CONFIDENTIAL** To ensure that no party was prejudiced, NAPM ****BEGIN CONFIDENTIAL****

****END CONFIDENTIAL**** and it also simultaneously informed ****BEGIN CONFIDENTIAL****

****END CONFIDENTIAL**** In sum, the decision to extend the bid period was based on NAPM's review and investigation of the underlying circumstances, constituted a reasonable exercise of NAPM's discretion in conducting the solicitation, and did not competitively prejudice Neustar in any way.

Second, the NAPM and the Commission had a reasonable basis for declining to issue a second round BAFO and refusing to consider Neustar's unsolicited revised bid. ****BEGIN CONFIDENTIAL****

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80 E-mail from Sanford Williams, FCC, to Timony Decker (April 16, 2013), NAPM Process Report, Attachment 3. ****BEGIN CONFIDENTIAL****

****END CONFIDENTIAL****

81 *Id.* at 4.

[redacted]

****END CONFIDENTIAL****

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[82] *Id.* at 6.

[83] NAPM Process Report at 5-6.

CONCLUSION

It is time for the Commission to confirm the selection of Telcordia as the next LNPA and end a process that has now gone on for more than four years. Every month of delay is costing the industry tens of millions of dollars because it will mean that the industry must continue to purchase services from Neustar under the current $500-million-per-year contract. It is time to bring process to a close by confirming the choice of Telcordia as the next LNPA and allow the consumers to benefit from superior service at a fair price.

Respectfully submitted,

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July 25, 2014

REDACTED — FOR PUBLIC INSPECTION

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of:	
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 No. 09-109
Telephone Number Portability	CC Docket No. 95-116

COMMENTS OF TELCORDIA TECHNOLOGIES, INC. D/B/A ICONECTIV

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July 25, 2014

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INTRODUCTION AND SUMMARY

The North American Numbering Council's ("NANC's") unanimous recommendation, along with the accompanying reports from the NANC's Selection Working Group ("SWG") and the North American Portability Management, LLC's ("NAPM") Future of the Number Portability Administration Center ("FoNPAC") committee, make clear that the Commission should proceed expeditiously to appoint Telcordia Technologies, Inc., d/b/a iconectiv ("Telcordia") to be the Local Number Portability Administrator ("LNPA") beginning July 1, 2015. Along with that action, the Commission should direct the NAPM, LLC, under the supervision of the NANC, to enter into a contract with Telcordia and expeditiously to begin implementation with the objective of having a new LNPA in place at the end of the current LNPA contract on June 30, 2015. Given the very substantial savings to telecommunications providers and consumers that will begin to accrue once Telcordia begins serving as the LNPA, time is of the essence. Should there be a delay in Telcordia commencing the LNPA, every *month* of delay will waste tens of millions of consumer dollars.

Neustar undoubtedly will continue its fearmongering campaign to try to convince the Commission that number portability will come to an end should the Commission select anyone else as the LNPA. Neustar subjected the NANC to just such a multimillion-dollar advertising barrage in the months leading up to NANC's final vote—and the NANC recognized Neustar's Chicken Little claims for what they were: last ditch, desperate attempts by an incumbent that had grown too fat and too happy and that had declined to compete vigorously. The Commission should promptly and without delay turn aside Neustar's attempts to use scare tactics to bail out its bad business decisions and failed bidding strategy. The time has come to bring this four-year LNPA procurement process to a close.

The FoNPAC report, which was presented to and reviewed by both the SWG and the full NANC, makes clear that this is not a choice between a "Prada" NPAC[1] and a cheap imitation. Both Neustar and Telcordia scored ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** on the technical and management criteria. These technical and management evaluations were made by subject-matter experts well-versed in the operation of the LNPA—representatives of companies who had substantial stakes in the continued and successful operation of the NPAC. The FoNPAC members making this evaluation included wireless carriers, wireline carriers, incumbent Local Exchange Carriers and their competitors.

On the issue of price, however, it was no contest. As the SWG Report highlights, Telcordia offered a price that was an astounding ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL**** than Neustar's bid over the six-year course of the contract and its option periods.[2] In the first year alone, the costs that are allocated among telecommunications providers according to the FCC's formula will drop from the current

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1 Bill Flook, *Neustar CEO Lisa Hook: Number portability can't be done at a "cut-rate Prada price,"* Washington Business Journal (April 16, 2014, 6:53pm) http://www.bizjournals.com/washington/blog/techflash/2014/04/neustar-lisa-hook-number-portability-cant-be-done.html?page=all (last accessed July 24, 2014).

2 LNPA Selection Working Group ("SWG") Report to NANC on LNPA Vendor Selection Recommendation of the Future of the NPAC Subcommittee ("FoNPAC") at 3 (2014) ("SWG Selection Report"). The SWG Selection Report was attached to the Letter from Betty Ann Kane, Chairman, North American Numbering Council, to Julie A. Veach, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 09-109, CC Docket 95-116 (dated Apr. 24, 2014 and filed Apr. 25, 2014) ("NANC Apr. 24 *Ex Parte* Letter").

level of approximately $500 million[3] to ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL****—a first year drop of approximately ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL**** percent. And while Telcordia's annual price ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL****over the term of the contract, Neustar's ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL**.**[6]

There is no reason to overturn the NANC's considered recommendation as the FCC's numbering advisory committee that is compelled by regulation to have a balanced membership.[7] Telcordia has demonstrated that it meets the Commission's neutrality requirements. Telcordia is not a Telecommunications Service Provider, as defined in the RFP. It does not own, nor is it

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3 *See* NEUSTAR, First Quarter 2014 Supplemental Materials, at 5 (Apr. 16, 2014) http://www.neustar.biz/about-us/investor-relations/financials (noting that NPAC revenue for the first quarter was $118.8 million) (last visited July 24, 2014).

4 Neustar Bid, BAFO § 2.2 at 2 (Document No. 24 of Neustar production).

5 *Id.*, BAFO § 2.1 at 2 (Document No. 23 of Neustar production).

6 NAPM LLC, 2015 LNPA RFP § 13.4 ("RFP"), *available at* https://www.napmllc.org/Docs/npac/ref_docs/2015%20LNPA%20RFP%202%204%2013.docx.

7 41 C.F.R. §102-3.30(c) ("An advisory committee must be fairly balanced in its membership in terms of the points of view represented and the functions to be performed.") Indeed, the NANC's membership includes representatives of ILECs, CLECs (including Bandwidth.com, Level 3 and XO, all of which provide telephone numbers and manage porting for smaller providers, including interconnected VoIP providers, as well as CompTel, the trade association representing CLECs, both larger and smaller), wireless providers, cable providers, and VoIP providers (including Vonage, which has trialed direct assignment of numbers rather than through a CLEC).

owned by, a Telecommunications Service Provider; it is not an affiliate by common ownership or otherwise of a Telecommunications Service Provider, has not issued a majority of its debt to a Telecommunications Service Provider nor does it derive a majority of its revenues from a Telecommunications Service Provider. Similarly, Telcordia's subcontractor Sungard Availability Services LP ("Sungard") is not a Telecommunications Service Provider and does not own, nor is it owned by, a Telecommunications Service Provider.

Nor is Telcordia or Sungard subject to "undue influence by parties with a vested interest in the outcome of number administration and activities" or "involved in a contractual or other arrangement that would impair its ability" fairly to act as the LNPA.[8] Notably, the Vendor Qualification Statement stated, "The NAPM LLC will initially decide whether the Respondent satisfies the Neutrality criteria. Prior to award, the FCC will verify neutrality compliance."[9] Nothing in the FoNPAC or SWG report suggests that any member of those bodies questioned Telcordia's neutrality. In any event, while Telcordia is neutral without any added safeguards, it has proposed substantial, auditable safeguards—including a Board comprised of a majority of outside directors—as an added assurance of its absolute neutrality.

Finally, the NANC and FoNPAC investigative reports requested by Wireline Bureau Chief Julie Veach make clear that the bidding process was fair. The SWG and FoNPAC, ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** had a reasonable basis for extending the deadline for initial bids. In addition, the SWG and

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8 NAPM LLC, 2015 LNPA Vendor Qualification ("VQS") § 3.5, *available at* https://www.napmllc.org/Docs/npac/ref_docs/2015%20LNPA%20Vendor%20Qualification%202%204%2013.docx (importing NANPA and B&C neutrality requirements into LNPA RFP neutrality analysis).

9 *Id.*

FoNPAC, ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** again had a reasonable basis for declining to invite a second round of Best and Final Offers or to consider Neustar's unsolicited, unilaterally submitted second Best and Final Offer. Certainly, neither of these is a reason to set aside NANC's recommendation, to re-open bidding, to disqualify Telcordia, or to start the procurement process over from the beginning, as Neustar has at various times requested.

The NAPM announced its desire to seek competitive bids in March 2010.[10] Since that time, there has been a Request for Information,[11] public comment on the LNPA selection process,[12] public comment on the Request for Proposal, Technical Requirements Document and Vendor Qualification Survey,[13] and now public comment on the NANC's unanimous recommendation that Telcordia be selected as the next LNPA. It is time now to bring this process to a close, to execute the contract, and to begin implementation and testing of Telcordia's LNPA systems. Providers and consumers should not have to pay tens of millions of dollars per month solely because Neustar has—successfully so far—been able string out the LNPA selection process.

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[10] Letter from Todd Daubert, Counsel for NAPM LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-149 & 09-109 (filed Mar. 22, 2010).

[11] *NAPM LLC Announces Request For Information From Vendors On Upcoming Request For Proposals For LNP Database Platforms And Services*, Public Notice, DA 10-1800, 25 FCC Rcd. 13,379 (Wireline Comp. Bur. 2010).

[12] *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; Telephone Number Portability*, Order and Request for Comment, DA11-454, 26 FCC Rcd. 3685 (Wireline Comp. Bur. 2011) ("*March 2011 Order*").

[13] *See Wireline Competition Bureau Seeks Comment on Procurement Documents for the Local Number Portability (LNP) Administration Contract*, Public Notice, DA 12-1333, 27 FCC Rcd. 11,771 (Wireline Comp. Bur. 2012).

ARGUMENT

Telcordia is pleased that the NANC, together with its SWG and the NAPM's FoNPAC, have recommended it to be the next administrator of Local Number Portability. The Commission should affirm that recommendation and direct NAPM expeditiously to enter into a contract with Telcordia. As explained below, Telcordia is the world's leading provider of number portability systems, and the NANC, SWG, and FoNPAC have each reasonably concluded that Telcordia's bid offered the best value after rigorous evaluation. Moreover, Telcordia's bid demonstrated that it meets the Commission's neutrality requirements. In short, Telcordia has been chosen through a process that was open, transparent, and fair and which was previously approved by the Commission after notice and comment. The Commission should affirm the NANC's recommendation.

I. THE INDUSTRY HAS SELECTED A PROVEN LEADER WITH DEEP EXPERIENCE WITH NUMBER PORTABILITY BOTH IN THE UNITED STATES AND GLOBALLY.

Before discussing the industry-selection process, it bears emphasis that 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 information relied upon by nearly every Public Switched Telephone Network-connected telecommunications provider, whether wireline, wireless or VoIP, 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. These are systems that are critical to the operation of the U.S. telecommunications network. And just as importantly, Telcordia is the world's leading provider of number portability systems, with substantial number-portability experience both domestically and

globally. Telcordia has developed and implemented number portability products in the United States, Canada and 17 other countries—covering more than 2 billion subscribers, far surpassing any other vendor's breadth of experience.[14]

Internationally, Telcordia is the market leader in Number Portability solutions supporting both fixed and mobile Number Portability Solutions.[15] The company offers its Number Portability Clearinghouse service—which includes base functionality similar to the U.S. NPAC plus the pre-porting business rules process—in 15 countries[16] and was recently selected to be the number portability administrator in Peru, where it successfully replaced the incumbent administrator.[17] It also provides number-portability gateway services[18] in 11 countries.[19]

In the United States, Telcordia has delivered portability solutions since the very first day of number portability. The company developed the first number portability system in the world for toll-free number portability, and it worked with the industry on the original industry specifications for Local Number Portability. Moreover, Telcordia delivered the first systems that were certified to connect to the NPAC, and it processed the first service provider port of a toll-

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[14] Telcordia Bid, Technical Requirements Document ("TRD"), Attachment to Question 12.1 at 9 (Telcordia 08087).

[15] *Id.*, Vendor Qualification Survey ("VQS"), Attachment to Question 3.3.1 at 9 (Telcordia06051).

[16] *Id.*

[17] Amanda Sutton, *iconectiv selected as the new number portability administrator in Peru,* iconectiv News Release (March 20, 2014), *available at* http://www.iconectiv.com/news_events/pressreleases/2014/20140320-iconectiv_Peru_Number_Portability_PR.pdf.

[18] These gateway services are similar to the Service Order Activation ("SOA") and Local Service Management System ("LSMS") that Telcordia provides in the United States. *See* Telcordia Bid, VQS, Attachment to Question 3.3.1 at 13 (Telcordia 06055).

[19] *Id.* at 13 (Telcordia 06055).

free number; the first U.S. geographic port through its Servicer Order Activation ("SOA"), and the first mobile port through its gateway.[20]

Currently, Telcordia is the leading provider of local number portability products and services to U.S. service providers, offering both of the major industry Local Number Portability functions—Service Order Activation (SOA) (which allows carriers to interact with the NPAC to port numbers) and Local Service Management System (LSMS) (which enables carriers to receive broadcasts from the NPAC and deliver the numbers to carriers' number portability databases). Indeed, through these systems, Telcordia systems process about 95 percent of all U.S. wireless number porting transactions, and 80 percent of number portability transactions involving fixed-access lines.[21] And because Telcordia systems handle wireless pre-porting, SOA and LSMS transactions, and 100 percent of toll-free-number ports, Telcordia has processed more portability-related transactions than the NAPC itself.[22]

II. THE NANC, SWG, AND FONPAC RIGOROUSLY EVALUATED THE COMPETING BIDS THROUGH A FAIR AND REASONABLE PROCESS AND UNANIMOUSLY CONCLUDED THAT TELCORDIA WAS THE BEST CHOICE.

Members of the FoNPAC rigorously evaluated each of the bids submitted and specifically considered ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** of each bid.[23] Accordingly, as stated in the RFP, technical and management merit were "significantly more important than the Cost

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[20] *Id.* at 3 (Telcordia 06045).

[21] This does not include toll free numbers, which are not administered by the LNPA. Telcordia is involved with porting for 100 percent of toll free number ports.

[22] Telcordia Bid, VQS Attachment to Question 3.3.1 at 3 (Telcordia 06045).

[23] Future of the NPAC, Local Number Portability Administration Request for Proposal Evaluation Summary and Selection Report ("FoNPAC Selection Report") at 10, *attached as Exhibit B to* SWG Selection Report.

criterion alone."[24] After doing so, these organizations—which included members from a broad cross-section of the telecommunications community—concluded, in accordance with the stated evaluation criteria, that Neustar and Telcordia ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL****[25] but that ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL****.[26] Consequently, the FoNPAC concluded that ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL**** was ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** This determination was in keeping with the RFP's explanation that if technical and management were assessed evenly, price could become more significant, or even determinative.[28] The SWG and the NANC, after thoroughly reviewing FoNPAC's determinations, concurred with the FoNPAC's conclusion.

These were reasonable conclusions reached by a broad cross-section of the very industry that will be affected by the LNPA selection. As explained below, Telcordia offered a strongly competitive bid on technical and managerial factors. And its bid was ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL****.

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[24] RFP § 14.1.1.

[25] SWG Selection Report at 5

[26] FoNPAC Selection Report at 3.

[27] *Id.*

[28] RFP § 14.1.1

Moreover, because Neustar submitted a report on the costs and risks of transition, it is clear that the issue of transition costs and risks was before the FoNPAC, which ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL** **BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL** **BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL****[29] Accordingly, the Commission should affirm the NANC's recommendation and direct the NAPM to negotiate a contract with Telcordia expeditiously.

A. Telcordia's Bid Offered Strong Technical Merit and Managerial Factors.

In the bid-evaluation process, technical, including security and data redundancy protections, and managerial factors accounted for ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL****

The FoNPAC report makes clear that ****BEGIN CONFIDENTIAL**** [redacted]

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[29] FoNPAC Selection Report at 3-4; *see also id.* at 11-12.

[30] *Id.* at 9-10.

[redacted] ****END CONFIDENTIAL**** Moreover, while that report ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** Accordingly, the FoNPAC report makes clear that ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL****

B. Telcordia's Bid Was Strong on Total Price.

On price, however, there was simply no contest. As the SWG explained, ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL** **BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL****[33] Collectively, this added up to a difference of ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL**** over six years. Moreover, while Telcordia's annual price ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL****over the term of the contract, Neustar ****BEGIN HIGHLY CONFIDENTIAL**** [redacted]

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[31] *Id.* at 3.

[32] SWG Selection Report at 4.

[33] *Id.* at 3.

[redacted]

[redacted] ****END HIGHLY CONFIDENTIAL****.[34]

****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL**** when compared with the RFP. The RFP stated:

> It is the expectation of the NAPM LLC that factors such as future and ongoing advances in database storage and retrieval technology, economies of scale resulting from NPAC/SMS database growth, and continuing operational efficiencies will serve significantly to lower the year-over-year cost of operating and administering the NPAC/SMS platform. The NAPM LLC requires that cost savings be passed on by the LNPA to Users and should be reflected in Respondent's bid price in response to this RFP Survey.[35]

It further explained, "The pricing model will be an annual fixed fee with no annual price escalators, no transaction volume floor, no transaction volume ceiling, and no recovery of any unpaid User invoices from the rest of the industry."[36] ****BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL**.**[37]

Anticipated transition costs did not change NANC's conclusions. In its bid, Neustar attempted to repeatedly emphasize transition costs and risks in an attempt to convince the industry not to select a rival bid.[38] The FoNPAC, however, ****BEGIN CONFIDENTIAL****

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[34] Neustar Bid, BAFO § 2.2 at 2; Neustar Bid, BAFO § 2.1 at 2.

[35] RFP § 13.4.

[36] RFP § 14.2.

[37] Neustar Bid at BAFO 2.2 Question 2 at 15.

[38] *Id.*, Executive Summary at ES-13 (Document 1 of Neustar production) (citing Hal Singer, *Estimating the Costs Associated with a Change in Local Number Portability Administration*).

[redacted] ****END CONFIDENTIAL** **BEGIN HIGHLY CONFIDENTIAL**** [redacted] ****END HIGHLY CONFIDENTIAL****[39] The FoNPAC also stressed that ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** These were reasonable conclusions reached by the industry experts who will ultimately bear the costs and risks of any transition. There is no reason for the Commission to second guess those decisions.

III. TELCORDIA DEMONSTRATED THAT IT IS NEUTRAL.

As required by Section 3.5 of the VQS, Telcordia submitted a neutrality opinion letter[41] demonstrating its compliance with the three-prong neutrality requirement that the Commission has traditionally applied and which was included in the RFP[42] as approved by the Bureau after notice and comment. These requirements, which implement 47 C.F.R. § 52.21(k)'s requirement that the LNPA not be "aligned with any particular telecommunications industry segment" and which were 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

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39 FoNPAC Selection Report at 11-12.

40 SWG Selection Report at 4.

41 *See* Telcordia Bid, VQS, Attachment to Question 3.5 (Telcordia06074-06413).

42 *See* VQS § 3.4 (importing NANPA and B&C neutrality requirements into LNPA RFP neutrality analysis).

telecommunications service provider or any interconnected VoIP provider;[43] (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";[44] and (3) the LNPA must not be subject to undue influence by parties with a vested interest in the outcome of numbering administration and activities.[45] Telcordia provided two letters from counsel, which demonstrated compliance with these requirements.[46]

Telcordia plainly meets the first two prongs. It is not a Telecommunications Service Provider as defined by the RFP, nor is it an interconnected VoIP provider. It is not owned by—nor does it own—any such provider. It does not issue a majority of its debt to any Telecommunications Service Provider and does not derive a majority of its revenues from any such provider.[47]

Moreover, on the third prong, Telcordia is not subject to any undue influence from any party with a vested interest in numbering administration and activities. Telcordia's parent company Ericsson also meets the neutrality requirements outlined in the RFP[48] and does not have

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[43] 47 C.F.R. § 52.12(a)(1)(i).

[44] *Id.* § 52.12(a)(1)(ii).

[45] *Id.* § 52.12(a)(1)(iii).

[46] *See* Telcordia Bid, VQS, Attachment to Question 3.5 (Telcordia06074-Telcordia06413); Letter from John Nakahata to Dan Sciullo, Counsel for FoNPAC and Sanford Williams, FCC (filed Nov. 13, 2013) (Bates No. Telcordia06417-Telcordia06433) ("November 13, 2014 Opinion Letter").

[47] *See Id.*, VQS, Attachment to Question 3.5, at 6-10 ¶¶1-5 (Telcordia06078-06083).

[48] *See id.* at 10-13 (Telcordia06083-06086). As discussed in Telcordia's November 13, 2013 Opinion Letter, although Ericsson holds a small interest in CENX, CENX decommissioned its network in 2013 and now only provides software services to carriers. November 13, 2014 Opinion Letter at 7 (Telcordia06423). The FCC Form 499 Filer Database entry for CENX states, "No Longer Active as of Sep 30 2013. This company still exists, however it is no longer providing telecommunications services."

a vested interest in numbering administration at any rate. Moreover, to minimize any perception that Ericsson could exert any undue influence, Telcordia has implemented a number of structural safeguards—including an outside, independent Advisory Board and a Code of Conduct.[49] To avoid any perception of undue influence, Telcordia has also implemented separate financial and accounting systems, provides its own compensation and benefits to its employees,[50] and prohibits its employees from participating in Ericsson's Long Term Variable Stock Plan.[51] And by the time it becomes LNPA, Telcordia will have its own board of directors, a majority of whom will be independent outside directors who will owe fiduciary duties of loyalty and care solely to Telcordia and its shareholders.[52] Telcordia also plans to implement an auditable Code of Conduct requiring it to treat all service providers equally, and prohibit its employees, contractors, and officers from holding any interest that would cause the LNPA to cease being neutral.[53]

Telcordia's proposed subcontractor relationship with Sungard Availability Services LP[54] ("Sungard") also poses no neutrality concerns. As a threshold matter, Sungard is neutral, as explained in detail in the opinion letter.[55] More importantly, however, the RFP makes clear that a proposed subcontractor need not meet the three-prong test outlined in the RFP: "It is possible for a Primary Vendor that is precluded from being the NPAC/SMS Administrator may be

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http://apps.fcc.gov/cgb/form499/499detail.cfm?FilerNum=828590 (last accessed July 24, 2014).

[49] Telcordia Bid, VQS, Attachment to Question 3.5 at 8-10 (Telcordia06081-06083).

[50] *Id.* at 8 (Telcordia06081).

[51] *Id.*

[52] *Id.* at 8-9 (Telcordia06081-82).

[53] *Id.* at 10 (Telcordia06083).

[54] SunGard Availability Services LP recently changed its name to Sungard Availability Services LP.

[55] Telcordia Bid, VQS, Attachment to Question 3.5 at 13-16 (Telcorida06086-06089).

allowable as another Primary Vendor's Sub-Contractor (hardware/software provider) if that Primary Vendor qualifies as a Neutral Third Party in responding to the RFP."[56] Thus, the relevant question is whether the relationship between Telcordia and Sungard would subject Telcordia to undue influence by an entity with a vested interest in number portability. The answer is a resounding no.[57] Sungard itself is not a Telecommunications Service Provider[58] and is not subject to undue influence by such a provider.[59] Moreover, Sungard employees who provide service to the NPAC will be bound by Telcordia's Code of Conduct,[60] which provides that Sungard will not have any discretionary decision-making authority and will provide services only at Telcordia's directive.[61]

Furthermore, Sungard recently underwent a change in corporate structure that further ensures its neutrality. The opinion letter stated that two board members of SunGard Data Systems, Inc., represent entities with greater than a ten percent ownership interest in a Telecommunications Service Provider.[62] The opinion letter stated that those board members would recuse themselves from participating in material discussion or decisions regarding Sungard.[63] However, this issue is now moot: in April of this year, Sungard's corporate parent, SunGard Data Systems Inc., spun off the Sungard Availability Services business. Therefore,

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[56] VQS § 3.4

[57] *See* Telcordia Bid, VQS, Attachment to Question 3.5 at 13-15, ¶¶12-15 (Telcordia06086-06088).

[58] *Id.* at 13, ¶11.

[59] *Id.* at 15 ¶15.

[60] November 13, 2014 Opinion Letter at 10 (Telcordia06426).

[61] Telcordia Bid, VQS, Attachment to Question 3.5, Ex. A (Telcordia06091).

[62] *Id.*, VQS, Attachment to Question 3.5 at 15 (Telcordia06088).

[63] *Id.* at 15 ¶13.

Telcordia's subcontractor—Sungard AS—now has its own independent board of directors, none of whom hold a great than ten percent interest in a Telecommunications Service Provider.[64]

As a result of the spin-off, Sungard is also under overlapping ownership with SunGard Network Solutions Inc. ("SNS"), which has a subsidiary that is registered in three states to provide certain telecommunications services, but is no longer part of the same holding company. But once again, this relationship would not subject Sungard, much less, Telcordia to any undue influence by an entity with an interest in numbering.[65] As explained in the opinion letter, SNS does not provide switched services anywhere and does not have any plans to offer voice telecommunications services or switched services that would utilize number portability.[66] Moreover, as the Commission made clear in the *Warburg, Pincus* order, overlapping interest—even of a controlling stake in a telecommunications carrier—does not make a telecommunications carrier an "affiliate" for the purposes of neutrality analysis.[67] Accordingly, neither SNS nor Sungard would have any undue influence that would affect Telcordia's neutrality.

As the opinion letters and recent corporate changes make clear, Telcordia will be an entirely neutral LNPA, free from any undue influence.

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[64] Press Release, SunGard Data Systems Inc., SunGard Completes Split-Off of its Availability Services Business (Apr. 1, 2014) *available at* http://www.Sungard.com/about-us/news/corporate04012014

[65] Telcordia Bid, VQS, Attachment to Question 3.5 at 15-16 (Telcordia06088-06089).

[66] *Id.* at 14, ¶13 (Telcordia06087).

[67] *Request of Lockheed Martin Corporation and Warburg, Pincus & Co. for Review of the Transfer of The Lockheed Martin Communications Industry Services Business [cite to Warburg Pincus*, Order, FCC 99-151, 14 FCC Rcd. 19,792, 19,809 ¶26 (1999) (concluding that Neustar was not an affiliate of a telecommunications services provider); *id.* (noting that "WPEP and its parent Warburg, because they indirectly own 54 percent of Neustar through their interest in the voting trust in addition to directly owning 9.9 percent of Neustar"); *id.* at 19,798 ¶8 (noting that Warburg owned a 20 percent interest in Covad).

IV. THE SELECTION PROCESS PROCEEDED IN THE FAIR AND TRANSPARENT MANNER ENVISIONED BY THE COMMISSION.

The NANC's selection of Telcordia was the culmination of a long selection process, which was approved by the Commission after extensive input from the industry. The process was designed to be fair and transparent and to allow for participation by all affected parties. Following the NANC's decision, the Wireline Competition Bureau ("the Bureau") directed the NANC to evaluate a number of allegations of unfairness in the process.[68] In response, ****BEGIN CONFIDENTIAL**** [redacted] ****END CONFIDENTIAL**** demonstrate that the selection process was carried out fairly and provide no basis for the Commission to second-guess the results of the process.

A. The NANC's Recommendation Was Reached Through an Open and Transparent Process.

The NANC's unanimous recommendation resulted from a fair process that was developed through a great deal of public involvement and which provided substantial opportunities for public participation. Starting in March 2010, when the NAPM informed the Commission that it intended to issue an RFP for a new LNPA agreement, the industry and general public have been invited to participate at critical steps in the process.[69] The Commission

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[68] Letter from Julie Veach, Chief, Wireline Competition Bureau, to Betty Ann Kane, Chairman, NANC, at 2 WC Docket No. 09-109, CC Docket No. 95-116 (filed Feb. 11, 2014).

[69] Letter from Todd Daubert, Counsel for NAPM LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-149 & 09-109 (filed Mar. 22, 2010). *See also, e.g.*, *NAPM LLC Announces Request For Information From Vendors On Upcoming Request For Proposals For LNP Database Platforms And Services*, Public Notice, DA 10-1800, 25 FCC Rcd. 13,379 (2010) ("The Commission encourages full competition in the RFP process and issues this Public Notice to ensure that interested parties are aware of the upcoming process."); Transcript, NANC Meeting, at 65-67 (Oct. 22, 2010) (urging the NAPM to publicize its Request for Information through channels in addition to the *Federal Register* to ensure it

requested notice and comment on each step—from the original timeline proposal to the FoNPAC and SWG's proposed bid documents and now to the selection of the LNPA itself. And while the evaluation of competing proposals necessarily could not occur in public, the Bureau's selection process was reasonable and included checks and balances. The NAPM's FoNPAC was comprised of a range of telecommunications providers, including incumbent and competitive local exchange carriers, mobile wireless carriers, cable VoIP providers. FoNPAC's work was directly overseen by the NANC's SWG—which was open to all NANC members, including representatives of small providers, state public utility commissioners and state consumer advocates—and the SWG had the express authority to revise or alter FoNPAC's recommendations.[70] The NANC itself then reviewed and considered the SWG's recommendation.[71] Only then did the NANC reach its unanimous recommendation, which itself now is the subject of public comment.

What is more, the public has had ample opportunities to participate in the LNPA selection process. In March 2011, the Bureau issued its first request for notice and comment on the proposed LNPA selection process.[72] Only after considering all interested parties' comments did the Bureau formally adopt a revised selection process.[73] Then, in August 2012, the Bureau

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receives "a lot of input from [...] the consumer groups, think tanks, people in the industry, stakeholders, et cetera.").

[70] *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; Telephone Number Portability*, Order, DA 11-883, 26 FCC Rcd. 6839, 6845 Attachment A (Wireline Com. Bur. 2011) ("*May 2011 Order*").

[71] *May 2011 Order*, 26 FCC Rcd. at 6845; NANC Apr. 24 *Ex Parte Letter*.

[72] *March 2011 Order*, 26 FCC Rcd. 3685.

[73] *May 2011 Order*, 26 FCC Rcd. 6839.

requested comments on the draft Request for Proposal ("RFP"), Technical Requirements Document ("TRD"), and Vendor Qualification Surveys ("VQS"). On February 5, 2013, after receiving and considering comments from interested parties, the Bureau announced the FoNPAC's release of the 2015 LNPA RFP (the "RFP"), the final procurement documents for the selection of the next LNP Administrator(s).[74]

Now, the Bureau has once again requested comment—this time on the NANC's final recommendation to name Telcordia the next LNPA. Under the Revised Protective Order, the Commission has permitted broad access to highly confidential portions of bid documents and confidential documents and reports prepared by the NANC, SWG and FoNPAC, with unrestricted public access to the majority of Neustar's and Telcordia's proposals.[75] Interested parties have been provided with substantial opportunity for comment.

Thus, every stage of this process has been open and transparent. At various times, additional comments have been submitted by carriers, public interest organizations, consumer advocates, and state regulators, as well as by Neustar and Telcordia.[76] Once the Commission has

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[74] *Wireline Competition Bureau Announces Release of Procurement Documents for the Local Number Portability (LNP) Administration Contract*, Public Notice, DA13-154, 28 FCC Rcd. 1003 (Wireline Comp. Bur. 2013).

[75] *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; Telephone Number Portability*, Revised Protective Order, WC Docket No. 09-109, CC Docket No. 95-116 (re. June 25, 2014)

[76] *See e.g.*, Comments of Comcast Corp., CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109 (filed Sept. 13, 2012); Comments of AT&T, CTIA, CenturyLink, Level 3, Sprint, T-Mobile, Verizon, USTelecom, and XO Communications, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109 (filed Sept. 13, 2012); Comments of Idaho Public Utilities Commission, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109 (filed Sept. 11, 2012); Comments of Massachusetts Department of Telecommunications and Cable, WC Docket No. 09-109 and CC Docket No. 95-116 (filed Mar. 23, 2011); Comments of the