



May 5, 2010

Ex Parte

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

RE: Petition of Telcordia Technologies, Inc. to Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration, and Petition of Telcordia Technologies, Inc. to Reform or Strike Amendment 70, to Institute a Competitive Bidding for Number Portability Administration, and to End the LLC's Interim Role in Number Portability Administration Contract Management, WC Docket Nos. 07-149 and 09-109

Dear Ms. Dortch:

Telcordia Technologies, Inc. (“Telcordia”) hereby responds to the North American Portability Management LLC’s (“NAPM LLC” or “NAPM”) April 22, 2010 ex parte filing. Telcordia is pleased that NAPM has committed not to extend the current contract, but instead to issue a Request For Proposal (“RFP”) to select replacement providers. However, NAPM provides no explanation for why the process must take until 2015. Consumers should not have to wait more than five additional years and pay billions of additional dollars to see the benefits of competition.

Telcordia is pleased that NAPM concedes the Commission has full authority to modify the existing NPAC database contract in the public interest—including the inseparability clause. Further, Telcordia appreciates that NAPM acknowledges Telcordia’s complaint regarding the lack of accountability for cardinal changes to the contract. Nonetheless, nothing in NAPM’s ex parte resolves Telcordia’s core complaint: that the oversight and management of the NPAC administration system is fundamentally broken and requires FCC intervention to restore accountability and to ensure fair and open competition. This is exactly why Telcordia has asked the Commission to act. Withdrawing the petition would be detrimental to ensuring accountability and fair and open competition in numbering portability administration. The Commission now has in the record all the facts necessary to decide Telcordia’s petition.

1. Telcordia Seeks Accountability in Number Portability Contracting Decisions.

Telcordia reiterates its belief that NAPM should be accountable to the public, via the Commission and NANC, prior to executing binding contract amendments that affect fundamental policy choices. Telcordia accordingly welcomes NAPM's acknowledgment of the oversight authority of the Commission and the North American Numbering Council ("NANC").¹ Moving to an RFP to select the next number portability administrators is a step in the right direction. However, the root cause of Telcordia's complaint – which extends beyond its desire to see competitive bidding – is that NAPM repeatedly has taken binding decisions without any form of NANC and FCC review *before* a NAPM contract amendment can become effective – and without seeking FCC approval of cardinal changes. NAPM today does not seek policy guidance from the FCC or from NANC prior to making major, binding contractual decisions that alter fundamental contractual terms.² As an example, NAPM executed its amendment to add long-disputed URI codes to the NPAC without seeking advance approval from either NANC or the Commission.

Moreover, notwithstanding NAPM's convoluted discussion of the "full potential for oversight" – and notwithstanding the requirements of the Federal Advisory Committee Act – it has not made any part of its meeting minutes publicly available or provided any documents explaining how it evaluated the unsolicited proposals it received in comparison with the contracts that it executed. Accountability and transparency must be reestablished, which can best be done by moving immediately – not just in five to six years – to competitive bidding in a multivendor environment, with Commission oversight and approval of the bid evaluation and selection processes.

¹ This acknowledgment represents a significant change in NAPM's position. In its March 22, 2010 ex parte filing, NAPM suggested that FCC oversight had no role in the NPAC contract, but contended it should be allowed to continue making cardinal changes without policymaker approval simply because it did so in the past.

² No evidence supports NAPM's claim that it has notified the NANC Chair "in advance of all major amendments." A courtesy call immediately prior to or simultaneous with the execution of a binding agreement – if that is what occurred – hardly constitutes an opportunity for advance oversight. And in any event, mere "notification" of the NANC Chair is a far cry from public review or comment by either the full NANC or the FCC.

2. Public Policy Decisions Should Be Made by Public Officials.

This is a federal contract.³ Federal law requires open and competitive bidding for the NPAC contracts.⁴ Policy decisions regarding amendments to this contract accordingly should be made by policymakers and entities with responsibility to the public. The Commission should be making decisions regarding cardinal changes to the contract, but the system currently in place has not allowed it to do so. Telcordia accordingly is pleased that NAPM has conceded that the Commission has full authority to modify any term of the contract – including the inseverability clause – for public policy reasons. Telcordia believes the Commission should act promptly to invalidate the inseverability clause and conduct a new, competitive bid for the congressionally mandated number portability contract that could be implemented before 2016.

3. Telcordia Seeks Market Competition.

Telcordia is pleased that NAPM has stated that the current NPAC contract will not be extended and that NAPM will announce at the May 2010 NANC meeting a timeline for an RFP process to replace that contract.⁵ But NAPM still has made no commitment to select providers on the basis of a truly competitive RFP or to select multiple NPAC vendors, or even a commitment not to enter into yet another exclusive, sole-source contract. Indeed, nothing in NAPM's filings to date would prevent it from simply entering into a new, sole-source contract with NeuStar, identical to the present contract, at the end of the RFP process. And NAPM has provided no explanation for why the RFP process should require nearly six years to replace the present invalid contract.

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For all of these reasons, and because this issue has been before the Commission for more than two years, the Commission must act to restore transparency, accountability, and open and fair competition in the number portability administration contract. There has been no practical oversight or competition in this congressionally mandated program for more than a dozen years. Telcordia urges the Commission to act now to reinstate competitive bidding and bring open, transparent accountability to its number portability program.

³ See Reply Comments of Telcordia Technologies, Inc., WC Docket Nos. 07-149 and 09-109, at 26-34 (filed Sept. 29, 2009).

⁴ See Ex Parte Reply of Telcordia Technologies, Inc. to the Ex Parte Response of NeuStar, Inc., WC Docket Nos. 07-149 and 09-109, at 16-35 (filed Feb. 16, 2010).

⁵ Ex Parte Letter of Todd Daubert, Counsel to NAPM LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 2, 4-5 (April 22, 2010).

Ms. Marlene H. Dortch

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A copy of this letter is being filed in the above-captioned docket.

Sincerely,

/s/ John T. Nakahata

John T. Nakahata

Madeleine V. Findley

Counsel to Telcordia Technologies, Inc.

cc: Ann Duignan
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