

August 19, 2014

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Ex Parte

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
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 August 15, 2014, John Nakahata and Mark Davis of Harris, Wiltshire Grannis LLP and Rick Joyce of Venable LLP, via telephone conference, and I, in person, on behalf of Telcordia Technologies, Inc. d/b/a inconectiv (“Telcordia”) met with the following persons at the Federal Communications Commission regarding the portion of the Neustar, Inc. (“Neustar”) Comments filed on July 14, 2014 that had been redacted by Neustar based on what Neustar claimed were security reasons:

1. Michele Ellison, Deputy General Counsel
2. Diane Griffin Holland, Deputy Associate General Counsel
3. James R. Bird, Senior Counsel, Office of General Counsel
4. Neil A. Dellar, Attorney, Office of General Counsel
5. Joel Rabinovitz, Attorney, Office of General Counsel
6. Laurence “Nick” Bourne, Attorney, Office of General Counsel
7. Lisa Gelb, Deputy Bureau Chief, Wireline Competition Bureau (“WCB”)
8. Randy Clarke, Acting Chief, Competition Policy Division, WCB (via telephone)
9. Ann H. Stevens, Deputy Chief, Competition Policy Division, WCB
10. Allan K. Manuel, Deputy Chief, Operations & Emergency Management Division, Public Safety & Homeland Security Bureau (“PSHSB”)

The attorneys for Telcordia emphasized that the documents and comments regarding the Number Portability Administration Center (“NPAC”), its security, and critical information about its operations are properly under the protective orders and should not be made public to avoid increasing threats and exposing any vulnerabilities. However, we stated that the redactions for security purposes to the comments by Neustar, pages 102–16, were overbroad and not carefully tailored to actual security-related matters, and therefore were improperly and unfairly being kept from review by all of Telcordia’s counsel and consultants who do not have a security clearance.

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Having been informed the first week in August that the FCC would require a Top Secret clearance in order to review the security redacted Neustar materials, on August 8, 2014, Allan Manuel of PHSB provided me with the procedures to view the Neustar documents in a two-hour session in the FCC Operations Center Sensitive Compartmented Information Facility (“SCIF”). The Neustar Comments were not among the documents made available at that time, but these were produced at my request by Tuesday, August 12, 2014 in the second two-hour session in the SCIF, and I was able to review the unredacted portions of the Neustar Comments, pages 102-116, with one of Telcordia’s national security consultants, John MacGaffin. Based on our review, we determined that the security comments did not rise to the level of classification that the FCC has tentatively placed on the security redacted comments.¹ We requested that the unredacted comments, as well as the ex parte filed by Neustar on August 5, 2014,² be made available to Telcordia’s broader legal team and consultants under the restrictions of the protective orders, as revised and extended.³

Since the FCC had not requested the redactions by Neustar, Allan Manuel went back to Neustar to see if it concurred with the lifting of the redactions and the requirement of the security clearances. At the time of this meeting, that had not yet been resolved,⁴ but the Commission also had not agreed to lift the requirement of the security clearances in order to see the Neustar Comments, pages 102–16 and the Neustar ex parte dated August 5, 2014 (collectively, the “Security Redactions”).

Counsel for Telcordia, reserving the larger question of whether any of the documents should require a security clearance for review, stated that the Security Redactions did not contain information that rose to the level of classified material and that it is more than adequately protected by the FCC’s protective order. Neustar has used the FCC’s concern for security to cover unclassified arguments from review and response by Telcordia. Moreover, the unnecessary classification and requirement of security clearance for the Telcordia team, a requirement that was not placed on Neustar in the preparation of those materials, unfairly prejudices Telcordia and its ability to provide the Commission with its reply comments and perspective.

¹ We note that the Neustar materials held by the FCC are being treated tentatively as having a certain level of classification without actually having been entered into the classified information system. Telcordia’s team was required to have a security clearance to see the materials. Neustar’s team did not have to have a security clearance to prepare the Comments nor is the exact same information in Neustar’s legal team’s files, or at the company, required to bear the classification markings, be treated as classified information, or to be handled only by persons with a security clearance. Those materials are protected only by the protective orders.

² Letter from Michele Farquhar, Counsel to Neustar, Inc., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109 (filed Aug. 5, 2014).

³ Revised Protective Order, WC Docket No. 09-109, CC Docket No. 95-116 (June 25, 2014).

⁴ Following this meeting at the FCC, we received a call from Michele Ellison indicating that Neustar would file a revised set of comments with most of the redactions removed from pages 102–16.

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Additionally, the procedures for reviewing the Neustar Security Redactions and responding to them adversely affect Telcordia's ability to respond. While PSHSB has been as accommodating as it could, access to the Security Redactions and other Neustar materials has been limited to less than ten hours spread over the course of six working days, to date, and during working hours when an FCC escort with a security clearance was available and when the Neustar team was not using the SCIF.

Finally, during discussions with the Commission about what information in the Security Redactions did not rise to the level of classified information, it was revealed that the FCC held a report or white paper on the security of the LNPA from Chain Security. Since the Chain Security LNPA document is not in the record but has been reviewed by some or all of the FCC persons handling the LNPA proceeding, and since Chain Security is a consultant to Neustar, we requested that this document be placed in the record of this proceeding, the origin of the document be ascertained and provided to Telcordia, and a copy be provided to counsel for Telcordia under the protective order, or if classified, to Telcordia's team members who hold appropriate security clearances.

Pursuant to Section 1.1206(b) of the Commission's rules, I am filing this notice electronically in the above-referenced dockets. Please contact me if you have any questions.

Sincerely yours,

/s/ James Arden Barnett, Jr.

James Arden Barnett, Jr.
Rear Admiral, USN (Retired)

cc: Michele Ellison
Diane Griffin Holland
James R. Bird
Neil A. Dellar
Joel Rabinovitz
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