requirement on any service provider to use or support them. Moreover, to the extent Telcordia argues that carriers will suffer irreparable harm if they opt to implement these parameters, this claim has no bearing on the "irreparable harm" inquiry whatsoever. Telcordia must demonstrate that it, as the moving party, would suffer irreparable harm.⁵ Yet, Telcordia acknowledges that vendors such as itself bill their carrier customers for the costs of upgrading their systems.⁶

The third prong of the *Virginia Petroleum Jobbers* test requires an evaluation of the harm to other parties if the standstill order is issued. Both consumers and the providers that would like to use the Amendment 72 parameters would be harmed by delaying the efficiency and quality benefits that the IP routing enabled by these parameters would provide.

⁴ See, e.g., 47 U.S.C. §§ 223, 227; 47 C.F.R. § 64.1200 *et seq.*

⁵ See *Sea Containers Ltd. v. Stena AB*, 890 F.2d 1205, 1208 (“[P]reliminary relief is to be granted only if the *moving party* establishes that . . . *it* will suffer irreparable harm if the injunction is not granted; . . .”) (emphasis added).

⁶ *Renewed Request for Standstill* at 4.



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Finally, Telcordia has not established – as it must – that a standstill order in this matter is in the public interest. To the contrary, a standstill order would reduce the number of IP-routing options available to service providers. The Commission should seek to promote efficient IP-routing that will spur demand for IP networks and applications and promote broadband deployment.

In sum, NeuStar believes the record shows that Telcordia’s petition fails all four of the necessary criteria for the Commission to take the extraordinary step of issuing a preliminary injunction.

Sincerely,

/s/ Tom Navin

Thomas J. Navin
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Wiley Rein LLP
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