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**REDACTED — FOR PUBLIC INSPECTION**

August 8, 2014

**VIA ECFS**

Ms. Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

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

Dear Ms. Dortch:

On behalf of CTIA – The Wireless Association® and the United States Telecom Association, and pursuant to paragraph 15 of the Revised Protective Order, DA 14-881, we are filing via ECFS this redacted version of their Reply Comments in the above-referenced proceeding.

A confidential version of these reply comments has been filed separately with the Commission pursuant to the Revised Protective Order. Please contact the undersigned if you have any questions about this matter.

Sincerely,

DAVIS WRIGHT TREMAINE LLP

/s/ James M. Smith

James M. Smith  
*Counsel to*  
CTIA – THE WIRELESS ASSOCIATION®

**PUBLIC — REDACTED VERSION**

**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	)	WC Docket No. 09-109
Institute a Competitive Bidding for Number	)	
Portability Administration, and To End the	)	
LLC's Interim Role in Number Portability	)	
Administration Contract Management	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116

**REPLY COMMENTS OF CTIA – THE WIRELESS ASSOCIATION® AND THE  
UNITED STATES TELECOM ASSOCIATION**

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**REPLY COMMENTS OF CTIA – THE WIRELESS ASSOCIATION® AND THE  
UNITED STATES TELECOM ASSOCIATION**

CTIA – The Wireless Association® (“CTIA”) and the United States Telecom Association (“USTelecom”) submit these Reply Comments in response to the Wireline Competition Bureau’s June 9, 2014 *Public Notice* seeking comments on the recommendation of the North American Numbering Council (“NANC”) regarding selection of the next Local Number Portability Administrator (“LNPA”).<sup>1</sup>

**I. INTRODUCTION AND SUMMARY**

Two aspects of the initial comments filed in response to the *Public Notice* are striking. First, the modest number of comments<sup>2</sup> is consistent with CTIA/USTelecom’s observation that the broad array of public and industry stakeholders already have been effectively represented in

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<sup>1</sup> *Public Notice*, DA 14-794 (rel. June 9, 2014).

<sup>2</sup> Other than the two competing vendors and CTIA/USTelecom, only four sets of initial comments were filed: by Intrado, Suddenlink, US TelePacific and Hypercube, and the LNP Alliance.

the bid evaluations and ultimate recommendations for the next LNPA.<sup>3</sup> Second, other than Neustar itself, not a single commenter has asked the Commission to award the next LNPA contract to the incumbent Administrator.

As we explain below, concerns about transition costs and attendant risks are misplaced; the record shows that the NANC and NAPM expert committees carefully addressed all such issues. Indeed, they determined that **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **\*\*END CONFIDENTIAL\*\***

Nor does speculation about the potential ramifications of the broader transition to IP services provide any reason for delaying a decision on this enormously important issue—a decision where *every day* of delay in implementing a new contract beyond July 1, 2015 would add more than \$1 million in charges to carriers and their customers. Finally, Neustar’s other arguments fall short. The NANC had ample basis for concluding that Telcordia satisfies neutrality and impartiality requirements. And there is no need for a new rulemaking proceeding or new RFP.

**II. THE EVALUATION PROCESS AND THE NANC’S RECOMMENDATION FULLY CONSIDERED LNPA TRANSITION COSTS AND RISKS**

A. The NANC, Its Selection Working Group, and the NAPM’s FoNPAC Applied Their Expert Judgment in Addressing All Reasonably Foreseeable Transition Issues

As the incumbent LNPA with a vested interest in preserving the status quo, Neustar argues that a change of Administrator would entail significant risks and transition costs—costs that the bid evaluation process allegedly failed to adequately consider. The record of this proceeding is to the contrary. The NANC’s recommendation to the Commission, as well as the

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<sup>3</sup> See CTIA/USTelecom Comments at 10-13.

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underlying evaluations of its Selection Working Group and the NAPM's FoNPAC,<sup>4</sup> fully considered and reached reasonable conclusions regarding LNPA transition issues.

Not only the NANC and NAPM, but also the Commission's Wireline Competition Bureau, in formulating the final RFP after subjecting it to public comment,<sup>5</sup> anticipated the potential costs and risks associated with an LNPA transition. Indeed, the very concept of a vendor selection process contemplates that a different vendor may be selected, which of course necessitates planning to ensure a smooth transition. That is exactly what happened here. For example, the RFP required prospective bidders to submit detailed plans about how they would manage a transition.<sup>6</sup> To "assure the continuity of NPAC/SMS functions in accordance with the appropriate requirements during a change in the LNPA," bidders were required to "provide an implementation approach (tasks and milestones), staff management approach (staff categories and hour per task), risk management approach, change control approach, and quality assurance approach to develop, implement, and transition to the new NPAC/SMS without disrupting current or continuing NPAC operations within the published

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<sup>4</sup> See *Public Notice*, citing 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) ("NANC recommendation"); LNPA Selection Working Group (SWG) Report to NANC on LNPA Vendor Selection Recommendation of the Future of NPAC Subcommittee, Feb. 26, 2014 ("SWG Report"); Local Number Portability Administration Request for Proposal Evaluation Summary and Selection Report ("FoNPAC Report").

<sup>5</sup> *Wireline Competition Bureau Seeks Comment on Procurement Documents for the Local Number Portability (LNP) Administration Contract*, Public Notice, DA 12-1333, 27 FCC Rcd 11771 (WCB 2012).

<sup>6</sup> RFP, § 12.3.

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timeline.”<sup>7</sup> The RFP further required “[t]he incumbent LNPA and the new LNPA [to] work cooperatively to facilitate a smooth transition and implementation of the NPAC/SMS.”<sup>8</sup> And it specified that:

Transition time intervals for individual functions and services performed by the LNPA shall be included in this transaction and implementation plan to allow for an effective migration of responsibilities to the LNPA. The following assumptions should be used in the development of this plan:

- The new LNPA will assume all LNPA responsibilities over the course of the transition period
- The new LNPA will provide the resources needed to carry out its obligations during the transition and implementation
- The new LNPA will be thoroughly conversant with all industry administration and assignment guidelines including all the NPAC ecosystem requirements
- The new LNPA will absorb its own expenses related to its portion of the transition and implementation of the new NPAC ecosystem.<sup>9</sup>

The RFP even warned prospective bidders that “[p]enalties will be assessed to the selected vendor for failure to implement within the published timeline.”<sup>10</sup> And it specifically asked each bidder:

**Does the Respondent agree to the requirements with respect to the transition and implementation plan as stated above?**

**Please attach the Respondent’s proposed transition and implementation plan.**<sup>11</sup>

Both Neustar and Telcordia presumably answered that question in the affirmative. As a result, Neustar cannot now contend that the bidding process gave short shrift to planning for a potential transition.

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* (bold in original).

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That is particularly so because the record makes clear that transition costs and risks were fully considered *first* by the FoNPAC, in evaluating the bids **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED] **\*\*END CONFIDENTIAL\*\***; *next* by the Selection Working Group, in reviewing that recommendation and **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED] **\*\*END CONFIDENTIAL\*\***; and *finally* by the NANC itself, in adopting and submitting its recommendation to the FCC. Indeed, the FoNPAC's Evaluation Summary and Selection Report contained **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]<sup>12</sup> **\*\*END CONFIDENTIAL\*\***

The FoNPAC Report also contained a section devoted to **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED]

[REDACTED]

[REDACTED]<sup>13</sup> **\*\*END CONFIDENTIAL\*\*** Contrary to Neustar's

<sup>12</sup> FoNPAC Report at pp. 11-12.

<sup>13</sup> *Id.* at p. 12. The FoNPAC specifically considered the following: **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED]



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In sum, the FoNPAC and the Selection Working Group both independently concluded—based on a painstaking review of the record—that **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 18 [REDACTED]

[REDACTED]

**\*\*END CONFIDENTIAL\*\***

B. Delay in the Commission’s LNPA Selection Would Impose Massive Costs That Dwarf Any Costs Associated With a Transition to a New LNPA

Neustar’s concerns about transition costs make little sense. In the guise of saving money—costs that inevitably accompany any selection of a new vendor and, as the FoNPAC and Selection Working Group found, can be reduced through careful planning—Neustar would impose on the industry (and ultimately the public) **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED]

**\*\*END CONFIDENTIAL\*\*** of dollars of additional costs.

As CTIA/USTelecom’s initial comments observed, the current LNPA contract includes a price escalation clause (of 6.5% above a base amount of more than \$440 million); thus, any extension of the current contract beyond its scheduled June 2015 expiration will automatically trigger that clause, at a cost of over \$40 million *per month* **\*\*BEGIN CONFIDENTIAL\*\*** (\$ [REDACTED] **\*\*END CONFIDENTIAL\*\*** in 2015).<sup>19</sup> By contrast, with Telcordia as LNPA,

<sup>18</sup> See SWG Report at p. 3; FoNPAC Report at p. 3.

<sup>19</sup> CTIA/USTelecom Comments at 19-20; FoNPAC Report at p. 11. Neustar’s 2013 annual report confirms that under fee increases and escalation provisions in the current LNPA contract, the cost of the LNPA contract has risen dramatically in each of the past several years, from

the equivalent monthly cost would be **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED]

[REDACTED] **\*\*END CONFIDENTIAL\*\*** As the FoNPAC Report noted, the bid proposal of its recommended vendor **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]<sup>20</sup> **\*\*END CONFIDENTIAL\*\***

In the short run, under the plain terms of the existing LNPA contract, a delay in implementing a new LNPA contract would cost the public an additional **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED] **\*\*END CONFIDENTIAL\*\*** each *month*; and a delay of two years, as proposed by the LNP Alliance, would cost the public **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED] **\*\*END CONFIDENTIAL\*\*** more than under the NANC’s recommendation. Simply put, it is impossible to weigh the “transition” costs and risks of this LNPA procurement without acknowledging the enormous costs of any delay, **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED] **\*\*END CONFIDENTIAL\*\*** resulting from a prompt decision by the Commission adopting the NANC’s recommendation.

C. The Commission Can Address Any Legitimate Transition Issues in its LNPA Selection Decision

The concerns about LNPA transition issues expressed by Neustar (and, to varying degrees, by the few commenters that echo some of its concerns) also miss the mark for an

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\$374.4 million in 2011 to \$446.4 million in 2013, and they will increase again by a similar amount in 2014 and the first half of 2015 before the existing LNPA contract expires. CTIA/USTelecom Comments at 19. See Neustar SEC Form 10-K for fiscal year 2013, at pp. 34, 38, 58.

<sup>20</sup> FoNPAC Report at p. 3 (emphasis added).

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additional reason: the Commission in its LNPA vendor selection decision, and the NAPM in its negotiation of a final LNPA contract with the successful bidder, are fully capable of addressing these issues.

As it made clear at the outset of this proceeding, the Commission’s vital role continues even after an LNPA is selected: “[O]nce the LNPA contract is in place, the Commission or the Bureau will retain ultimate oversight and control over the contract.”<sup>21</sup> Indeed, the RFP expressly provided that the NAPM “will submit the completed Master Agreements [governing the LNPA selection] to the FCC for [its] review and approval.”<sup>22</sup> The FoNPAC likewise recognized that its vendor recommendation was **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED]

[REDACTED]<sup>23</sup> **\*\*END CONFIDENTIAL\*\***

In its continuing oversight of the process, the Commission thus retains the authority to include contractual provisions designed to ensure a smooth and cost-effective transition.<sup>24</sup> And it is uniquely positioned to ensure that any transitional costs are more than absorbed by the **\*\*BEGIN CONFIDENTIAL\*\*** [REDACTED] **\*\*END CONFIDENTIAL\*\*** of dollars of savings over the term of the contract.

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<sup>21</sup> May 2011 Order ¶ 19.

<sup>22</sup> RFP, § 16.1.

<sup>23</sup> FoNPAC Report at p. 12; *see also Public Notice* at 2 (“the full Commission ultimately [will] identify[ ] the vendor that will serve as the LNPA in a cost-effective, neutral and secure fashion.”).

<sup>24</sup> For example, Suddenlink’s comments urge the Commission to “affirm that transition related costs are the responsibility of the new LNP Administrator, and may not be passed on to the industry or consumers.” Suddenlink Comments at 7.

**III. ISSUES RELATED TO THE IP TRANSITION SHOULD NOT FURTHER DELAY THE COMMISSION’S DECISION**

Neustar (supported by the LNP Alliance) also makes the perfunctory argument that the NANC recommendation does not adequately account for potential changes in the industry that may be caused by the IP transition.<sup>25</sup> No party or commenter, however, has shown that the LNPA proceeding must be effectively suspended while the complex issues surrounding the IP transition play out. Nor has any party or commenter shown any sound basis for concluding that the IP transition will have significant consequences for the essential operations of the NPAC/SMS database. Indeed, the LNP Alliance has acknowledged that “[f]inal reports, recommendations and standards in many areas” of that transition have not yet been published.<sup>26</sup> Under these circumstances, there is no reason to place the LNPA selection process in indefinite limbo based on speculation about the *potential* effects of the IP transition.

That is particularly true because, as part of its continuing oversight over the selection process, the Commission retains the authority to carefully define the role of the next LNPA in accordance with final rules and decisions implemented in its Technology Transitions docket. And whoever is selected as the next LNPA will be expected to conform to the industry’s ultimate resolution of the NPAC’s role in IP routing. As the RFP made clear, “[t]he next-generation NPAC/SMS architecture *must be flexible* in order to support the transition of the Public Switched Telephone Network (PSTN) to an all-Internet Protocol (IP) network.”<sup>27</sup> Whatever changes the IP transition brings will dictate the scope and duties of the NPAC/SMS database precisely

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<sup>25</sup> Neustar devotes only 2 pages of its 115-page comments to this issue. *See* Neustar Comments at 88-90.

<sup>26</sup> LNP Alliance Comments at 19. The RFP itself noted the highly contingent nature of the IP transition, asking whether prospective bidders “have the flexibility to incorporate this consideration” into their proposed platforms “*should it become required.*” RFP, § 7.2.5 (emphasis added).

<sup>27</sup> RFP, § 7.2.5 (emphasis added).

because the RFP requires that the LNPA “work expeditiously with the industry to implement any required changes.”<sup>28</sup>

**IV. THE NANC RECOMMENDATION AND THE UNDERLYING EVALUATION PROCESS REACHED REASONABLE CONCLUSIONS REGARDING ISSUES OF LNPA NEUTRALITY AND IMPARTIALITY**

To be sure, adherence to the Commission’s neutrality requirements is important, as Neustar observes. But there was ample evidence that Telcordia met those requirements here.

As reflected in the RFP, the Commission requires that (1) the LNPA not be an affiliate of any telecommunications service provider or any interconnected VoIP provider; (2) neither the LNPA nor its affiliates may “issue a majority of its debt to, nor may it derive a majority of its revenues from, any telecommunications service provider”; and (3) the LNPA may not be subject to “undue influence by parties with a vested interest in the outcome of numbering administration and activities.”<sup>29</sup>

Telcordia has demonstrated that it meets the first two prongs of the test. It also took numerous steps to ensure that it meets the third (“no undue influence”) prong, on which Neustar principally focuses. Specifically, Telcordia has implemented: (1) structural safeguards, including an outside, independent advisory board and code of conduct; (2) separate financial and accounting systems; (3) compensation and benefits programs for its employees that are separate from those administered to employees of its parent company; and (4) a plan for its own board of directors, the majority of which will be independent outside directors with duties of care and loyalty to Telcordia, and its shareholders.<sup>30</sup>

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<sup>28</sup> *Id.*

<sup>29</sup> *See* 47 C.F.R. § 52.12(A)(1)(i)-(iii).

<sup>30</sup> Comments of Telcordia Technologies, Inc., d/b/a iconectiv at 14-15.

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Based on these actions, and the opinion letters provided in response to the original RFP, the NANC reasonably concluded that Telcordia has satisfied the neutrality requirements. The Commission should not delay this proceeding to revisit that conclusion.

**V. CLAIMS REGARDING THE NEED FOR FURTHER RULEMAKING AND ALLEGED UNFAIRNESS IN THE BID PROCESS ARE UNAVAILING**

Neustar renews its claims that the Commission must commence a new rulemaking (a claim Neustar never made in the first three years of this proceeding), and issue a new RFP due to alleged unfairness in the bidding process. Neither claim has merit.

First, as CTIA/USTelecom’s initial comments explained, the Administrative Procedure Act does not require notice-and-comment rulemaking in an adjudicatory proceeding such as this one.<sup>31</sup> And further delay is particularly unwarranted where, as here, the Commission has sought public comment and input at virtually every stage of this process (including in its recent *Public Notice*), and the sole party that stands to gain from delay is Neustar itself.<sup>32</sup>

Neustar’s assertion that it is the victim of an unfair bid process because (1) the initial RFP response deadline was extended in April 2013 and (2) Neustar was not allowed to submit a second “Best and Final Offer” fares no better. The record shows that the Commission agreed to a short extension of the bid response period after Telcordia reported experiencing technical difficulties when attempting to upload its response using the online platform for submitting responses; as a result, Telcordia was unable to submit all the parts of its bid response by the April 5, 2013 deadline. Neustar shows no prejudice from the short extension—not could it, as

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<sup>31</sup> See CTIA/USTelecom Comments at 8-9.

<sup>32</sup> *Id.*

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the same extension was granted to *all* prospective bidders, including Neustar itself.<sup>33</sup> Neustar’s argument that it was entitled to assume that it would be afforded the opportunity to submit a *second* Best and Final Offer—presumably, its “real” best and final offer—refutes itself. It is also at odds with the plain terms of RFP, the BAFO solicitation, and very concept of a Best and Final Offer.<sup>34</sup>

**VI. CONCLUSION**

The Commission should promptly conclude the LNPA selection process and move forward with the implementation of the next LNPA contract to ensure that effective and efficient number porting remains available to the industry and consumers.

Respectfully submitted,

CTIA – THE WIRELESS ASSOCIATION ® and  
UNITED STATES TELECOM ASSOCIATION

*/s/ Michael F. Altschul*

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<sup>33</sup> See NAPM LLC “RFP Update,” available at <https://www.napmlc.org/pages/home.aspx>; FoNPAC Report at p. 6; Report of the North American Portability Management LLC, March 20, 2014 at pp. 4-5.

<sup>34</sup> See RFP, §§ 13.6, 14.1, 16.1.