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June 16, 2014

EX PARTE

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

Re: *Telephone Number Portability, et al.*, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109

Dear Ms. Dortch:

On June 12, 2014, Richard Jacowleff and Joel Zamlong of Telcordia Technologies, Inc., d/b/a iconectiv ("Telcordia"); Rear Adm. Jamie Barnett of Venable LLP; Jason Carey of McKenna Long & Aldridge LLP; Christopher Wright and Mark Davis of this firm; and I, on behalf of Telcordia, met with Jonathan Sallet, Michele Ellison, David Gossett, and Diane Griffin Holland of the Office of General Counsel and Ann Stevens of the Wireline Competition Bureau. In the meeting, we emphasized that Telcordia is technically well qualified to take over as the Local Number Portability Administrator ("LNPA"), that choosing Telcordia would result in substantial benefits—including substantial savings—over the *status quo*, and that Telcordia is neutral as required by the RFP and the Commission's rules. We urged the Commission to quickly select Telcordia as the LNPA in accordance with the unanimous recommendation of the North American Numbering Council ("NANC").

Telcordia has a long history of involvement in both telecommunications routing and number portability—experience which makes it well qualified to take over as LNPA. In the United States, Telcordia provides routing capability through the LERG Routing Guide and the Business Integrated Routing and Rating Database System (BIRRDS) and provides telecommunications infrastructure support through the Common Language database. For U.S. number portability, Telcordia is the leading provider of number portability gateways, meeting the needs of providers of all sizes. It also provides number portability administration services in 19 countries. These technical capabilities, as well as the technical merits of Telcordia's proposal have been validated by both the industry's review and unanimous selection of Telcordia's bid.

Expeditious approval of Telcordia as the next LNPA will also result in substantial cost savings over the *status quo*. It bears emphasis, however, that continued delays are potentially costly. Telcordia has already begun preparing to take on LNPA responsibilities—at its own risk. Any delay in the implementation of the new contract would result in a windfall to Neustar at the expense of carriers and consumers; indeed, if Neustar's current contract must be extended, carriers (and ultimately consumers) will continue to pay about $40 million *per month*—significantly more than they would pay if the contract is awarded to Telcordia. By contrast, a rapid decision once comments close can limit the potential for such a costly extension.

It also bears emphasis that Telcordia is neutral and meets the neutrality requirement codified in the Code of Federal Regulations—*i.e.*, that the LNPA to be "an independent, non-

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governmental entity, not aligned with any particular telecommunications industry segment."[1] The fact that NANC's vote was unanimous should give the Commission particular comfort in this regard.

As explained in more detail in the response to the RFP, Telcordia meets the neutrality requirements of the three-prong neutrality requirement that the Commission and NAPM have traditionally applied and which were included in the RFP[2] and approved by the Bureau after notice and comment. These requirements, borrowed from 47 C.F.R. § 52.12(a)(1) (which applies to the North American Number Portability Administrator) are that: (1) the LNPA may not be an affiliate of any telecommunications service provider or any interconnected VoIP provider;[3] (2) neither the LNPA nor any of its affiliates may "issue a majority of its debt to, nor may it derive a majority of its revenues from, any telecommunications service provider";[4] and (3) notwithstanding the other two neutrality criteria, the LNPA and any of its affiliates "may be determined to be or not to be subject to undue influence by parties with a vested interest in the outcome of numbering administration and activities."[5]

Telcordia plainly meets the first two prongs. And on the undue-influence prong, Telcordia has a diverse customer base—with more than 1,000 carriers who use Telcordia's products and services worldwide—which prevents it from being influenced by any particular party. Moreover, as part of its proposal, Telcordia is proposing to adopt an auditable code of conduct, which will include restrictions on Telcordia, employees, directors, and officers (or dedicated subcontractor employees) from holding interests that would cause the LNPA not to be neutral. Telcordia's parent Ericsson is also neutral. Like Telcordia, Ericsson has diverse revenue sources among carriers and depends on its reputation as a neutral, fair player.

Moreover, even though Ericsson would not be subject to undue influence, Telcordia has adopted a number of safeguards to ensure its independence. To begin, as of August 2013, Telcordia has appointed a non-executive management board with authority and fiduciary responsibility to oversee the operations of Telcordia. A majority of the members of the non-executive management board are independent of Ericsson. Telcordia has also committed that, if selected as the LNPA, its board of directors will have a majority of independent directors whose fiduciary duties run to Telcordia—not to Ericsson—as well as a neutrality compliance committee. In addition, Telcordia runs its own financial accounting systems, has its own compensation plan, provides its own health and welfare benefits, and has its own human resources organization—all independent of Ericsson.

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1 47 C.F.R. § 52.21(k).

2 *See* VQS § 3.4, *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0813/DA-12-1333A4.pdf (importing NANPA and B&C neutrality requirements into LNPA RFP neutrality analysis).

3 47 C.F.R. § 52.12(a)(1)(i).

4 *Id.* § 52.12(a)(1)(ii).

5 *Id.* § 52.12(a)(1)(iii).

Neustar has attempted to delay the decision process by erecting a number of procedural hurdles designed to prolong its approximately $40-million-per-month revenue stream—and it will predictably continue to do so. But these arguments are meritless. For the reasons Telcordia has previously explained,[6] the FCC has no obligation to designate the LNPA by rulemaking. Nor would doing so make any sense, since doing so would not have permitted a change, for example, when Perot Systems failed to perform. Similarly, Neustar has no plausible claim that it was entitled to a *second* BAFO for the reasons explained previously;[7] indeed, it did not even have a plausible claim that it was entitled to submit a *first* BAFO, since the bid documents expressly warned that there might be no BAFO. Moreover, it bears emphasis that the NAPM never solicited a second round of BAFOs through the IASTA website—the site used to solicit and submit bid documents—nor did it in any other way ask bidders to provide additional bids. Finally, NAPM and the Commission were not required to apply 48 C.F.R. §§ 52.215-1(c)(3) and 15.208(a)-(b)—which would apply only in the context of procurements under the Federal Acquisition Regulation, which does not apply here.

Finally, Telcordia reiterated that the Commission should release bid documents only subject to a protective order.[8] Publically releasing all bid documents would be extremely anticompetitive if re-bidding on this contract were to occur in the future—as Neustar repeatedly continues to request. And it would also prejudice Telcordia by releasing confidential and proprietary technical, pricing, and operational information.

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[6] Ex Parte Letter from John Nakahata *et al.*, Counsel for Telcordia, to Marlene Dortch, Secretary, FCC, at 5-8, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109 (filed May 9, 2014); Ex Parte Letter from John Nakahata *et al.*, Counsel for Telcordia, to Marlene Dortch, Secretary, FCC, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109 (filed Apr. 28, 2014).

[7] Opposition of Telcordia Technologies, Inc., d/b/a iconectiv to Neustar's Petition for a Declaratory Ruling at 33-35, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109 (filed Feb. 24, 2014).

[8] Ex Parte Letter from John Nakahata *et al.*, Counsel for Telcordia, to Marlene Dortch, Secretary, FCC, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109 (filed May 16, 2014).

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It is time to bring this solicitation to a close. Telcordia urges the Commission to expeditiously confirm the NANC's recommendation.

Sincerely,

John T. Nakahata

Counsel for Telcordia Technologies, Inc., d/b/a/ iconectiv

cc: Jonathan Sallet (by e-mail)
Michele Ellison (by e-mail)
David Gossett (by e-mail)
Diane Griffin Holland (by e-mail)
Ann Stevens (by e-mail)