

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matters of	)	
	)	
Telcordia Technologies, Inc. Petition to Reform	)	WC Docket No. 07-149
Amendment 57 and to Order a Competitive	)	
Bidding Process for Number Portability	)	
Administration	)	
	)	
Petition of Telcordia Technologies, Inc. to Reform	)	WC Docket No. 09-109
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 Management	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	

**ORDER**

**Adopted: July 13, 2016**

**Released: July 25, 2016**

By the Commission: Commissioner Pai concurring and issuing a statement; Commissioner O'Rielly approving in part, concurring in part, dissenting in part and issuing a statement.

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## I. INTRODUCTION

1. Today, the Federal Communications Commission (Commission) issues this final decision approving the recommendation of the North American Numbering Council (NANC) that Telcordia Technologies, Inc. d/b/a iconectiv (Telcordia or iconectiv) serve as the next Local Number Portability Administrator (LNPA).<sup>1</sup> As the LNPA, Telcordia will oversee the critical system that allows consumers to keep their phone numbers when they switch service providers and that thereby promotes consumer choice and competition among communications service providers. Based on our review of the record, we find that the conditions set forth in the Commission's March 27, 2015 *LNPA Selection Order*,<sup>2</sup> to ensure that the needs of industry, consumers and government are met in the transition to a new LNPA, have been satisfied.

2. Specifically, we find that:

- The North American Portability Management, LLC (NAPM)<sup>3</sup> has successfully negotiated a proposed contract with Telcordia, the terms of which are consistent with the *LNPA Selection Order* and the Commission's requirements regarding neutrality and security matters;<sup>4</sup>
- The LNPA contract contains terms and conditions to ensure that effective public safety services and law enforcement and national security operations are supported;
- The terms and conditions of the LNPA contract ensure that the Government's interests are protected by a rigorous audit program that monitors for and ensures compliance, backstopped by robust enforcement tools, throughout the term of the contract;
- Telcordia has submitted a Code of Conduct and Voting Trust Agreement (Voting Trust) that demonstrate to us that, together with our rules and orders, Telcordia will be an impartial LNPA;
- Telcordia has effectively engaged in post selection risk reduction activities to address the evolving cybersecurity threat environment; and
- The NAPM has fulfilled the planning conditions related to transition oversight, outreach, education, and testing, as well as our directive that it cooperate with any other relevant government agencies in completing its negotiations.

Accordingly, as discussed in this Order, we have reviewed and now approve the contract negotiated between the NAPM and Telcordia along with the Code of Conduct (as revised by this Order) and Voting Trust submitted by Telcordia. Due to continuing concerns in this proceeding regarding the on-going need

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<sup>1</sup> Number portability is "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." 47 U.S.C. § 153(30).

<sup>2</sup> *In the Matter of Implementation of Telcordia Technologies, Inc. Petition to Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration; 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 Management; Telephone Number Portability*, WC Docket Nos. 09-109, 07-149, CC Docket 95-116, Order, 30 FCC Rcd 3082 (*LNPA Selection Order*).

<sup>3</sup> The NAPM, a consortium of industry participants, negotiated and oversees the contract with the current LNPA.

<sup>4</sup> See Letter from Todd D. Daubert, Counsel to the NAPM LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket 95-116, Attachs. (filed Mar. 31, 2016). The attachments, generally titled "Master Services Agreement for Number Portability Administration Center/Service Management System between Telcordia Technologies, Inc., and North American Portability Management LLC," consist of seven substantially similar contracts, each dealing with a separate region of the country (hereinafter referred to as the MSA or LNPA contract).

to protect confidential commercial and sensitive national security information, the Wireline Competition Bureau released a *Second Protective Order* that adopted procedures for reviewing the draft contract.<sup>5</sup> As explained in the *Second Protective Order* when issued, the intent behind these safeguards was to provide appropriate access to the public while protecting competitively sensitive and law enforcement-national security sensitive information from improper disclosure.<sup>6</sup> Once this contract with the NAPM is executed and a transition from Neustar, Inc. (Neustar), the current LNPA, is complete, Telcordia will serve as the next LNPA for an initial term of five years.<sup>7</sup> The Commission will continue its rigorous oversight of all aspects of the transition, however, to ensure that an effective, seamless, and timely transition from Neustar to Telcordia does not disrupt service to public safety, industry, the law enforcement community, or individual consumers.

## II. BACKGROUND

### A. Process of Selecting the New LNPA

3. The Commission is responsible for the administration of telephone numbers, pursuant to section 251(e)(1) of the Communications Act of 1934, as amended (Act).<sup>8</sup> Congress directed the Commission to “create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis.”<sup>9</sup> In 1996, the Commission established rules to enable a customer to keep the same telephone number even when the customer switches service providers to allow for enhanced competition among telephone providers.<sup>10</sup> In addition, the Commission designated a third party, the LNPA, to administer the database used to ensure that number porting occurs in accordance with Commission rules. The Commission indicated that the new LNPA would be responsible for administering number porting and also maintaining additional systems and services based on the information it has about the assignment of numbers.<sup>11</sup>

4. In 1996, the Commission asked the NANC, its Federal Advisory Committee for North American Numbering Plan (NANP) administration, to implement a process for selecting and

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<sup>5</sup> *Telcordia Technologies, Inc. Petition to Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration, et al.*, WC Docket Nos. 09-109, 07-149, CC Docket 95-116, *Second Protective Order*, 31 FCC Rcd 2297 (WCB 2016) (*Second Protective Order*).

<sup>6</sup> *Id.* at 2298, para. 2.

<sup>7</sup> Some parties to this proceeding complain that the *Second Protective Order* is too restrictive, denying them access to the MSA. For example, Neustar filed an Application for Review of the *Second Protective Order* claiming, *inter alia*, that it must have timely and effective access to the proposed MSA and that the *Second Protective Order* unreasonably blocks public participation in the evaluation of the proposed MSA. Application of Neustar, Inc. for Review of Second Protective Order, WC Docket Nos. 09-109, 07-149, CC Docket 95-116 (filed Apr. 11, 2016), <http://apps.fcc.gov/ecfs/comment/view?id=60001536087>. The Commission addresses these and other issues concerning access to the MSA in a separate Order released today in response to Neustar’s Application for Review. See *Telcordia Technologies, Inc. Petition to Reform Amendment 57 and Order a Competitive Bidding Process for Number Portability Administration, et al.*, WC Docket Nos. 07-149 and 09-109, CC Docket No. 95-155, Order, FCC 16-83 (rel. Jul. 25, 2016). Therefore, we need not address those issues in this Order.

<sup>8</sup> 47 U.S.C. § 251(e)(1).

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

<sup>10</sup> See generally *Telephone Number Portability*, CC Docket No. 95-116, RM-8535, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996) (*First LNP Order*) (subsequent history omitted); see also *id.* at 8401-05, paras. 93-102.

<sup>11</sup> See generally *Wireline Competition Bureau Seeks Comment on Procurement Documents for the Local Number Portability (LNP) Administration Contract*, Public Notice, 27 FCC Rcd 11771 (2012) (*Bid Documents Comments PN*).

recommending to the Commission one or more neutral third parties to serve as the LNPA.<sup>12</sup> The NANC recommended a process for selecting the LNPA(s)<sup>13</sup> and later recommended that Lockheed Martin (now Neustar) and Perot Systems be the LNPAs.<sup>14</sup>

5. The current LNPA selection process began in September 2010, when the Wireline Competition Bureau (WCB) announced that the NAPM was developing a Request for Proposals (RFP). After seeking comment on a selection process proposed by the NANC and the NAPM,<sup>15</sup> WCB issued an Order in May 2011 detailing that process.<sup>16</sup> In 2012, bid documents were prepared by the NAPM, with NANC oversight, and WCB sought comments on those documents.<sup>17</sup> In February 2013, WCB announced the release of the documents to solicit bids for a new contract for the LNPA.<sup>18</sup> Neustar and Telcordia both bid, submitting their “Best and Final Offers” on September 18, 2013.<sup>19</sup>

6. On March 26, 2014, the full NANC membership unanimously (with two abstentions) recommended the selection of Telcordia as the sole LNPA for a period of five years, with the option for

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<sup>12</sup> *First LNP Order*, 11 FCC Rcd at 8399-8400, paras. 91-92. *See also* 47 C.F.R. § 52.25(c). The Commission directed the NANC to recommend LNPA(s) within seven months. The Commission also directed the NANC to recommend the administrator selection process, the duties of the LNPA(s), the location of regional databases, the overall national architecture, and technical specifications for the regional databases. *First LNP Order*, 11 FCC Rcd at 8401, para. 93.

<sup>13</sup> *See* Report from the NANC’s Local Number Portability Administrator Selection Working Group, dated Apr. 25, 1997, at 4.1-4.6, transmitted by letter from Alan C. Hasselwander, Chairman, NANC, to Reed Hundt, FCC, in CC Docket No. 95-116 on May, 1997.

<sup>14</sup> *Id.* at 6.2.4. Due to significant performance issues, Lockheed Martin took over for Perot Systems in 1998. For a more detailed discussion of the first LNPA selection, *see LNPA Selection Order* at paras. 5-7.

<sup>15</sup> *See* NANC/NAPM LLC Consensus Proposal for Clarification of the FCC’s Rules Regarding the LNPA Selection Process, WC Docket No. 09-109, dated Feb. 14, 2011 (*NANC/NAPM Proposal*). *See also Telephone Number Portability*, WC Docket No. 09-109, Order and Request for Comment, 26 FCC Rcd 3685, 3686-88, 3691-97 (Wireline Comp. Bur. 2011) (*March 2011 Order*).

<sup>16</sup> *See generally* *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*, WC Docket No. 09-109, CC Docket No. 95-116, Order, 26 FCC Rcd 6839 (Wireline Comp. Bur. 2011) (*May 2011 Order*); *see also id.* at 6841-43, paras. 7-16, 3845-47 (Attach. A). Many parties, including Neustar, affirmatively stated their support for the process the Order established. For a more detailed discussion of the early stages of the current LNPA selection, *see LNPA Selection Order* at paras. 8-9.

<sup>17</sup> *See Bid Documents Comments PN*. For a more detailed discussion of the solicitation and recommendation process, *see LNPA Selection Order* at paras. 10-13.

<sup>18</sup> *See Wireline Competition Bureau Announces Release of Procurement Documents for the Local Number Portability (LNP) Administration Contract*, WC Docket Nos. 09-109, 07-149, CC Docket 95-116, Public Notice, 28 FCC Rcd 1003 (Wireline Comp. Bur. 2013) (certain modifications that were requested in comments were incorporated, such as flexibility to submit regional or national bids, or both, and neutrality requirements).

<sup>19</sup> Report of the North American Portability Management LLC in Response to the Wireline Competition Bureau Letter dated Feb. 11, 2014, with Attachs. 1-4, at 43-44 (filed Apr. 25, 2014). Neustar now argues that the Commission must reevaluate the proposals before proceeding with the transition because the costs it based its selection on have risen due to a longer than expected transition period. *See* Letter from Thomas J. Navin and Aaron M. Panner, Counsel for Neustar, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket 95-116 (filed Jul. 6, 2016) (Neustar Jul. 6, 2016 *Ex Parte* Letter). We note that the LNPA contract is a fixed term, fixed fee contract, and Telcordia does not begin to get paid until completion of the transition. *See LNPA Contract*, §§ 2, 31. Consequently, while it is true that Neustar’s significantly higher fee schedule will be in place until the completion of the transition, the cost savings under the new LNPA contract do not vary due to a delay in transition completion.

two one-year extensions.<sup>20</sup> On June 9, 2014, WCB released a Public Notice requesting comment on the NANC's recommendation of Telcordia as the next LNPA.<sup>21</sup>

### B. LNPA Selection Order

7. On March 27, 2015, the Commission released its Order approving the NANC recommendation that Telcordia serve as the next LNPA, subject to certain conditions,<sup>22</sup> and authorizing the NAPM to negotiate the contract with Telcordia.<sup>23</sup> Those conditions include the satisfactory negotiation of contract terms consistent with the Commission's requirements regarding security and neutrality issues, an approved Code of Conduct, and the transfer by Telcordia's parent, Telefonaktiebolaget LM Ericsson (Ericsson), of its voting stock in Telcordia to a voting trust.<sup>24</sup> In addition, the *LNPA Selection Order* tasks multiple parties with roles that will establish a process and schedule to ensure the seamless and timely transition of the LNPA. Specifically, the Commission directed the NAPM to (1) negotiate a new contract with Telcordia for a database that is secure and reliable; (2) conduct outreach, education, and testing initiatives with stakeholders; (3) cooperate with other relevant federal agencies; (4) develop a Transition Oversight Plan (TOP); and (5) ensure that the transition to a new LNPA is overseen by experienced third parties.<sup>25</sup> No party to this proceeding sought reconsideration of the *LNPA Selection Order* from the Commission.<sup>26</sup>

## III. DISCUSSION

### A. Security and Reliability Issues

8. In the *LNPA Selection Order*, the Commission found Telcordia to be qualified, technically acceptable, and with the requisite operational experience to serve as the LNPA with respect to

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<sup>20</sup> The NANC Chair formally filed the NANC's recommendation with the Commission on April 25, 2014. See Letter from Hon. Betty A. Kane, Chairman, North American Numbering Council, to Julie A. Veach, Chief, Wireline Competition Bureau, FCC, WC Docket No. 09-109, CC Docket No. 95-116 (dated Apr. 24, 2014 and filed Apr. 25, 2014) (*NANC Recommendation*).

<sup>21</sup> *Commission Seeks Comment on the North American Numbering Council Recommendation of a Vendor to Serve as Local Number Portability Administrator*, WC Docket No. 09-109, CC Docket No. 95-116, Public Notice, 29 FCC Rcd 6013 (Wireline Comp. Bur. 2014). See also *NANC Recommendation* at 1 (Confidential Version); *id.* at 2; Letter from Sanford S. Williams, WCB, FCC, to Marlene Dortch, Secretary, FCC, CC Docket 95-116, WC Docket Nos. 07-149, 09-109 at 177 (filed Mar. 3, 2015) (attaching transcript of March 26, 2014 NANC Closed Meeting). Comment deadlines were extended twice. See *Commission Extends Comment Deadlines for Public Notice Seeking Comment on the North American Numbering Council Recommendation of a Vendor to Serve as Local Number Portability Administrator*, WC Docket No. 09-109, CC Docket No. 95-116, Public Notice, 29 FCC Rcd 7967 (Wireline Comp. Bur. 2014) (extending the comment date until July 25, 2014 and the reply comment date until August 8, 2014); *Commission Further Extends Reply Comment Deadline for Public Notice Seeking Comment on the North American Numbering Council Recommendation of a Vendor to Serve as Local Number Portability Administrator*, WC Docket No. 09-109, CC Docket No. 95-116, Public Notice, 29 FCC Rcd 9597 (Wireline Comp. Bur. 2014) (extending the reply comment date until August 22, 2014).

<sup>22</sup> *LNPA Selection Order* at para. 1.

<sup>23</sup> *Id.* at para. 3.

<sup>24</sup> *Id.* at paras. 82-118, 160-88.

<sup>25</sup> *Id.* at paras. 158-59, 193-95. The NAPM selected PricewaterhouseCoopers (PwC) as the Transition Oversight Manager (TOM). As such, PwC is considered to be a subgroup of the NAPM LLC.

<sup>26</sup> Neustar now questions the integrity of the LNPA bidding and selection process and accuses the Commission of various procedural improprieties. See Neustar Jul. 6, 2016 *Ex Parte* Letter at 6-9. Because its allegations about the Commission's LNPA selection process were not filed with the Commission as a reconsideration of the *LNPA Selection Order*, these allegations are untimely requests for reconsideration and cannot be argued now.

security and reliability.<sup>27</sup> Given the functions that the LNPA performs for the Nation and to ensure that law enforcement and national security issues are addressed and adequately mitigated, we developed terms and conditions for the LNPA contract in consultation with our federal partners with responsibility for law enforcement and national security.<sup>28</sup> Accordingly, we made clear that “all security requirements, policies and procedures will have to be met and, as required, mitigated to our satisfaction before we will approve the LNPA contract.”<sup>29</sup> Further, we directed WCB, in consultation with the Public Safety and Homeland Security Bureau (PSHSB), to work with the NAPM to ensure that the LNPA contract supports effective public safety services, law enforcement and national security operations, and that national security issues are addressed and mitigated to our satisfaction.<sup>30</sup> Finally, we required that the terms and conditions of the LNPA contract ensure that the “Government’s equities are protected by a rigorous audit program that monitors for and ensures compliance, backstopped by robust enforcement tools throughout the term of the contract.”<sup>31</sup>

9. Mindful of the Commission’s continuing oversight responsibilities, the parties incorporated our key expectations of actions and processes into the security provisions of the LNPA contract and Telcordia developed security-related plans tracking these actions and processes in documents that are appended to the LNPA contract. As Telcordia progresses from code development, to testing, to initial operations, and then sustainment, its security actions and processes will evolve—with a baseline set by the LNPA contract. Throughout the course of the contract, the Commission will continue its oversight role and consult when appropriate with our federal partners to ensure that public safety, law enforcement, and national security issues are addressed to our satisfaction.

10. Telcordia is committed to following a “best-in-class” approach in that the new Number Portability Administration Center/Service Management System (NPAC/SMS) will incorporate security best practices, including supply chain risk management,<sup>32</sup> insider threat management,<sup>33</sup> current cybersecurity standards,<sup>34</sup> and a program for continuous risk reduction.<sup>35</sup> The elements of best practices detailed in the following paragraphs are examples and should not be construed as wholly comprehensive. As the LNPA, Telcordia must regularly assess vulnerabilities, identify threats, and initiate risk-based actions and programs to maintain secure and reliable NPAC/SMS functions. Further, the new NPAC/SMS will be built anew on firmware, hardware, and software acquired and developed by leveraging supply chain risk management and cybersecurity best practices, and with sustainment procedures following the National Institute of Standards and Technology (NIST) Cybersecurity Framework, *Framework for Improving Critical Infrastructure Cybersecurity*, and NIST Special Publication 800 series of documents.<sup>36</sup>

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<sup>27</sup> *LNPA Selection Order* at para. 82.

<sup>28</sup> *See id.* at para. 194.

<sup>29</sup> *Id.* at para. 85.

<sup>30</sup> *Id.* at para. 194.

<sup>31</sup> *Id.*

<sup>32</sup> LNPA contract, Exhibit R-2; Exhibit R-4, § 4.2.2.

<sup>33</sup> *Id.*, Exhibit R-4, §§ 4.3.4.

<sup>34</sup> *Id.*, Exhibit R-1, §§ 9.5.1.3, 9.6; Exhibit S.

<sup>35</sup> *Id.*, Exhibit R-4, § 4.5.

<sup>36</sup> *Id.*, Exhibit R-1, § 9.5.1.3, *citing* National Institute of Standards and Technology, *Framework for Improving Critical Infrastructure Cybersecurity*, Version 1.0 (Apr. 12, 2014) <http://www.nist.gov/cyberframework/upload/cybersecurity-framework-021214-final.pdf> (NIST Cybersecurity Framework).



11. In order to assess the security and reliability provisions of the LNPA contract, PSHSB coordinated a series of risk reduction activities with Telcordia that included security training, responsibility and accountability reviews, discussion of best practices, and site visits to representative facilities that Telcordia intends to use in performing the LNPA function. The site visits included reviews of facility security, governance and personnel practices, supply chain risk management and cybersecurity, and coding and testing tools.<sup>37</sup>

12. *Supply Chain Risk Management.* Telcordia agrees to implement its risk management program utilizing the NIST Cybersecurity Framework for the NPAC/SMS. Telcordia will additionally implement, as part of its LNPA contract, security measures that leverage NIST supply chain risk management best practice standards outlined in the NPAC/SMS Supply Chain Risk Management Process.<sup>38</sup> Telcordia will follow NIST Special Publications<sup>39</sup> applicable to supply chain risk management practices, and it will follow a software development approach that ensures a U.S.-based supply chain. Telcordia agrees to develop the NPAC/SMS using only source code written by U.S. citizens, who will be identified and vetted prior to developing or gaining access to the source code.<sup>40</sup> Telcordia also agrees to implement governance processes to ensure clearly assigned, sustained accountability for proactive, supply chain risk reduction throughout the life of the contract.

13. *Insider Threat.* Telcordia commits to implement measures to detect and thwart insider threats, including the screening, vetting and supervision of personnel in accordance with procedures identified in Exhibit R-3 to the LNPA contract.<sup>41</sup> Further, Telcordia will use an independent third-party to perform regular audits of Telcordia's Security Plan and its implementation.<sup>42</sup> Telcordia agrees to cooperate with ongoing Commission oversight—including review of critical milestones before they occur—and agrees to provide the Commission and other federal partners the right to identify required mitigations over the course of the contract as vulnerabilities and threats evolve.<sup>43</sup> Finally, Telcordia agrees to have a Security Administration team led by a dedicated security manager, and will have a detailed vetting and training process for its System Administrators.<sup>44</sup>

14. *Cybersecurity.* Telcordia commits to operating the NPAC/SMS by relying on the NIST Cybersecurity Framework to provide key, organizing principles.<sup>45</sup> Further, Telcordia has communicated its planned security implementation in detail that includes the ability to protect the NPAC/SMS by employing capabilities for detecting cybersecurity breaches, using cryptographic techniques, ensuring strong identity, credentialing, and access control, conducting security audits, as well as following other

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<sup>37</sup> See Letter from Rear Admiral (ret.) David G. Simpson, Chief, Public Safety and Homeland Security Bureau, FCC, to Marlene Dortch, Secretary, FCC, CC Docket 95-116, WC Docket Nos. 07-149, 09-109 (dated Jul. 13, 2016).

<sup>38</sup> LNPA contract, Exhibits R-1, § 9.4; R-4, § 1. For example, all NPAC/SMS user data will be stored in the continental United States; software code will be developed and used only in the United States. LNPA contract, Exhibit R-1, § 9.2.1.

<sup>39</sup> LNPA contract, Exhibit R-4, §§ 1, 4.5. This includes Telcordia following the NIST Special Publications 800 series of documents and associated OMB directives, and complying with requirements for documentation, testing and continuous monitoring of controls for systems.

<sup>40</sup> *Id.*, Exhibit R-1, § 9.2.2; *see also* Exhibit R-1, § 9.2.3. Telcordia agrees to additional independent audits, to be conducted post-award, and at various phases throughout the development process. LNPA contract, Exhibit R-1, § 9.9.

<sup>41</sup> *Id.*, Exhibit R-3.

<sup>42</sup> *Id.*, Exhibit R-4, § 2.12.

<sup>43</sup> *Id.*, § 7.3.1; Exhibit R-4, § 1.

<sup>44</sup> *Id.*, Exhibit R-1, § 9.5.2.

<sup>45</sup> *Id.*, Exhibit R-4, §§ 1, 4.5.

safeguards to protect the NPAC/SMS database and associated networks and its data centers.<sup>46</sup> Telcordia has shown that it will have sufficient controls to address the dynamic security threat environment and will create a funding mechanism for addressing unexpected cybersecurity matters that threaten NPAC/SMS operations. Finally, Telcordia will submit shared risk assessments with its approved subcontractor, SunGard Availability Services, LLC (SunGard), and any other vendor providing critical operations support.

15. *Cybersecurity Governance.* Telcordia commits to implementing a variety of additional cybersecurity governance protections. For example, Telcordia will hire a consultant to advise Telcordia's board of directors on cybersecurity matters, train the Telcordia Board of Directors on cybersecurity matters,<sup>47</sup> and identify a Director who will make cybersecurity a specific concentration area and be accountable for the same. Telcordia's Chief Information Security Officer shall have a direct path to report risk concerns to Telcordia's Chief Executive Officer and Board of Directors. Additionally, Telcordia agrees to have a Security Workforce Program led by a dedicated security manager, and will have a detailed vetting and training process for System Administrators and other positions with elevated privilege or access to critical NPAC infrastructure.<sup>48</sup>

16. *Enhanced Law Enforcement Platform.* Telcordia commits to providing an Enhanced Law Enforcement Platform (ELEP) that can facilitate access to portability data for law enforcement, public safety dispatch personnel, and authorized supporting organizations; and will provide this function by authenticated, secure, and encrypted means.<sup>49</sup> Further, Telcordia will provide law enforcement, fire, and emergency medical services, at minimum, the same information provided by the NPAC/SMS today, and in a manner that ensures that these public safety entities will not experience a lapse in service. The Commission expects Telcordia to work with the Commission and the FBI to evolve ELEP and the NPAC/SMS connection security as appropriate, recognizing that law enforcement, public safety, and small business providers face financial constraints that require careful planning for security upgrades to ensure that they are not unduly impacted as security vulnerabilities are identified and addressed.

17. *Business Continuity and Disaster Recovery Plans.* Telcordia's business continuity plan reflects a program that has the capabilities and resources to continue its essential functions during an emergency. Relying on SunGard as its subcontractor for data center service continuity protection, Telcordia's plan reflects a system with substantial redundancy, which would aid with disaster recovery and a commitment to annual testing of its disaster recovery plans.<sup>50</sup>

18. *Foreign Control.* We are satisfied that although Telcordia is a wholly-owned subsidiary of Ericsson, a Swedish corporation, adequate restrictions are in place to avoid the possibility of foreign control of U.S. critical infrastructure and systems. Detailed neutrality provisions will allow Telcordia to operate independently from intrusions from its corporate parent Ericsson (*see* Section III.B, *infra*). In addition, the LNPA contract provides that Telcordia shall ensure that any member of Telcordia's Board of Directors who is not a U.S. citizen shall not participate in security-related discussions or communications, and shall not receive security-related information.<sup>51</sup>

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<sup>46</sup> *Id.*, Exhibit R-4, § 1.

<sup>47</sup> *Id.*, Exhibit R-1, § 9.5.2.

<sup>48</sup> *Id.*, at Exhibit R-1, § 9.5.2.

<sup>49</sup> *Id.*, §§ 18.7.2.1, 18.7.2.5.

<sup>50</sup> *Id.*, §§ 3.2.2.19, 3.2.2.20.

<sup>51</sup> *Id.*, Exhibit R-1, § 9.3.



19. In sum, the due diligence of PSHSB, including its extensive consultation with our federal partners with expertise in, and responsibility for, law enforcement and national security matters,<sup>52</sup> resulted in an assessment that no law enforcement or national security matters would preclude our approval of the LNPA contract. Both site visits and the extensive staff engagements by PSHSB have satisfied the Commission that Telcordia can deliver on the representations it made in its bid submissions, as supplemented by its additional filings in this proceeding, as they pertain to security and reliability. Further, we find that the LNPA contract, as presented, contains terms and conditions necessary to ensure that effective public safety services and law enforcement and national security operations are supported, that national security issues are addressed and mitigated to our satisfaction, and that the Government's equities are protected by a rigorous audit program that monitors for and ensures compliance, backstopped by robust enforcement tools through the term of the contract. We therefore reaffirm here that Telcordia is technically acceptable and has the requisite experience to serve as the LNPA with respect to security and reliability.<sup>53</sup>

## **B. Neutrality Issues**

### **1. Neutrality Criteria**

20. Section 251(e) of the Act provides that "[t]he Commission shall create or designate one or more *impartial entities* to administer telecommunications numbering and to make such numbers available on an equitable basis."<sup>54</sup> In determining whether all potential or existing numbering administrators are neutral, the Commission has applied the neutrality criteria set forth in section 52.12 of its rules since they were adopted in 1997.<sup>55</sup> In particular, the Commission has required that numbering administrators be non-governmental entities that are impartial and not aligned with any particular telecommunications industry segment.<sup>56</sup>

21. The RFP identified neutrality criteria that the next LNPA must meet which incorporate the Commission's neutrality requirements.<sup>57</sup> As required, Telcordia filed an opinion of counsel

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<sup>52</sup> See Letter from A. Todd McCall, Assistant Director, Operational Technology Division, Federal Bureau of Investigation, to Marlene H. Dortch, Secretary, FCC, CC Docket 95-116, WC Docket Nos. 07-149, 09-109 (filed Jun. 27, 2016) (indicating the FBI does not possess any information to object to the Commission's selection of Telcordia as the LNPA).

<sup>53</sup> In a May 9, 2016, letter to the Commission, Neustar claims that Telcordia put national security at risk by using foreign coders in developing the NPAC, and that Telcordia was not forthcoming in its recent communications with the Commission about this issue. See Letter from Thomas J. Navin and Aaron M. Panner, Counsel for Neustar, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket 95-116 (filed May 9, 2016) (Neustar May 9, 2016 *Ex Parte* Letter). See discussion *infra* Section III.E. We reject Neustar's argument, *id.* at 3, that communications between Telcordia and the Commission with respect to this review violated the Commission's *ex parte* rules as those communications all occurred in the context of contract negotiations. See *Notice Concerning Ex Parte Status of Communications with Respect to the Local Number Portability Administrator Selection Proceeding*, WC Docket Nos. 07-149, 09-109, CC Docket No. 95-116, Public Notice, 30 FCC Rcd 8425 (Wireline Comp. Bur. 2015).

<sup>54</sup> 47 U.S.C. § 251(e)(1) (emphasis added).

<sup>55</sup> See generally 47 C.F.R. § 52.12, which provides neutrality rules for the North American Numbering Plan Administrator and the associated Billing and Collection Agent but has been expanded to cover other number administrators.

<sup>56</sup> See 47 C.F.R. §§ 52.12. See also 47 C.F.R. §52.21(k) (defining the term "LNPA" in part as "an independent, non-governmental entity, not aligned with any particular telecommunications industry"); see also 47 C.F.R. § 52.12 (a)(1)(i)-(iii).

<sup>57</sup> See RFP § 3.4 (citing to, among other things, 47 C.F.R. § 52.12(a)).

describing how it would meet the Commission's neutrality criteria.<sup>58</sup> *The LNPA Selection Order* requires that we consider whether the outstanding elements of neutrality identified in the *LNPA Selection Order* have been satisfactorily addressed and whether the provisions of the LNPA contract are consistent with the Commission's neutrality requirements.<sup>59</sup> We consider these matters below.

## **2. Telcordia's Proposed Voting Trust, Code of Conduct, and the LNPA Contract**

22. As the *LNPA Selection Order* explained, Telcordia's neutrality is assured by a combination of the Commission's rules and orders addressing neutrality, the Voting Trust and the Code of Conduct.<sup>60</sup>

23. **Voting Trust Agreement.** In the *LNPA Selection Order*, the Commission required that, prior to executing the LNPA contract, Ericsson must transfer all of its voting stock in Telcordia to a voting trust administered by two unaffiliated trustees, appointed by Ericsson.<sup>61</sup> On April 1, 2016 Telcordia filed a draft Voting Trust, the text of which complies with the terms set forth in the *LNPA Selection Order*.<sup>62</sup> In particular, it recites that all of Telcordia's voting stock has been transferred to the trustees and states that the trustees are empowered to vote on all matters that a stockholder is entitled to vote (subject to certain exceptions),<sup>63</sup> which includes the election of the independent directors to Telcordia's Board of Directors.

24. Also on April 1, 2016, Telcordia filed a letter with the Commission announcing that it had selected the two unaffiliated trustees, namely, Ms. Jane Mago and Mr. Thomas Krattenmaker (together, the Trustees).<sup>64</sup> Telcordia provided the proposed Trustees' resumes and other relevant information concerning their fitness to act as trustees for the Commission's review.

25. We are satisfied both as to the terms of the Voting Trust and the identity of the Trustees. Accordingly, we approve the terms of the Voting Trust and require that it be executed by the parties prior to Telcordia executing the LNPA contract.<sup>65</sup> Telcordia is directed to file a copy of the executed Voting Trust with the Commission promptly after execution.

26. **Code of Conduct.** In the *LNPA Selection Order*, the Commission directed Telcordia to revise its proposed Code of Conduct to reflect the addition of a number of provisions.<sup>66</sup> On May 26,

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<sup>58</sup> See Letter from Mark D. Davis, Counsel to Telcordia Technologies, Inc., d/b/a iconectiv, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95, Attachs., Part 2 at 704 and Part 3 at 171 (filed Jul. 7, 2014).

<sup>59</sup> *LNPA Selection Order* at paras. 186 and 193.

<sup>60</sup> *Id.* at paras. 160 *et seq.*

<sup>61</sup> *Id.* at para. 182.

<sup>62</sup> Letter from John T. Nakahata, Counsel to Telcordia Technologies, Inc., d/b/a iconectiv, to Matthew S. DelNero, Chief, WCB, FCC (filed Apr. 1, 2016) (Telcordia Apr. 1, 2016 Voting Trust *Ex Parte*).

<sup>63</sup> The exceptions relate to certain specific stockholder decisions. Examples of such exceptions are voting on (i) whether Telcordia will file for bankruptcy, (ii) the merger of Telcordia into another entity, (iii) the issuance of additional shares of capital stock. These exceptions are similar to the exceptions that Neustar was permitted under the voting trust established under the *Warburg Transfer Order*, 14 FCC Rcd 19792, 19801, para. 11, n 54.

<sup>64</sup> Telcordia Apr. 1, 2016 Voting Trust *Ex Parte* at 1.

<sup>65</sup> *LNPA Selection Order* at para. 182. The Voting Trust Agreement is attached to the Order as Appendix A.

<sup>66</sup> *Id.* at para. 186.

2015,<sup>67</sup> Telcordia submitted its revised Code of Conduct and on April 1, 2016 Telcordia filed a slightly modified version of the Code of Conduct,<sup>68</sup> which, after review of both filings, we accept as being complete and in conformance with the requirements of the *LNPA Selection Order*.<sup>69</sup>

27. The fourth item of the Code of Conduct relates to financial interests and provides that “[n]o employee, officer, or director of [Telcordia], or any dedicated employee of a sub-contractor, directly involved in core LNPA activities (as defined in the *LNPA Selection Order*) Local Number Portability Administrator services shall hold any interest, financial or otherwise, that would cause [Telcordia] to no longer be neutral without obtaining prior approval from the Federal Communications Commission or recusing herself or himself from all activities relating to the provision of LNPA services.”<sup>70</sup> To provide more specific guidance concerning how this requirement applies to financial holdings of Telcordia directors and employees, we interpret the provision to require that no Telcordia employee who is directly involved in core LNPA activities (as defined in the *LNPA Selection Order*) may own any Ericsson stock.<sup>71</sup> In the *LNPA Selection Order* we established the neutrality of Telcordia from its parent, Ericsson, by use of a voting trust and Code of Conduct.<sup>72</sup> Accordingly, we do not consider it appropriate for Telcordia employees or directors to hold Ericsson stock as that may raise neutrality issues which we have carefully sought to eliminate. Further, to the extent that any Telcordia employee participates in a share option plan whereby the employee contributes part of his/her salary to purchase Ericsson stock that is then “matched” by Ericsson after a vesting period (or any plan that is similar to the described plan), that employee may not participate in such a plan after the time that Telcordia must become neutral under the LNPA contract.<sup>73</sup>

28. We have also considered the amount of stock that a Telcordia employee, directly involved in core LNPA activities, may own in a telecommunications service provider (TSP) insofar as that ownership may have the ability to affect neutrality. Given the automated nature of the LNPA process, we consider it unlikely that an individual employee could affect the LNPA’s neutrality by manipulating the LNPA process in order to favor a particular TSP without it being quickly noticed. Notwithstanding the low likelihood of neutrality being affected by such employee conduct, we consider that it is appropriate to limit an employee or director’s ownership of a TSP’s stock to no more than one percent of the issued and outstanding stock of such TSP.

29. The LNP Alliance has raised a number of issues relating to minor changes that were

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<sup>67</sup> Within the 60 days required by para. 186 of the *LNPA Selection Order*; see Letter from John T. Nakahata, Counsel to Telcordia Technologies, Inc., d/b/a iconectiv, to Marlene H. Dortch, Secretary, FCC (filed May 26, 2015).

<sup>68</sup> Letter from John T. Nakahata, Counsel to Telcordia Technologies, Inc., d/b/a iconectiv, to Matthew S. DelNero, Chief, WCB, FCC (filed Apr. 1, 2016) (Telcordia Apr. 1, 2016 Code of Conduct *Ex Parte*).

<sup>69</sup> The *LNPA Selection Order* at para. 186 required Telcordia to add a number of items to the Code of Conduct. For example, Telcordia was required to add that each member of the board of directors must be vetted for neutrality issues and that all Telcordia employees working on the LNP Contract must receive neutrality training on an annual basis. The Code of Conduct is attached to the Order at Appendix B.

<sup>70</sup> Telcordia Apr. 1, 2016 Code of Conduct *Ex Parte* at 2, number 4.

<sup>71</sup> Additionally, in order to bring the Code of Conduct into conformance with the provisions of this order, we require that Section 7f. of the draft Code of Conduct is deleted. (This provision states that directors of Telcordia’s board cannot hold or vote 10% or more of a TSP’s stock.)

<sup>72</sup> *LNPA Selection Order* at paras. 182-186.

<sup>73</sup> All Ericsson shares held in the plan for the account of any affected Telcordia employee will be sold or otherwise dealt with in a manner such that the employee no longer will have an ownership or financial interest in the Ericsson stock. Telcordia will certify that it has complied with this provision and confirm how the plan and the stock contained in it has been dealt with no later than 30 days after the plans have been terminated.

made to the Code of Conduct following the release of the *LNPA Selection Order*. Specifically, the LNP Alliance takes issue with the deletion of the word “contractor” in paragraph 4 of the Code of Conduct.<sup>74</sup> In its response to the LNP Alliance’s letter, Telcordia explains that the Code of Conduct supplements the neutrality requirements applicable to both Telcordia and its Core Subcontractors. SunGard, Telcordia contends, is not a core subcontractor and, while it is not subject to paragraph 4, it is subject to paragraph 10 of the Code of Conduct.<sup>75</sup> We agree. The inclusion of the word “contractor” would be both redundant and could be misinterpreted. Telcordia is the only “contractor” involved with the LNPA transaction. Paragraph 4 captures Telcordia (the contractor) and subcontractors involved in core LNPA activities. Issues relating to SunGard, the only non-core subcontractor, are addressed in paragraph 10 of the Code of Conduct.

30. The LNP Alliance also faults Telcordia for deleting a reference to the fact that no member of Telcordia’s Board of Directors may hold a 10 percent or greater interest in a telecommunications service provider.<sup>76</sup> Telcordia points out that as all employees, officers and directors are held to a more stringent standard, namely they can hold no more than a one percent or greater interest in a telecommunications service provider, there is no need for the 10 percent language.<sup>77</sup> We agree. Deletion of the language referring to 10 percent removes an incorrect term and prevents confusion. By deleting this extraneous and potentially confusing language, the language of paragraph 4, referring to the one percent threshold, becomes unambiguously controlling.<sup>78</sup> That language, however, refers only to employees and not to the independent directors who control the Telcordia Board of Directors. There is, therefore, a possibility that the one percent restriction may not apply to the independent directors. Accordingly, to further ensure Telcordia’s neutrality, we require that the last clause of paragraph 8 of the Code of Conduct is revised to read as follows, “...nor shall any such [Telcordia] employee, or independent Member of the Board of Directors, hold Ericsson stock.”<sup>79</sup>

31. The LNP Alliance also queries why the Code of Conduct is not required to be implemented for 270 days following execution of the MSA and suggests that we are not taking separation from Ericsson seriously.<sup>80</sup> We disagree and note that the LNP Alliance has misunderstood how the transaction and the MSA are structured. In the *LNPA Selection Order* we stated that the Code of Conduct should be “in effect prior to Telcordia commencing to provide LNPA services.”<sup>81</sup> In an effort to bring greater certainty to the date by which Telcordia must be neutral, the MSA adds language that Telcordia must be neutral no later than 270 days from the date that the MSA is executed. Far from our not taking Telcordia’s neutrality seriously, the contractual change brings the time at which Telcordia must be neutral forward as we anticipate that 270 days from the date that the MSA is executed will be earlier than the date that LNPA service is commenced.<sup>82</sup> Prior to making any changes to the Voting Trust or Code of Conduct,

<sup>74</sup> Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket 95-116 (filed Apr. 25, 2016) (PK/OTI/LNP Alliance Apr. 25 2016 *Ex Parte*).

<sup>75</sup> Letter from John T. Nakahata, Counsel to Telcordia Technologies, Inc. d/b/a iconectiv, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-115 (filed May 4, 2016) (Telcordia May 4, 2016 *Ex Parte*).

<sup>76</sup> PK/OTI/LNP Alliance Apr. 25 2016 *Ex Parte* at 3.

<sup>77</sup> Telcordia May 4, 2016 *Ex Parte* at 2.

<sup>78</sup> LNP Alliance/PK/OTI Apr. 25 2016 *Ex Parte* at 3; Telcordia May 4, 2016 *Ex Parte* at 2-3.

<sup>79</sup> The Code of Conduct attached to this Order has been revised to reflect this change.

<sup>80</sup> Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116, Attachs. (filed May 17, 2016) (OTI/LNP Alliance May 17 *Ex Parte*).

<sup>81</sup> *LNPA Selection Order* at para. 188.

<sup>82</sup> Letter from John T. Nakahata and Mark D. Davis, Counsel to Telcordia Technologies, Inc. d/b/a iconectiv, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-115 at 3 (filed May 24, (continued....))

Telcordia must request and receive written consent from the Wireline Competition Bureau, and we specifically delegate authority to the Wireline Competition Bureau to oversee and approve those changes, with the concurrence of the Office of General Counsel.<sup>83</sup>

32. **Neutrality Provisions of the LNPA Contract.** Our neutrality rules and orders interpreting the same are independent of the LNPA contract and should not be affected by it, and any potential conflicts must be resolved in accordance with the Commission's neutrality requirements.<sup>84</sup> The LNPA contract addresses the procedural aspects of neutrality, not the substantive<sup>85</sup> rules relating to neutrality, which are solely within the purview of the Commission. Further, the LNPA contract specifically states that "...nothing ... limits in any way the Commission's ability to enforce its rules and orders."<sup>86</sup> We find nothing in the LNPA contract that might hinder, contradict or undermine our neutrality rules and orders, and are satisfied that the implementation of our rules and orders will not be affected adversely by the provisions or operation of the LNPA contract.

### C. Transition Oversight/Outreach and Education/Costs and Burdens Issues

33. As noted above,<sup>87</sup> in the *LNPA Selection Order*, the Commission tasked the NAPM to establish a process and schedule to ensure the seamless and timely transition of the LNPA from Neustar to Telcordia. Specifically, the Commission directed the NAPM to (1) take all necessary steps to ensure that the transition to a new LNPA is overseen by experienced third parties familiar with communications infrastructure, project management, and change management; (2) develop a detailed TOP within 30 days of the release of the *LNPA Selection Order*; (3) provide status reports to the Wireline Competition Bureau every 30 days during the transition; and (4) conduct outreach to, education for, and testing initiatives with stakeholders.<sup>88</sup> The NAPM has carried out these tasks.

34. Several parties take issue with the role of the NAPM throughout the LNPA selection, contract negotiation and transition process. They argue, generally, that because no small carriers are members of the NAPM they have had no voice in those processes to date.<sup>89</sup> We disagree. Starting with

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2016) (Telcordia May 24, 2016 *Ex Parte*). Even if the date service is commenced is moved up for some reason, our *LNPA Selection Order* still requires that Telcordia must be neutral prior to it commencing to offer LNPA service. See *LNPA Selection Order* at para. 188.

<sup>83</sup> The LNP Alliance makes a number of other points about the Code of Conduct in its April 23 and May 17 letters. We have considered carefully the points raised and the responses given by Telcordia and find no need to alter the Code of Conduct more than we have done in this Order. See generally PK/OTI/LNP Alliance Apr. 25 2016 *Ex Parte*; OTI/LNP Alliance May 17 *Ex Parte*; and Telcordia May 4, 2016 *Ex Parte*. For example, the LNP Alliance criticizes Telcordia for allowing Telcordia employees to retain Ericsson pension plans prior to March 27, 2015. We do not share the LNP Alliance's concern. Telcordia, as an Ericsson subsidiary, does not have its own pension plan. Telcordia's employees are allowed to participate in the parent's plan. The benefits afforded by the plan are not affected by any action taken by the employee. Employees therefore have no incentive to favor Ericsson. Accordingly, we do not consider that there is any necessity to deprive Telcordia employees of their pension benefits. See generally OTI/LNP Alliance May 17 *Ex Parte* at 6; Telcordia May 24, 2016 *Ex Parte*.

<sup>84</sup> See LNPA contract, § 17.3.4.4.

<sup>85</sup> See generally LNPA contract, §§ 17.3-17.3.4.5. For example, the LNPA contract contains provisions that address the conduct of neutrality audits, neutrality opinions, and the process for dealing with neutrality violations; reporting of potential violations to the Commission, how such violations may be cured, and the effect a violation would have on Telcordia.

<sup>86</sup> See *id.*, § 17.3.4.5.

<sup>87</sup> See para. 6, *supra*.

<sup>88</sup> *LNPA Selection Order* at paras. 158-59.

<sup>89</sup> See Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116, Attachs. (filed May 13, 2016) (OTI/LNP Alliance May 13 *Ex Parte*); (continued....)



the selection process, which began in 2011,<sup>90</sup> all stakeholders had an opportunity to be involved in the LNPA selection process. The NAPM has spent years on the process to select a new LNPA, acting on behalf of stakeholders at large. The process involved extensive input from the industry, government entities, and consumer groups throughout, including multiple opportunities for public comment from all interested parties, for example, on the RFP to select a new LNPA, the LNPA selection process, and the draft bid documents. The selection process was a huge undertaking on behalf of all service providers, with multiple opportunities for engagement.<sup>91</sup> None of the parties referenced above protested the involvement of the NAPM when the Wireline Competition Bureau sought comment on the selection process proposed by the NANC and the NAPM in the *March 2011 Order*.<sup>92</sup> Nor did they seek reconsideration of that Order. Thus, these arguments are untimely requests for reconsideration of that Order and they cannot argue now that the NAPM was not the appropriate entity to work with the NANC to select the new LNPA.<sup>93</sup>

35. Once the selection of the new LNPA was made, the NAPM has continued its efforts on behalf of the industry through the contract negotiation and transition phases of this process. Notwithstanding arguments to the contrary, the NAPM is open to all service providers, large and small, and encourages membership. It is also open to trade associations, such as the LNP Alliance and NTCA. Thus, smaller carriers are able to pool their resources to join the NAPM if they desire greater participation with the LNPA selection process. Nonetheless, we encourage the NAPM to further explore ways in which small and mid-size carriers can participate in its membership activities, for example, by establishing a sliding scale fee structure or other ways of opening membership to those stakeholders with an interest. Finally, the *LNPA Selection Order* established the NAPM's on-going transition-related role and expressly authorized the NAPM to negotiate a contract with Telcordia, subject to Commission oversight. None of these parties now challenging that role sought reconsideration of the Commission's decision.<sup>94</sup> Thus, these arguments are untimely requests for reconsideration of the *March 2015 LNPA Selection Order*, and they cannot argue now that the NAPM was not the appropriate entity to negotiate the MSA and oversee the transition process.

36. With respect to transition oversight, the NAPM signed a letter of engagement with PwC to serve as the Transition Oversight Manager (TOM).<sup>95</sup> PwC is a well-regarded consulting firm, highly experienced in management of large-scale projects. Specifically, PwC has communications

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Letter from Aelea Christofferson, ATL Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-115 (filed May 6, 2016) (ATL May 6, 2016 *Ex Parte*); Letter from Michael R. Romano and Brian Ford, NTCA – The Rural Broadband Association, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed May 5, 2016) (NTCA May 5, 2016 *Ex Parte*); Letter from Aelea Christofferson, ATL Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-115 (filed May 4, 2016) (ATL May 4, 2016 *Ex Parte*); and Letter from Michael R. Romano and Brian Ford, NTCA – The Rural Broadband Association, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Dec. 22, 2015) (NTCA Dec. 22, 2015 *Ex Parte*).

<sup>90</sup> See NANC/NAPM LLC Consensus Proposal for Clarification of the FCC's Rules Regarding the LNPA Selection Process, WC Docket No. 09-109, Order and Request for Comment, 26 FCC Rcd 3685, 3691-97, Attach. A (Wireline Comp. Bur 2011) (*March 2011 Order*).

<sup>91</sup> *LNPA Selection Order* at paras. 8-9.

<sup>92</sup> *March 2011 Order*, 26 FCC Rcd at 3693.

<sup>93</sup> 47 C.F.R. §1.429(d).

<sup>94</sup> *LNPA Selection Order* at paras. 193-195.

<sup>95</sup> See, NAPM LLC, *LNPA Transition, Reference Documents, TOM Engagement Letter Summary 3-Feb-2016.docx*, [https://www.napmlc.org/pages/npacrfp/npacRFP\\_RefDocs.aspx](https://www.napmlc.org/pages/npacrfp/npacRFP_RefDocs.aspx) (last visited Mar. 31, 2016) (TOM Engagement Letter Summary).



infrastructure, project management, and change management experience.<sup>96</sup> As the TOM, PwC will perform many functions in assisting the NAPM with transition oversight. At the direction of the NAPM, the TOM will (1) determine and enforce the responsibilities of both Neustar, as the incumbent, and Telcordia, as the incoming LNPA; (2) work with Neustar, Telcordia, and the NAPM to ensure that national security, network security, and public safety are protected; (3) establish testing criteria for transition milestones; (4) monitor stakeholder adherence to the TOP; (5) monitor and assess benchmarks; (6) assist in the development of dispute resolution procedures; (7) assist with the identification of gaps for law enforcement and public safety requirements as they pertain to the LNPA; (8) prepare agreed-upon progress reports and performance reports; and (9) confirm the accuracy and completeness of data transfer between Neustar and Telcordia.<sup>97</sup> As the TOM, PwC is now actively engaged in transition oversight matters, as discussed below. Hence, the NAPM has satisfied the *LNPA Selection Order's* requirement that the transition to a new LNPA be overseen by an experienced third party.

37. With respect to the Transition Oversight Plan (TOP),<sup>98</sup> the NAPM filed it on April 27, 2015,<sup>99</sup> and WCB sought comment on the proposed plan.<sup>100</sup> Subsequently, the NAPM refiled its TOP,<sup>101</sup> amending it in response to comments filed and including a new "Transition Outreach and Education Plan" (TOEP).<sup>102</sup> On October 29, 2015, the NAPM filed an updated TOEP (Updated TOEP).<sup>103</sup> As stated in the Updated TOEP, the objectives of the TOEP are to provide transparency in the LNPA transition, provide an open forum to gather feedback from interested parties, and incorporate that feedback into the TOP.<sup>104</sup> The Updated TOEP lists as its audiences the following interested parties: large and small service providers, service bureaus and providers of telecom related services, law enforcement and public safety agencies, telemarketers, regulators, trade associations, vendors, and consumer groups.<sup>105</sup> In addition, the TOEP sets forth the various communication and outreach channels to be used (*e.g.*, webcasts, email, and surveys), sets forth the frequency of outreach, the key activities, how these items will be publicized, and the next steps in the transition process.<sup>106</sup>

38. WCB issued a *Public Notice* on November 25, 2015, approving the TOP with the Updated TOEP.<sup>107</sup> WCB concluded that the TOP outlines reasonable steps that the NAPM will take in the transition to a new LNPA, including the involvement of interested stakeholders in that transition.<sup>108</sup>

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<sup>96</sup> Letter from Todd D. Daubert, Counsel to the NAPM LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116, Attach. at 1 (filed Apr. 27, 2015) .

<sup>97</sup> See generally TOM Engagement Letter Summary.

<sup>98</sup> *LNPA Selection Order* at paras. 158, 193.

<sup>99</sup> See generally TOP.

<sup>100</sup> *Wireline Competition Bureau Seeks Comment on the North American Portability Management LLC's Transition Oversight Plan for Local Number Portability Administration Contract*, Public Notice, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116, 30 FCC Rcd 4646 (2015).

<sup>101</sup> Letter from Todd D. Daubert, Counsel to the NAPM LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Aug. 31, 2015).

<sup>102</sup> Updated TOEP, Attach. 5.

<sup>103</sup> Letter from Todd D. Daubert, Counsel to the NAPM LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Oct. 29, 2015).

<sup>104</sup> Updated TOEP at 2.

<sup>105</sup> *Id.* at 3.

<sup>106</sup> *Id.* at 4-6, 8.

<sup>107</sup> *Wireline Competition Bureau Approves Transition Oversight Plan for Next LNPA; Announces First Transition Outreach Webcast*, Public Notice, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116, 30 FCC Rcd 13619 (2015).

39. The NAPM will update the TOP, as appropriate, and will file those updates in the above-referenced dockets, as well as publish any updates on the public portion of the NAPM's website as changes to the TOP are made.<sup>109</sup>

40. Beginning in July 2015, the NAPM has regularly filed Transition Oversight Reports with WCB, updating the Commission, the public and all interested stakeholders regarding transition activities to date in accordance with the *LNPA Selection Order*.<sup>110</sup> Those reports include updates on the activities of the TOM and stakeholder outreach and education, as well as other relevant transition matters.<sup>111</sup>

41. In addition, the NAPM's detailed TOP includes stakeholder outreach and education, with an emphasis on smaller providers. That function is largely carried out by the TOM. In *ex parte* presentations to the Commission, the LNP Alliance has complained about the lack of transparency in the transition process and about access by smaller carriers to the TOM.<sup>112</sup> Its complaint is unfounded. To help educate all stakeholders, especially smaller carriers, about the LNPA transition, including project plans and projected project timelines, PwC, the TOM, has held seven webcasts since December, 2015. These webcasts have focused on educating stakeholders on project plans and projected project timelines, recognizing that because the MSA had not yet been approved by the Commission and signed by the parties, some aspects of those plans and project timelines were preliminary. Nonetheless the TOM sought to update all stakeholders with an interest in the transition as much as possible. These webcasts averaged 363 participants, with approximately 27 percent of those participants self-identifying as smaller

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<sup>108</sup> *Id.* at 2.

<sup>109</sup> NAPM LLC, *Reference Documents*, [https://www.napmlc.org/pages/npacrfp/npacRFP\\_RefDocs.aspx](https://www.napmlc.org/pages/npacrfp/npacRFP_RefDocs.aspx) (last visited Jul. 12, 2016).

<sup>110</sup> These status reports are to be filed with the Commission every 30 days during the transition and the NAPM is to notify us immediately of any concerns or issues as the transition unfolds. *LNPA Selection Order* at para. 159.

<sup>111</sup> See, e.g., Letter from Todd D. Daubert, Counsel to the NAPM LLC to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Nov. 30, 2015).

<sup>112</sup> See Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Jun. 13, 2016) (OTI/LNP Alliance Jun. 13, 2016 *Ex Parte*); Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Jun. 9, 2016) (LNP Alliance Jun. 9, 2016 *Ex Parte*); OTI/LNP Alliance May 13 *Ex Parte* at 2-3; Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Mar. 31, 2016); Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Mar. 2, 2016); Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Feb. 19, 2016) Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Feb. 16, 2016); Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116, Attach. (filed Jan. 14, 2016); and Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Dec. 10, 2015); see also, NTCA May 5, 2016 *Ex Parte* at 2; ATL May 4, 2016 *Ex Parte* at 1; and NTCA Dec. 22, 2015 *Ex Parte* at 2. The LNP Alliance and OTI jointly argue that the TOM should report directly to the Commission, rather than to the NAPM. In the *LNPA Selection Order*, the Commission directed the NAPM to "take all necessary steps to ensure that the transition was overseen by experienced third parties familiar with communications infrastructure, project management, and change management." *LNPA Selection Order* at para. 158. The LNP Alliance did not seek reconsideration of that direction to the NAPM following release of the *LNPA Selection Order*. As discussed above, having failed to seek reconsideration, the LNP Alliance cannot now take issue with the Commission's decision to task the NAPM with oversight of the TOM. That said, we note that while the NAPM handles direct day-to-day communications with PwC as the TOM, the Commission, through the relevant bureaus, provides active oversight with respect to the transition generally, including the TOM.

carriers.<sup>113</sup> In addition, the TOM has held two in-person events with interested stakeholders, including the LNP Alliance and its two individual company members, scheduled on dates and in places that dovetailed with ongoing industry events.<sup>114</sup> Additional webcasts and in-person meetings are planned.<sup>115</sup> Based on the above discussion, we conclude that the NAPM has carried out the Commission's directives to engage an experienced third party familiar with communications infrastructure, project management, and change management to oversee the transition; has developed a detailed, dynamic TOP that includes timelines, performance benchmarks and incentives, dispute resolution, and testing, among other matters; has and continues to update WCB on a monthly basis on the progress of the transition; and, in coordination with the Transition Oversight Manager is engaged in outreach to, education for, and testing initiatives with stakeholders to ensure an effective, seamless, timely transition for all users of the NPAC/SMS databases. These efforts are on-going and will continue until the transition from Neustar as the current LNPA to Telcordia as the new LNPA is complete. The Commission will continue to monitor closely transition oversight, outreach, education, and testing initiatives.

42. Several parties express concerns about the cost and burdens of the LNPA transition on small and rural service providers.<sup>116</sup> NTCA, in particular, notes that rural carriers operate under unique circumstances in that they provide voice, broadband, and other services in challenging, sparsely-populated, and high-cost rural areas of the nation. Therefore, it is important to these carriers that there is a fair apportionment of the costs and burdens associated with the LNPA transition, and that testing be robust and inclusive of small carriers.<sup>117</sup> NTCA and other small carriers' concerns are unfounded. With respect to the actual transition, the RFP for the new LNPA required that no changes be made to the Service Order Administration or Local Service Management System platforms, thus limiting the changes that carriers will experience. In addition, to the extent that small carriers already use web-based Graphical User Interfaces and third-party service bureaus, they should see little or no change in how they interface with the NPAC. Also unchanged by the new MSA is the process for entering into a NPAC User Agreement to receive NPAC Services and the basic terms of the NPAC User Agreements.<sup>118</sup> Therefore, small and rural carriers should see little or no change in their current interfaces with the NPAC<sup>119</sup> and, in turn, little or no cost associated with the transition to a new NPAC.<sup>120</sup>

<sup>113</sup> NAPM LLC, *LNPA Transition, Reference Documents*, TOEP Webcast April 20, 2016, [https://www.napmlc.org/Docs/npac/ref\\_docs/REP\\_20160420\\_TOM\\_TOEP%20Webcast%20Content\\_1.0.pdf](https://www.napmlc.org/Docs/npac/ref_docs/REP_20160420_TOM_TOEP%20Webcast%20Content_1.0.pdf) (last visited Jul. 12, 2016).

<sup>114</sup> See NAPM LLC, *LNPA Transition*, [https://www.napmlc.org/pages/npacrfp/npac\\_rfp.aspx](https://www.napmlc.org/pages/npacrfp/npac_rfp.aspx) (last visited Jul. 12, 2016).

<sup>115</sup> *Id.*; see also NAPM LLC, *Reference Documents, 2016 TOEP Events*, [https://www.napmlc.org/Docs/npac/ref\\_docs/REP\\_20160310\\_TOEPEventsList\\_1.0.pdf](https://www.napmlc.org/Docs/npac/ref_docs/REP_20160310_TOEPEventsList_1.0.pdf) (last visited Jul. 12, 2016).

<sup>116</sup> See Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116, Attach. (filed Oct. 30, 2015); ATL May 6, 2016 *Ex Parte* at 1; NTCA May 5, 2016 *Ex Parte* at 2; NTCA Dec. 22, 2015 *Ex Parte* at 2.

<sup>117</sup> NTCA Dec. 22, 2015 *Ex Parte* at 1-2; NTCA May 5, 2016 *Ex Parte* at 1-2.

<sup>118</sup> See Letter from Todd D. Daubert, Counsel to NAPM LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed Jun. 2, 2016) (NAPM Jun. 2, 2016 *Ex Parte*) (the User Agreement under the new MSA is substantially similar to the User Agreement under the old MSA); and Letter from Todd D. Daubert, Counsel to NAPM LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed May 6, 2016) (NAPM May 10, 2016 *Ex Parte*); Telcordia May 24, 2016 *Ex Parte* at 2, n.6; but see also OTI/LNP Alliance Jun. 13, 2016 *Ex Parte* at 3 (urging the Commission to adopt specific MSA revisions to improve the MSA and its associated user agreements); and LNP Alliance Jun. 9, 2016 *Ex Parte* at 6 (stating that LNP Alliance concerns with the User Agreement relate to fundamental process obstacles and procedural impediments).

<sup>119</sup> See Letter from B. Lynn Follansbee, Vice President, Law & Policy, USTelecom – The Broadband Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-109, 07-149, CC Docket No. 95-116 at 1-2 (filed May 6, 2016) (continued....)

43. We expect that as the transition moves forward, Telcordia, the TOM, and the NAPM will work closely with all stakeholders, especially small and rural carriers, on many details of the transition once the MSA is approved and executed. Such details include user onboarding, industry testing, acceptance testing, final acceptance, and the timelines associated therewith.<sup>121</sup>

**D. Ongoing Oversight of the LNPA**

**1. Commission Oversight**

44. While this Order approves the LNPA contract between Telcordia and the NAPM, the Commission will continue to have an active role in overseeing the transition and ongoing administration of the NPAC/SMS. The transition from Neustar to Telcordia is vital to the American public. Therefore, it must be accomplished in a safe, seamless, and timely manner, with as little risk as possible. As part of the transition, we direct the Wireline Competition Bureau, working with the Public Safety and Homeland Security Bureau and the Office of General Counsel, to take steps directed towards making parties using the NPAC/SMS aware of transition details and timelines, giving them multiple vehicles to provide input, and allowing multiple opportunities to conduct advance testing of the new system. In addition, we direct the Public Safety and Homeland Security Bureau, working with the Wireline Competition Bureau and the Office of General Counsel, to take steps directed towards ensuring that the transition to a new LNPA does not disrupt service to the public safety and law enforcement communities, consumers, or the industry.

45. Once the transition is accomplished and Telcordia is the new LNPA, the Commission will continue its oversight of the contract between the NAPM and Telcordia. As part of that oversight, we

(Continued from previous page)

2016) (USTelecom May 6, 2016 *Ex Parte*) (a change in the NPAC vendors will not require small and medium carriers to modify its internal network or back office systems; therefore, the LNPA transition would not require most carriers to expend time or resources for major software developments).

<sup>120</sup> Letter from John T. Nakahata, Counsel to Telcordia Technologies, Inc., d/b/a iconectiv, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-109, 07-149, CC Docket No. 95-116 (filed Jun. 22, 2016) (stating that smaller providers that pay fees directly to the LNPA will experience a significant drop in their recurring costs, both allocated and direct; similarly, service bureaus serving small providers will also experience a drop in recurring charges. In addition, USTelecom notes that the cost savings in selecting Telcordia would provide significant savings not only to companies of all sizes, but importantly to consumers as well. *See* Letter from B. Lynn Follansbee, Vice President, Law & Policy, USTelecom – The Broadband Association, to Marlene H. Dortch, Secretary, FCC WC Docket No. 09-109, 07-149, CC Docket No. 95-116 at 2 (filed Jun. 21, 2016) (USTelecom Jun. 21, 2016 *Ex Parte*); and USTelecom May 6, 2016 *Ex Parte* at 2; *see also* Letter from Maggie McCready, Vice President, Federal Regulatory and Legal Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-109, 07-149, CC Docket No. 95-116 (filed May 17, 2016) (delay continues to cost the industry tens of millions of dollars each month); Letter from Scott Bergmann, Vice President Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-109, 07-149, CC Docket No. 95-116 (filed May 16, 2016) (MSA approval will bring all telecommunications industry members and consumers the benefits of more efficient and effective LNP administration).

<sup>121</sup> Neustar has complained that addressing the MSA before there is a transition services agreement between it and the NAPM will impede a smooth transition. According to Neustar, it needs to see the MSA in order to understand what its obligations will be during the transition. *See* Letter from Thomas J. Navin, Counsel for Neustar, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-019, 07-149, CC Docket No. 95-116 (filed Nov. 17, 2015). The NAPM and Telcordia are the parties to the MSA that is the subject of this Order; Neustar is not. The NAPM, Telcordia, and the TOM have worked diligently to craft a transition timeline to complement the MSA and facilitate a smooth transition. Once the MSA is approved and executed, the NAPM, Telcordia and the TOM will work with all stakeholders, including Neustar (which is obligated under its existing contract with the NAPM to cooperate with any transition process to a new LNPA) to ensure a successful LNPA transition process. Neustar has no need to access the MSA before addressing a transition services agreement.

require that any proposed material changes to the contract,<sup>122</sup> including, but not limited to, change orders, modifications, statements of work, or extensions, be submitted to and approved by the Commission in advance of their implementation. We hereby delegate to the Wireline Competition Bureau, with support from the Office of General Counsel and the Public Safety and Homeland Security Bureau, the review and approval of such material contract changes. We direct the Public Safety and Homeland Security Bureau to monitor the LNPA's operation of the NPAC/SMS for security and reliability issues. To facilitate that task, we expect that the Public Safety and Homeland Security Bureau will consult with industry and academic experts, in addition to seeking continued support from Federal partners with expertise in, and responsibility for, law enforcement and national security matters.

## **2. NAPM Management of the LNPA Contract**

46. The NAPM has managed the LNPA contract since 1997. It has been an integral part of the selection process and contract negotiation thus far, and will continue to be so during the transition. The *May 2011 Order* stated that “[t]he Commission or the [Wireline Competition] Bureau will also decide at a later date who should manage the LNPA contract(s).”<sup>123</sup> Until that question is decided, we will continue to rely on the NAPM, and are grateful for the hard work and subject matter expertise assistance from the NAPM. As noted in the *LNPA Selection Order*, the Commission may revisit this question after the new LNPA contract is executed and the LNPA is providing service.<sup>124</sup>

### **E. Neustar Motion to Show Cause**

#### **1. Background**

47. On June 1, 2016, Neustar filed a motion to order Telcordia to show cause why it should not be disqualified from selection as the LNPA.<sup>125</sup> In its motion, Neustar argues that the Commission must resolve, on the record, the question of whether Telcordia made a material misrepresentation during the selection process, by issuing an order to show cause requiring Telcordia to explain the commitments it

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<sup>122</sup> We consider a change material when it alters the terms of the agreement between the parties in an important and substantial way. We direct the parties to work closely with the Wireline Competition Bureau if questions arise as to whether a change is material and, as such, requires approval in advance of implementation.

<sup>123</sup> *May 2011 Order* at para 20. Several parties complain about the role of the NAPM in managing the LNPA contract, going forward. *See, e.g.* Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116, Attachs. (filed May 17, 2016) (OTI/LNP Alliance May 17 *Ex Parte*) and Letter from Aelee Christofferson, ATL Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-115 (filed May 4, 2016) (ATL May 4, 2016 *Ex Parte*). They urge the Commission to require more diversity within the NAPM and to adopt a more open dues structure with lower levels for smaller and mid-sized carriers. LNP Alliance Jun. 9, 2016 *Ex Parte* at 5; Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116, Attachs. (filed Jun. 6, 2016) (OTI/LNP Alliance Jun. 6, 2016 *Ex Parte*); OTI/LNP Alliance May 17 *Ex Parte* at 4-5; ATL May 4, 2016 *Ex Parte* at 1. In response, the NAPM maintains that its structure provides a great deal of flexibility with respect to how all entities can participate, pointing out, for example, that if an interested entity cannot afford to pay its share of the expenses, one way it can choose to participate is by joining with other interested entities to form a new ad hoc trade association specifically for the purpose of participating as a member of the NAPM LLC. This option, it contends, would permit the interested entities to divide their portion of the expenses incurred by the NAPM LLC among the members of the ad hoc trade association in any way they see fit. NAPM Jun. 2, 2016 *Ex Parte* at 4. We will make these comments part of the record when we consider the management of the LNPA contract going forward.

<sup>124</sup> *LNPA Selection Order* at para. 196.

<sup>125</sup> Motion of Neustar, Inc. to Order Telcordia Technologies, Inc. to Show Cause Why It Should Not be Disqualified from Selection as Local Number Portability Administrator, WC Docket Nos. 07-149 and 09-109, CC Docket No. 95-116, (filed Jun. 1, 2016) (Neustar Motion to Show Cause).



made and how it complied or failed to comply with those commitments.<sup>126</sup> Neustar admits that the LNPA selection process is not a government procurement, but insists that because the Commission has maintained direct responsibility for the selection of the LNPA, it should be treated as one.<sup>127</sup> Neustar concludes that had a material misrepresentation been discovered in time, it might have changed the outcome of the LNPA selection process.<sup>128</sup>

48. In response, Telcordia contends that the issues raised in Neustar's motion have been properly addressed in contract negotiations and in discussions with the NAPM.<sup>129</sup> The only remaining issue in this proceeding, Telcordia asserts, is whether the proposed MSA between Telcordia and the NAPM meets the neutrality and security requirements of the Commission's *LNPA Selection Order*.<sup>130</sup> Telcordia further contends that rather than address the remaining open issue, Neustar essentially demands that the Commission open a new proceeding to investigate whether there has been a violation of the Commission's rules and, if so, whether to initiate enforcement action.<sup>131</sup> Telcordia believes that the motivation for Neustar's demanding a proceeding to investigate whether there has been a violation of the Commission's rules is to continue to charge the industry approximately \$1.4 million each day.<sup>132</sup> Telcordia concludes that Neustar has no right to an on-the-record proceeding about whether to initiate enforcement action.<sup>133</sup>

49. In support of Telcordia's opposition, the NAPM adds that Neustar's motion is premised on the false assumption that Telcordia has not provided the Commission with an explanation of the relevant facts<sup>134</sup> and the false assertion that the LNPA selection process is a "government

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<sup>126</sup> Neustar Motion to Show Cause at 6-7. Neustar alleges that following the Commission's selection of Telcordia, a press report indicated that Telcordia may have violated a federal requirement that only U.S. citizens work on the project, but deliberately misled the Commission to conclude otherwise. *See also* Letter from Thomas J. Navin and Aaron M. Panner, Counsel for Neustar, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket 95-116 (filed Jun. 29, 2016) (Neustar Jun. 29, 2016 *Ex Parte* Letter) and Neustar Jul. 6, 2016 *Ex Parte* at 2-3 (renewing its argument that the Commission determine, on the record, whether Telcordia made material misrepresentations about the security of the NPAC).

<sup>127</sup> Neustar Motion to Show Cause at 9.

<sup>128</sup> *Id.* at 10.

<sup>129</sup> Opposition of Telcordia Technologies, Inc. d/b/a iconectiv to Motion of Neustar to Order Telcordia Technologies, Inc. to Show Cause Why It Should Not be Disqualified from Selection as Local Number Portability Administrator, WC Docket Nos. 07-149 and 09-109, CC Docket No. 95-116, (filed Jun. 10, 2016) (Telcordia Opposition). Telcordia notes that during contract negotiations, Telcordia disclosed that, prior to its selection, it had voluntarily begun development of source code for use in the NPAC, if awarded the contract. Telcordia had begun this work without a contract and performed the work not knowing whether it would be awarded the contract or knowing what contract requirements would ultimately be negotiated. After discussions with the NAPM and Commission staff, the parties agreed that Telcordia would discard the pre-contract developed code and start anew.

<sup>130</sup> *Id.* at 3.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> Letter from Todd D. Daubert, Counsel to the NAPM LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 07-149 and 09-109, CC Docket No. 95-116, Attachs. (filed Jun. 15, 2016) (NAPM Jun. 15, 2016 *Ex Parte*). The NAPM notes that through its oversight role, the Commission has known all of the relevant facts for months and that any national security issues were addressed and mitigated. Moreover, interested parties have now had several months to review the new MSA that will actually govern Telcordia's actions as the new LNPA.



procurement.”<sup>135</sup> The NAPM emphasizes that because the LNPA selection process is not a federal procurement, none of the cases that Neustar cites in its motion are relevant.<sup>136</sup>

50. In its reply to Telcordia’s opposition, Neustar alleges that Telcordia does not deny that it misled the Commission about its use of non-U.S. citizens in developing the NPAC code before and after the release of the *LNPA Selection Order*, nor does Telcordia claim that it ever came forward with the information that it had employed non-U.S. citizens in developing the NPAC code.<sup>137</sup> Neustar concludes that Telcordia misled the Commission during the selection process and failed to act with candor after the *LNPA Selection Order* was released.<sup>138</sup> According to Neustar, without full and open resolution of these concerns, Telcordia “cannot be trusted with a critical linchpin of the nation’s telecommunications system.”<sup>139</sup>

## 2. Discussion

51. We conclude that Neustar has not substantiated the various claims made against Telcordia such that it warrants grant of the Neustar motion. As an initial matter, section 1.17 of the Commission’s rules governs truthful and accurate statements to the Commission, and generally requires that any entity subject to the Commission’s jurisdiction shall not mislead, intentionally provide incorrect material information to, or intentionally omit from providing material information to, the Commission.<sup>140</sup> Commission precedent is quite clear that claims of both misrepresentation and lack of candor require a showing of an intent to deceive.<sup>141</sup> The plain language of section 1.17 also is clear that the intent to deceive must relate to information that is material to the issue the Commission is examining.<sup>142</sup> Neustar’s Motion to Show Cause fails to establish a *prima facie* case that Telcordia violated the requirements of this rule by making an intentional, material misrepresentation to the NAPM and the Commission prior to its selection as the next LNPA, or during the contract negotiation process.

52. We disagree with Neustar’s contention that Telcordia misled the Commission and failed to act with candor both before and after the *LNPA Selection Order* was released.<sup>143</sup> As Telcordia notes, it had begun work on the NPAC source code without a contract and well before its conditional selection as

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<sup>135</sup> *Id.* at 3, 4-8 (“Neustar’s own filings in the above-referenced dockets when iconectiv was seeking to challenge Neustar’s role as the LNPA confirm that even Neustar likely does not believe the arguments it now makes,” citing multiple filings made by Neustar with the Commission),

<sup>136</sup> *Id.* at 8.

<sup>137</sup> Reply In Support of Neustar, Inc.’s Motion to Order Telcordia Technologies, Inc. to Show Cause Why It Should Not be Disqualified from Selection as Local Number Portability Administrator, WC Docket Nos. 07-149 and 09-109, CC Docket No. 95-116, at 1, 2 (filed Jun. 15, 2016) (Neustar Reply).

<sup>138</sup> *Id.* at 2-3.

<sup>139</sup> *Id.* at 3.

<sup>140</sup> See 47 C.F.R. § 1.17. We also reject Neustar’s apparent allegation that Telcordia may have violated section 1.65(a) of the rules. See Neustar Motion to Show Cause at 10. While Neustar makes no specific argument regarding the applicability of section 1.65 to the facts at issue here, we note that since that rule applies exclusively to applications filed in Commission licensing proceedings, its application here is inapposite.

<sup>141</sup> See, e.g., *Amendment of Section 1.17 of the Commission’s Rules Concerning Truthful Statements to the Commission*, Report and Order, 18 FCC Rcd 4016, 4020, para. 9 (2003); *San Francisco Unified School District, Renewal of License for Station KALW(FM), San Francisco, California*, Hearing Designation Order and Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 13326, 13334, para. 19 (2004).

<sup>142</sup> See 47 CFR § 1.17(a) (requiring that no person subject to this rule shall ... (1) intentionally provide material factual information that is incorrect or (2) provide material factual information that is incorrect).

<sup>143</sup> Neustar Reply at 3; see also Neustar Jul. 6, 2016 *Ex Parte* at 2.

the LNPA.<sup>144</sup> Telcordia did so without knowing the exact contractual terms that would be ultimately negotiated.<sup>145</sup> Thus, Telcordia's statements could not have violated an order that the Commission had not yet adopted. Telcordia also states that it "understood security issues were to be resolved" during contract negotiations, subject to subsequent review by the Commission."<sup>146</sup> Telcordia further explains that "during the contract negotiation process, Telcordia discussed the pre-contract development with both the NAPM and the Commission staff, and the parties reached an agreement that the code would be discarded."<sup>147</sup> The record reflects that Telcordia voluntarily started writing the pre-contract code, believed that any outstanding issues would be resolved during the contract negotiation process, disclosed a problem during contract negotiations with the NAPM and the Commission staff, and then consequently re-commenced writing the code from scratch, all without the benefit of an executed contract<sup>148</sup> or single payment. Against this backdrop, we are not persuaded that Telcordia intentionally misled the Commission.

53. We also dismiss as speculative at best Neustar's claims that Commission knowledge of the use of non-U.S. citizens in developing pre-contract code would have changed the outcome of the *LNPA Selection Order*.<sup>149</sup> The contract negotiation and approval process established in the *LNPA Selection Order* always reserved to the Commission the authority to review, where required to mitigate, and where appropriate to approve, the proposed draft contract.<sup>150</sup> In this manner, the LNPA contract negotiation and review process worked as intended: the use of non-U.S. citizens working on pre-contract code came to light during the negotiation process, and consequently, the Commission required mitigation regarding the pre-contract code development.

54. Neustar has also failed to establish a *prima facie* case of a violation of a Commission order.<sup>151</sup> The *LNPA Selection Order* envisioned the following: an NPAC built in the U.S. from the ground up; that did not use foreign code in the NPAC nor would it use U.S.-developed code elsewhere in the world; and that Telcordia employees working on NPAC/SMS systems will be U.S. citizens who will be closely screened, vetted, trained and supervised.<sup>152</sup> Those expectations were forward-looking and become material upon the signing of the contract between Telcordia and the NAPM. Telcordia indicated that it used non-U.S. citizens for pre-contract work. Telcordia's use of non-U.S. citizens in pre-contract work, before the Commission's *LNPA Selection Order* was even released, and before a contract has been approved by the Commission and executed by the parties, cannot violate that Order. In any event, Telcordia's pre-contract work is irrelevant because the pre-contract code has been discarded and shall never be used. The Commission's expectations with respect to the use of foreign nationals are reflected in the MSA, as finally negotiated and that is before the Commission for approval. The negotiated MSA requires that all of those expectations will be met once a final contract is executed.

55. Finally, as the NAPM exhaustively demonstrates, the government-procurement cases that Neustar relies on are not relevant here because the MSA is not a government contract.<sup>153</sup> As recently as 2011, Neustar itself acknowledged that the LNPA contracts are private contracts negotiated and entered

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<sup>144</sup> Telcordia Opposition at 1-2.

<sup>145</sup> *Id.* at 2.

<sup>146</sup> *Id.* at 1.

<sup>147</sup> *Id.* at 6.

<sup>148</sup> *Id.* at 1, 6.

<sup>149</sup> Neustar Motion to Show Cause at 10; *see also* Neustar Jul. 6, 2016 *Ex Parte* at 2.

<sup>150</sup> *See, e.g., LNPA Selection Order* at para. 85.

<sup>151</sup> *See, e.g.,* Neustar Motion at 1, 5, 7.

<sup>152</sup> *LNPA Selection Order* at para. 125.

<sup>153</sup> *See* NAPM Jun. 15, 2016 *Ex Parte* at 3-8.

into between private entities.<sup>154</sup> However, Neustar now tries to argue that because the Commission has maintained direct responsibility for selection of the LNPA, the contract must now be treated as a government contract. We disagree. The *LNPA Selection Order* was clear in delegating to the NAPM the task of negotiating a contract with Telcordia.<sup>155</sup> Simply because the Commission has exercised its authority over numbering matters in order to oversee the final contract (and especially the security and neutrality provisions), does not turn that contract between two private parties into a government contract.

56. Accordingly, as discussed above, because Neustar failed to substantiate the claims raised against Telcordia in its motion that warrant Commission consideration, we deny its motion for an order to show cause.

#### F. Other Issues

57. The LNP Alliance expresses a number of concerns about various provisions of the MSA.<sup>156</sup> For example, it asserts that the MSA “effectively reclassifies any interconnected VoIP provider that gains direct access to the NPAC as a telecommunications carrier offering ‘telecommunications services,’ not just for the purposes of Part 52, Numbering, but for essentially all purposes, including billing, rating, routing, and network maintenance.”<sup>157</sup> We disagree with this tortured argument, as nothing in the MSA addresses the legal classification of interconnected VoIP services.<sup>158</sup> Indeed, the language the LNP Alliance points to is not new to this MSA.<sup>159</sup> Similar language was used in a 1997 NANC LNP

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<sup>154</sup> *Id.* at 4 (citing Neustar Reply Comments, WC Docket No. 09-109, CC Docket No. 95-116, at 3-4 (filed Mar. 29, 2011)).

<sup>155</sup> *See, e.g., LNPA Selection Order* at paras. 3, 193.

<sup>156</sup> OTI/LNP Alliance May 17, 2016 *Ex Parte*; Letter from James C. Falvey, Counsel for LNP Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed May 20, 2016) (LNP Alliance May 20, 2016 *Ex Parte*).

<sup>157</sup> *Id.* at 2-3.

<sup>158</sup> As the NAPM accurately points out, the regulatory classification of an entity (*e.g.*, whether the entity is a common carrier or provider of interconnected VoIP services) is irrelevant to whether the entity is eligible to use the NPAC. *See* NAPM Jun. 2, 2016 *Ex Parte* at 2.

<sup>159</sup> The LNP Alliance relies upon the following language in Section 6.1.2.2.4.1: “In addition to the other restrictions on the use of User Data set forth in the User Agreement and the PTRS User Agreement, User Data shall not be used by any User or PTRS User other than for the purpose of routing, rating, or billing calls or performing network maintenance in connection with providing or facilitating the provision of telecommunications services.” LNPA contract § 6.1.2.2.4.1. The NAPM notes that, for purposes of the MSA, the term User is defined, at § 31, as “any and all TSPs . . . that have entered into an NPAC/SMS User Agreement . . .” and the term “TSP” in turn is defined as: “a telecommunications service provider, which for the purposes of this Agreement shall mean an entity which (i) is an entity that has obtained or is eligible to obtain North American Numbering Plan numbering resources associated with the region and (ii) has entered into an NPAC/SMS User Agreement with Contractor to receive Services under this Agreement.” The use of the phrase “for the purposes of this Agreement” in the definition of “telecommunications service provider” is meant to clarify that whenever the term “telecommunications service provider” is used in the MSA, it means any entity that (i) is eligible to receive numbers and (ii) has signed an NPAC/SMS User Agreement. The term has nothing to do with common carrier status. NAPM Jun. 2, 2016 *Ex Parte* at 2. Moreover, NAPM argues, the term “PTRS User” is defined as “a PTRS (i) determined to have a need to access any part of the NPAC/SMS, such as to route, bill or rate calls, or to perform network maintenance as specified in Section 6.1.2.1 and (ii) that has entered into a PTRS User Agreement . . . The term “PTRS” in turn is defined as “a provider of telecommunications-related services as described in Article 6 (emphasis added). As with the definition of User, therefore, an entity need not be a common carrier or a provider of VoIP Services to qualify as a PTRS User.” *Id.* at 2-3. The LNP Alliance argues that several of the MSA definitions are convoluted and inconsistent with the statutory definition. LNP Alliance Jun. 9, 2016 *Ex Parte* at 2-4.

document,<sup>160</sup> and in the Neustar Master Services Agreement with the NAPM.<sup>161</sup> Thus, the language predates the agreement by the NAPM and Telcordia and is not properly categorized as a “finding” by the NAPM carriers and Telcordia, contrary to the LNP Alliance’s claims.<sup>162</sup> Moreover, it is disingenuous to argue that either the NAPM or Telcordia somehow have the authority to declare whether or not interconnected VoIP providers are telecommunications service providers or to otherwise resolve the question of the statutory classification of interconnected VoIP service.<sup>163</sup>

58. As to the remaining MSA concerns expressed by the LNP Alliance, we concur with Telcordia that the *LNP Selection Order* made clear that the purpose of the Commission’s review of the MSA was to determine whether it complies with the neutrality and security requirements that were set forth in that Order.<sup>164</sup> To the extent that the LNP Alliance fails to raise any justification for disapproving the MSA in either regard, its revisions to the MSA are beyond the scope of this proceeding.

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<sup>160</sup> The 1997 NANC LNP document states “NPAC Users are required to be telecommunications Service Providers or facilities-based interexchange carriers that have been certified by the FCC or a State Public Utility Commission or are under contract to a Service Provider or facilities-based interexchange carrier to provide billing, routing, and/or rating for that respective Service Provider or interexchange carrier. The above criteria limits NPAC access to those with an operational need for NPAC service in order to provide local number portability.” See also the 2013 RFP, which states in relevant part that: “the first step in determining whether access to the NPAC/SMS is permissible is to categorize Applicants. Based solely upon the New User Application, the LNPA shall categorize each Applicant as either (A) a Service Provider, (B) a provider of telecommunications-related services (PTRS), or (C) ‘other,’ which shall refer to any Applicant that is not identified in the New User Application as either a Service Provider or a PTRS. An Applicant may not be categorized as more than one of (A), (B), or (C) above in any single New User Application, but may submit separate New User Applications in order to qualify under more than one category.” “In general, a PTRS may be granted access to the NPAC/SMS Data for the exclusive purpose of routing, rating, or billing of calls, or for performing network maintenance in connection with the provision of telecommunications-related services.” These statements illustrate that the RFP clearly contemplated that there would be different entities, such as VoIP providers, who would be using the NPAC database. See North American Portability Management LLC, Reference Documents, 2015 LNPA RFP 2 4 13.docx, at 16-17, [https://www.napmlc.org/pages/npacrfp/npacRFP\\_RefDocs.aspx](https://www.napmlc.org/pages/npacrfp/npacRFP_RefDocs.aspx) (last visited Jun. 2, 2016).

<sup>161</sup> See, e.g., Agreement for Number Portability Administration Center/System Management Services between Lockheed Martin IMS and Northeast Carrier Acquisition Company, Article 1.62 (“The terms “User” or “Users” means, individually or collectively, (i) any and all Service Providers and/or (ii)(a) any and all providers of telecommunications related services in the Service Area, having a need to access any part of the NPAC/SMS, such as to route, bill or rate calls, and (b) which has or have entered into an NPAC/SMS User Agreement(s) with Contractor in the form of Exhibit J hereto to access and use Services under this Agreement.) and Exh. J, Section 7.6 (“... User Data shall not be: (a) used by User other than for the purpose of routing, rating, or billing calls or performing network maintenance in connection with providing telecommunications services. . .”), appended to Neustar SEC Form 10-Q (filed Aug. 15, 2005) (Neustar LNPA Contract), available at <http://www.neustar.biz/about-us/investor-relations/sec-filings-by-neustar>. With approval by the Commission, Lockheed Martin transferred its communications business unit to an affiliate of Warburg, Pincus & Company, Neustar, on November 30, 1999. *LNPA Selection Order* at para. 7, n. 23.

<sup>162</sup> LNP Alliance May 20, 2016 *Ex Parte* at 2-3.

<sup>163</sup> Both the Telcordia-NAPM MSA and the Neustar-NAPM MSA contain provisions stating that the Contractor (Telcordia and Neustar, respectively) expressly recognizes the authority of the FCC and other governmental entities over the user and the NPAC/SMS. See, LNPA Contract, § 29.1, Neustar LNPA contract § 15. Moreover, to the extent that the LNP Alliance’s argument relies upon the Commission’s decision to provide interconnected VoIP providers with direct access to numbers, we note that in that decision the Commission expressly found it was “unnecessary to first determine the classification of interconnected VoIP service” in order to adopt its rules. See *Numbering Policies for Modern Communications et al.*, Report and Order, 30 FCC Rcd 6839, 6880, para. 82 (2015).

<sup>164</sup> Letter from John T. Nakahata and Mark D. Davis, Counsel to Telcordia Technologies, Inc., d/b/a iconectiv, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 09-109, 07-149, CC Docket No. 95-116 (filed May 24, 2016).

59. Several parties argue that there has been no effort to incorporate the IP transition into the LNPA transition.<sup>165</sup> We have addressed this issue several times during the course of this proceeding, including at some length in the *LNPA Selection Order*.<sup>166</sup> No party sought reconsideration of our decision not to incorporate the IP transition in the transition to a new LNPA. We see no need to revisit that decision here.<sup>167</sup>

60. We note that several parties have raised issues that do not relate directly to our approval of the MSA and our ultimate selection of Telcordia as the LNPA. For example, the Competitive Carriers Association has suggested that the LNPA should implement non-geographic number porting, also known as Nationwide Number Portability (NNP).<sup>168</sup> At the Commission's request, the NANC recently made a recommendation to the Commission on this issue.<sup>169</sup> Among other things, the NANC reported that "[t]he implementation of NNP will likely require the industry to incur significant costs to implement and maintain systems and operations and ultimately require consumers to incur service price increases" and that "[d]eploying NNP prior to the completion of the IP Transition could result in unnecessary and duplicative costs, thus its timing should coincide with implementation of the all-IP network."<sup>170</sup> As the issue of NNP is outside the scope of this proceeding, we need not discuss non-geographic number porting in this Order.

#### IV. ORDERING CLAUSES

61. As all of the conditions for LNPA contract terms set forth in the *LNPA Selection Order*, including terms consistent with the Commission's requirements regarding neutrality and security matters, have been met, we issue this final decision approving the recommendation of the North American Numbering Council that Telcordia Technologies, Inc. d/b/a iconectiv become the next LNPA, and also, approving the LNPA contract between the North American Portability Management LLC and Telcordia Technologies, Inc. d/b/a iconectiv, submitted to the Commission for review and approval on March 31, 2016.

62. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1-4, 251(e), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 251(e) and 303(r), sections 1.3 and 52.26 of the Commission's rules, 47 C.F.R. §§ 1.3 and 52.26, that the North American Portability Management LLC and Telcordia Technologies, Inc. d/b/a iconectiv, with Commission oversight, are directed to complete the transition from Neustar to Telcordia as the new LNPA, in accordance with this Order.

63. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1, 4(i), 251(e) and 408 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251(e), and 408, and sections 0.41, 0.91, 0.251 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.41, 0.91, 0.251

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<sup>165</sup> See, e.g., OTI/LNP Alliance Jun. 6, 2016 *Ex Parte* at 3-4; OTI/LNP Alliance May 17 *Ex Parte* at 2-3; and ATL May 6, 2016 *Ex Parte* at 1.

<sup>166</sup> *LNPA Selection Order* at paras. 191-192.

<sup>167</sup> See also Telcordia May 24, 2016 *Ex Parte* at 3-4; Letter from Jeffrey S. Lanning, Vice President – Federal Regulatory Affairs, CenturyLink, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-149, 09-109, CC Docket No. 95-116 (filed May 20, 2016) (the LNP administrator transition must be completed before modifications to numbering databases and systems can be considered in connection with the IP transition. Delaying consideration of the MSA will have the effect of delaying, not facilitating the IP transition).

<sup>168</sup> See Letter from Rebecca Murphy Thompson, General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 13-97, 09-109, and 07-149, CC Docket No. 95-116 (filed Jul. 14, 2015).

<sup>169</sup> See NANC Correspondence, *Report on Nationwide Number Portability*, (May 16, 2016), <https://www.fcc.gov/about-fcc/advisory-committees/north-american-numbering-council/general/nanc-correspondence> (last visited Jul. 21, 2016).

<sup>170</sup> *Id.* at 11.

and 0.291, that we hereby delegate authority to oversee the LNPA contract, or other issues related thereto, to the Wireline Competition Bureau, with support from the Office of General Counsel.

64. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1, 4(i), 251(e) and 408 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251(e), and 408, and sections 0.41, 0.91, 0.251 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.41, 0.91, 0.251 and 0.291, that we hereby delegate authority to oversee and approve any requested changes to the Voting Trust, the Telcordia Code of Conduct, or other issues related thereto, to the Wireline Competition Bureau, with support from the Office of General Counsel.

65. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1, 4(i), 251(e) and 408 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251(e), and 408, and sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191 and 0.392, that we hereby delegate authority to oversee that public safety services and law enforcement and national security operations are supported through the LNPA contract to the Public Safety and Homeland Security Bureau, with support from the Wireline Competition Bureau and the Office of General Counsel.

66. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4, 251(e), 303(r) and 408 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 251(e), and 303(r), section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, that this Order in WC Docket Nos. 09-109, 07-149, and CC Docket No. 96-115 IS ADOPTED and IS EFFECTIVE UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary



**APPENDIX A**  
**Voting Trust Agreement**

THIS AGREEMENT, dated as of \_\_\_\_\_, 2016 (this “Agreement”), is by and among Ericsson Holding II Inc., a Delaware corporation (the “Stock Holder”), Telefonaktiebolaget LM Ericsson, a Swedish company (“Parent”) and Jane Mago and Thomas Krattenmaker (collectively, “Voting Trustees” or “Trustees”).

**WITNESSETH:**

WHEREAS, the Stock Holder is the direct owner and Parent is the indirect owner of all of the voting equity interests in Telcordia Technologies, Inc., d/b/a iconectiv, a Delaware corporation (including any successor entity) (“Telcordia”), described on Schedule A attached hereto (the “Trust Stock”);

WHEREAS, in connection with the conditional selection of Telcordia as the Local Number Portability Administrator for the United States (“LNPA”), the Federal Communications Commission (the “FCC”) has required the Stock Holder to cause all of its Trust Stock to be placed in a voting trust, as provided for herein, prior to executing a contract to govern Telcordia’s service as the LNPA; and

WHEREAS, Stock Holder has directed that, during the term of this Agreement, stock certificates representing the Trust Stock be issued to the Trustees, as Trustees, if when and as the Trust Stock is issued for the purpose of vesting in the Trustees the right to vote the Trust Stock for the period and upon the terms and conditions stated herein, and that it appear in such Trust Stock when issued that the same has been issued to the Trustees, as Trustees, pursuant to this Agreement, and that Telcordia cause such issuance to be duly noted on its books and records.

NOW, THEREFORE, in satisfaction of the FCC’s Order in *Telcordia Technologies, Inc. Petition to Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration, et al.*, FCC 15-35 (rel. March 27, 2015) (“FCC Order”), and in consideration of the premises and of the mutual covenants and obligations set forth in this Agreement, and the payment of ONE DOLLAR (\$1.00) by Stock Holder to each of the Voting Trustees, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**1. Creation of Trust; Transfer of Voting Rights; Exercise in Voting Trustee's Discretion.**

1.1 Subject to the terms and conditions hereof, a voting trust in respect of the Trust Stock is hereby created and established under the laws of the state of Delaware. The Stock Holder hereby constitutes and appoints the Voting Trustees, to whom the FCC has consented, from and after the date hereof until the termination of this Agreement (at which point such constitution and appointment shall automatically be revoked), as the Stock Holder's voting trustees, attorney, agent and proxy to vote the Trust Stock (or execute a written consent in lieu of a vote of such Trust Stock) on all matters on which the holder of such Trust Stock is entitled to vote (or execute a written consent in lieu of voting).

1.2 During the term of this Agreement, except as provided in Section 1.3, the Voting Trustees shall have the sole, exclusive, absolute, and unqualified power to (i) vote the Trust Stock with discretion as to how to vote the Trust Stock in a manner consistent with complying with all neutrality requirements associated with Telcordia’s selection by the FCC as the LNPA, including the Appendix entitled “Conditions on Impartiality/Neutrality” and Telcordia’s Code of Conduct and (ii) execute stockholders’ consents at every annual and special meeting of the stockholders of Telcordia and in any

and all questions arising thereat. The sole purpose of this Trust is to vote the Trust Stock, and the Trust shall not own or have the power to vote the securities of any corporation other than Telcordia, or any successor thereto.

1.3 Notwithstanding Section 1.2 above, Stock Holder shall have the ability to direct the Voting Trustees to vote their interests, and the Voting Trustees shall vote in accordance with the Stock Holder's instructions, in respect to any proposal to authorize or effect:

(a) Any merger or consolidation or other reorganization of Telcordia with or into another corporation (including employee or director compensation specifically associated with such a transaction);

(b) The issuance by Telcordia of any shares of capital stock or rights to acquire capital stock as part of recapitalization or sale of a non-controlling equity interest in Telcordia (including employee or director compensation specifically associated with such a transaction);

(c) The acquisition by Telcordia of another corporation by means of a purchase of all or substantially all of the capital stock or assets of such corporation (including employee or director compensation specifically associated with such a transaction);

(d) Any sale, lease, transfer or other disposition of all or substantially all the assets of Telcordia (including employee or director compensation specifically associated with such a transaction);

(e) Any sale, lease, transfer or other disposition of any assets of Telcordia that are unrelated to Telcordia's performance or duties as the LNPA, and any other matters unrelated to Telcordia's duties as LNPA.

(f) A liquidation, winding up, receivership, bankruptcy, dissolution or adoption of any plan for the same;

(g) The incurrence of any indebtedness for borrowed money or the issuance of any debt securities or assumption, guarantee or endorsement, or otherwise as an accommodation becoming responsible for, the obligations of any person for borrowed money.

1.4 Notwithstanding the provisions of this Agreement, Stock Holder may, with the FCC's prior written consent, which consent may be given, conditioned or withheld in the FCC's sole discretion, sell any part of its Trust Stock to a third party. Upon such a disposition, the Trustees, upon the receipt by them of a proper discharge or release from Stock Holder, or its successors or assigns, and upon payment of any stamp taxes or other governmental charges in connection with such surrender and delivery, will cause to be delivered to Stock Holder, or its successors or assigns, certificates of capital stock of Telcordia in amounts corresponding to the Trust Stock issued, delivered or transferred to the Trustees at any time pursuant to this Agreement and being sold or distributed in that disposition.

1.5 The Trustees may act hereunder either by the affirmative vote of both Trustees, in person, at a meeting duly called and held, and such vote shall be deemed the decision or act of both Trustees, or by a written instrument without a meeting of the Trustees signed by both Trustees. The Trustees may adopt their own rules of procedure and shall keep reasonable minutes of their proceedings.

## 2. Distributions, etc.

2.1 The Stock Holder shall be entitled to any distribution on any Trust Stock, and if same be

paid to the Trustees, such distributions shall be disbursed by the Trustees to the Stock Holder; provided that if any distribution is in the form of any security that entitles its holder to voting rights in the entity making such distribution, such voting rights shall be treated for all purposes of this Agreement as voting rights attendant to such Trust Stock, and shall be automatically transferred to the Voting Trustees to the same extent provided herein.

2.2 In the event of any recapitalization or similar change in, or any conversion or exchange of, any Trust Stock, the provisions of this Agreement shall be equitably adjusted to eliminate the effects thereof and, to the extent required, the Stockholder shall issue additional certificates of Trust Stock to the Voting Trustees

3. Voting Trustees.

3.1 Each Voting Trustee ( a ) accepts the trust and proxy hereby created in accordance with all of the terms and conditions and reservations herein contained and agrees to serve as Voting Trustee hereunder, and (b) agrees that he will exercise the powers and perform the duties of the Voting Trustee as herein set forth according to his best judgment.

3.2 Each of the two trustees shall be unaffiliated with each other, and each shall have no familial or business connection with the management of Telcordia, Parent (including any of its subsidiaries and affiliates), Stock Holder (including any of its subsidiaries and affiliates), or any Telecommunications Service Provider (defined as any telecommunications carrier as defined in 47 U.S.C. §153(51) and any interconnected VoIP provider as defined in 47 U.S.C. § 153(25)). The Voting Trustees shall take no action that would cause Telcordia to violate the Code of Conduct.

3.3 Any Trustee or successor Trustee may at any time resign by delivery to the other Trustee and to the Stock Holder his resignation in writing. In the event of a vacancy or vacancies occurring in the office of Trustee or successor Trustee through the death, incapacity, resignation, refusal to act, or removal from the role of Trustee under this Agreement, the Stock Holder may appoint a successor Trustee to fill each such vacancy, with the prior written consent of the FCC. A majority of the Telcordia Board of Directors, by affirmative vote, may remove a Trustee with or without cause at any time, with the written consent of the FCC, which consent shall not be unreasonably withheld or delayed, and a successor Trustee shall be appointed in accordance with the preceding sentence. The successor Trustee so appointed shall be clothed with all the rights, privileges, duties and powers conferred upon the Trustees herein named. Upon the appointment of a successor Trustee, new certificates of Trust Stock shall be issued in the names of the current Voting Trustees.

3.4 The Stock Holder hereby waives any and all claims of every kind and nature which hereafter the Stock Holder may have against the Voting Trustees, and agrees to release and by such act does release each Voting Trustee and his respective successors and assigns from any liability whatsoever arising out of or in connection with the exercise of his powers or the performance of his duties hereunder, except for such claims or liability as may arise out of the willful misconduct or gross negligence of such Voting Trustee. Each Voting Trustee shall be free from liability in acting upon any paper, document or signature reasonably believed by the Voting Trustee to be genuine and to have been signed by the proper party. No Voting Trustee shall be liable for any error of judgment in any act done or omitted, nor for any mistake of fact or law, nor for anything that the Voting Trustee may do or refrain from doing, unless, in each case, the Voting Trustee's action or failure to act constitutes willful misconduct or gross negligence. Each Voting Trustee may consult with legal counsel and action under this Agreement suffered or taken in good faith by such Voting Trustee in accordance with the opinion of the Voting Trustee's counsel shall be conclusive on the parties to this Agreement and such Voting Trustee shall be fully protected and be subject to no liability with respect thereto.

3.5 In consideration of each Voting Trustee's services hereunder, the Stock Holder shall pay to each Voting Trustee Two Thousand Five Hundred Dollars (US\$2,500) per calendar month. This amount may be increased with the consent of the FCC for good cause, which includes the amount of time actually required to fulfill Trustees' duties. In addition, the Stock Holder shall pay all reasonable expenses of the Voting Trustees, including, without limitation, counsel fees, and shall discharge all liabilities incurred by the Voting Trustees, or either of them, in connection with the exercise of their powers and performance of their duties under this Agreement, except such as shall arise from the willful misconduct or gross negligence of a Voting Trustee. The Stock Holder shall also indemnify and hold the Voting Trustees harmless from and against any and all claims and liabilities in connection with or arising out of the administration of the voting trust created by this Agreement or the exercise of any powers or the performance of any duties by him as herein provided or contemplated, except such as shall arise from the willful misconduct or gross negligence of a Voting Trustee.

4. Termination and Amendment.

4.1 This Agreement and the voting trust hereby created shall be irrevocable, except as set forth in Sections 4.2, 4.3 and 4.4, or upon the request of the Stock Holder and receipt of the written consent of the FCC.

4.2 In the event that Telcordia shall cease to be appointed by the FCC to serve as the LNPA, this Agreement shall terminate.

4.3 In the event of the winding-up, dissolution or total liquidation of Telcordia, this Agreement shall terminate with respect to the Trust Stock.

4.4 This Agreement will terminate in the event that Parent or any of its subsidiaries or affiliates, in the absence of this Trust, would no longer hold a direct or indirect de jure or de facto controlling interest in Telcordia, subject to the written consent of the FCC.

4.5 Upon termination, the Trustees, upon the receipt by them of a proper discharge or release from Stock Holder, or its permitted successors or assigns, and upon payment of any stamp taxes or other governmental charges in connection with such surrender and delivery, will cause to be delivered to Stock Holder, or its permitted successors or assigns, certificates of capital stock of Telcordia in amounts corresponding to the Trust Stock issued, delivered or transferred to the Trustees at any time pursuant to this Agreement.

4.6 This Agreement may be amended only with written consent of the Voting Trustees and the Stock Holder, or their permitted successors or assigns, and with the prior written consent of the FCC.

5. Miscellaneous. This Agreement shall be governed by and construed and enforced in accordance with the laws of the state of Delaware regardless of the laws that otherwise might govern under applicable principles of conflicts of laws thereof. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors, legal representatives and permitted assigns except that the FCC shall be an express third party beneficiary hereto. This Agreement shall not be assignable by any party hereto without the prior written consent of each other party hereto and with the prior written consent of the FCC. In case any provision of this Agreement shall be held to be invalid or unenforceable in whole or in part, neither the validity nor the enforceability of the remainder of this Agreement shall in any way be affected. This Agreement constitutes the entire understanding of the parties hereto and supersedes all prior agreements or understandings with respect to the subject matter hereof among the parties. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. This Agreement may be executed simultaneously in

several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6. All formal notices given under this Agreement shall be in writing and shall be deemed to have been duly given when delivered in person or by overnight express or mailed by first-class, registered or certified mail, postage prepaid, or email and addressed to the parties as follows:

If to the voting Trustees:

Jane Mago  
4154 Cortland Way  
Naples, Florida 34119  
[jem@jmagoo.net](mailto:jem@jmagoo.net)

Thomas Krattenmaker  
2741 Pembsly Drive  
Vienna, VA 22181  
[tgkratt@cox.net](mailto:tgkratt@cox.net)

With copies to:

Competition Policy Division Wireline  
Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554  
Facsimile: (202) 418-1413  
Attention: Chief, CPD

and

Office of General Counsel  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554  
Facsimile: (202) 418-2822  
Attention: General Counsel

If to the Stock Holder:

Ericsson Holding II Inc.  
c/o John Moore  
6300 Legacy Drive  
Plano, Texas 75024  
Email: [John.Moore@Ericsson.com](mailto:John.Moore@Ericsson.com)

With a copy to:

Tara O'Neill Diaz  
General Counsel  
Telcordia Technologies, Inc., d/b/a iconectiv  
444 Hoes Lane  
Piscataway, NJ 08854  
Email: [tdiaz@iconectiv.com](mailto:tdiaz@iconectiv.com)

Each notice which shall be delivered, mailed or transmitted in the manner described above shall be deemed sufficiently received for all purposes at such time as it is delivered to the addressee (with any return receipt, delivery receipt being deemed conclusive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

[Signature page to follow]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed and delivered as of the date first above written.

ERICSSON HOLDING II INC.

\_\_\_\_\_  
By: Name:

Title:

Date:

TRUSTEES:

\_\_\_\_\_  
Name:

Date:

\_\_\_\_\_  
Name:

Date:



**APPENDIX B****Local Number Portability Administrator Code of Conduct**

For so long as it serves as Local Number Portability Administrator (“LNPA”), and except as expressly authorized by the Federal Communications Commission or its Wireline Competition Bureau:

1. As the LNPA, Telcordia Technologies, Inc., d/b/a iconectiv (“iconectiv”) shall not, directly or indirectly, show any preference or provide any special consideration to any Telecommunications Service Provider (“TSP”) with respect to LNPA services.
2. iconectiv shall not share LNP data or proprietary information of any TSP served by the LNPA (except as necessary for the performance of LNPA duties by the LNPA, or pursuant to the LNPA Master Services Agreement).
3. iconectiv and Ericsson shall not share confidential information about iconectiv’s LNPA business services or operations with employees of any TSP (except as necessary for the performance of iconectiv’s LNPA duties).
4. No employee, officer, or director of iconectiv or any dedicated employee of any subcontractor, directly involved in “core LNPA activities” (as defined by the Order)<sup>1</sup> shall hold any interest, financial or otherwise, that would cause iconectiv to no longer be neutral, without obtaining prior approval from the Federal Communications Commission or recusing himself or herself from all activities relating to the provisions of LNPA services.<sup>2</sup>
5. No person serving in the management of iconectiv and directly involved in LNPA services shall serve (i) in the management, (ii) as a member of the Board of Directors, (iii) as a Managing Member of an LLC, or (iv) as a General Partner of a partnership of any TSP without obtaining prior approval from the Federal Communications Commission or recusing himself or herself from all LNPA associated activities. For the purposes of this Code, “management of iconectiv” shall be defined as an officer of iconectiv or a member of the iconectiv Board of Directors.
6. iconectiv shall retain all decision making authority regarding LNPA services; any sub-contractor that provides LNPA-related services shall provide such services to the specific direction of iconectiv and shall not have discretionary decision making authority regarding LNPA services.
7. iconectiv’s Board of Directors shall meet the following requirements:
  - a. iconectiv’s Board of Directors shall consist of a majority of independent Members. Members’ independence shall be evaluated pursuant to the provisions of this Code and Section 303A.02 of the Rules of the New York Stock Exchange.
  - b. Each Member shall be vetted for neutrality issues.
  - c. No Member shall be an employee, recently retired employee, officer, director, managing member, or partner of a TSP.

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<sup>1</sup> *LNPA Selection Order* at para. 177.

<sup>2</sup> For avoidance of doubt, an “interest” does not include holdings by a mutual fund, life insurance policy, annuity, or similar vehicle over which the employee does not control the vehicle’s investment decisions. For the purposes of this section, interests of one percent or less are not cognizable as ownership.

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- d. No independent Member shall be an employee, recently retired employee, officer, director, managing member, or partner of Ericsson or the management of iconectiv, nor shall any independent Member be an affiliated person of iconectiv or its subsidiaries. An “affiliated person” is a person that directly or through one or more intermediaries, controls, or is controlled by, or is under common control with, iconectiv.
  - e. No independent Member will receive compensation from iconectiv other than as a director.
8. No iconectiv employee directly involved in core LNPA activities (as defined in the Order) will be a shared employee with Ericsson, nor shall any such iconectiv employee be detailed from Ericsson. Further, no such employee of iconectiv will participate in any profit-sharing or long-term compensation program offered to employees of Ericsson, except to the extent that such employee participated in an Ericsson pension plan as of March 27, 2015, nor shall any such iconectiv employee or independent Member of the Board of Directors hold Ericsson stock.
9. All iconectiv employees working on LNPA services, subcontractor employees designated to perform core LNPA services, and SungardAS employees subject to Section 10.c, below, shall receive impartiality/neutrality training (i) when hired or upon commencement of LNPA related duties and (ii) on an annual basis.
10. iconectiv shall secure a written commitment of recusal from any decisions regarding LNPA services from any person on Sungard Availability Services, LP’s parent company’s (“SungardAS”) board of directors who owns or represents an entity that holds both a direct or indirect interest in SungardAS of ten percent (10%) or more and an interest in one or more TSP(s) of ten percent (10%) or more.
- a. SungardAS shall notify iconectiv if, at any time, it becomes aware that any Sungard affiliate intends to commence providing switched services that utilize number portability. iconectiv will notify the FCC and NAPM within five business days of receipt that it has received such notification.
  - b. Any owner of SungardAS that also has, or serves as an officer or director of an entity that has ownership interests, including voting rights, greater than ten percent (10%) in a TSP shall recuse himself or herself from participating in material discussions or decision-making involving the services SungardAS provides to iconectiv in support of LNPA services.
  - c. All SungardAS employees dedicated to providing services to iconectiv in support of LNPA services, and all SungardAS managers directly overseeing day-to-day responsibilities of such employees shall be bound by this Code of Conduct.
11. iconectiv shall conduct a semiannual neutrality audit that, among other things, verifies its compliance with these conditions.

**CONCURRING STATEMENT OF  
COMMISSIONER AJIT PAI**

Re: *Telcordia Technologies, Inc. Petition to Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration*, WC Docket No. 07-149; *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 Management*, WC Docket No. 09-109; *Telephone Number Portability*, CC Docket No. 95-116.

Making local number portability work is expensive. Over the last three years, our contract with the incumbent LNP administrator, Neustar, has cost consumers \$1.4 billion, or \$466.4 million a year.<sup>1</sup> In contrast, Telcordia has told the FCC it would do the job for the next seven years for less than \$1 billion, or \$142.9 million a year.<sup>2</sup>

That \$300 million per year differential represented substantial savings for the American public and was the decisive factor in my decision to support last year's order to transition the portability contract from Neustar to Telcordia.<sup>3</sup> Indeed, three of my colleagues apparently agreed that cost savings were a major, if not *the* major, benefit of the switch.<sup>4</sup>

When we made that decision last year, we knew it was unrealistic to expect that the contract would start by July 1, 2015—the day after Neustar's existing contract expired.<sup>5</sup> But I certainly expected that Telcordia would be able to take over no more than a year later. Indeed, that's what the counsel to the North American Portability Management (NAPM), a consortium of industry participants responsible for managing our nation's local number portability contract, told my office before the vote. And that's what my colleagues apparently expected as well.<sup>6</sup>

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<sup>1</sup> NeuStar, Inc. Form 10-K at 8 (Feb. 29, 2016).

<sup>2</sup> See Letter from John T. Nakahata, Counsel to Telcordia Technologies, Inc. d/b/a iconectiv, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116, WC Docket Nos. 07-149, 09-109, at 3 (Mar. 25, 2015).

<sup>3</sup> *Telcordia Technologies, Inc. Petition to Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration et al.*, WC Docket Nos. 07-149, 09-109, CC Docket No. 95-116, Order, 30 FCC Rcd 3082, 3173 (2015) (*LNPA Selection Order*) (Statement of Commissioner Ajit Pai).

<sup>4</sup> *Id.* at 3170 (Statement of Chairman Tom Wheeler) ("This effort has led to a better deal for American consumers; one that will yield significant cost savings over the existing contract."); *id.* at 3172 (Statement of Commissioner Mignon Clyburn) ("When it is all said and done, it should be noted that this transition should yield significant savings over the next seven years – savings that I hope will ultimately be passed along, to consumers."); *id.* at 3174 (Statement of Commissioner Michael O'Rielly, Approving in Part and Dissenting in Part) ("Nonetheless, assuming all of the information in the item is accurate, especially the analysis comparing the two proposals on the technical, managerial, and cost aspects, the outcome seems justified. Notably, Telcordia stated for the record: 'On price, however, there was simply no contest.'").

<sup>5</sup> *Wireline Competition Bureau Announces Release of Procurement Documents for the Local Number Portability (LNP) Administrator Contract*, WC Docket Nos. 07-149, 09-109, CC Docket No. 95-116, Public Notice, 28 FCC Rcd 1003, 1003 (Wireline Comp. Bur. 2013).

<sup>6</sup> *LNPA Selection Order*, 30 FCC Rcd at 3147, n.535.

That deadline passed two weeks ago. And I've been told that Telcordia will not be ready to take over until September 30, 2017 at the earliest. The result is a \$375 million bill that we didn't expect and that consumers shouldn't have to pay for. And these delays and extra costs largely arose from the new vendor's decision to hire foreign nationals to write code for months, rather than follow the national security dictates of the *LNPA Selection Order* from the outset.

And yet, we cannot recapture the savings we were promised last year, and so I reluctantly agree that we must move forward and accordingly vote to concur.

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY  
APPROVING IN PART, CONCURRING IN PART, AND DISSENTING IN PART**

Re: *Telcordia Technologies, Inc. Petition to Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration*, WC Docket No. 07-149; *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 Management*, WC Docket No. 09-109; *Telephone Number Portability*, CC Docket No. 95-116.

Last year, when the Commission conditionally selected Telcordia as the next Local Number Portability Administrator (LNPA), the order stated that the Commission was “establish[ing] a transparent process and schedule to ensure the effective, seamless, and timely transition of the LNPA.” Unfortunately, this proceeding has not lived up to any of those adjectives. Once again, the Commission is picking up the pieces of a flawed process in the hopes that at least some of the promised savings will materialize over time. This is troubling because I actually find the potential significant savings from the new contract to be very beneficial to those that use these services.

In my statement last year, I made clear that the process leading up to the selection order left much to be desired and that a “significant amount of information—more than was probably necessary or justifiable—has been cloaked behind protective orders.” I had also requested greater Commission oversight to help ensure that “any further concerns by carriers or other parties about the transition, contract terms, or associated costs receive sufficient attention.” My objective in flagging these issues was to encourage a more open and transparent process going forward. In other words, fix the process mistakes of the past.

Instead, it quickly became apparent that very little was going to change. We were not informed of key developments in a timely manner and, once again, we were presented with a fully cooked order and told that we needed to vote it quickly. The clear message was that we were supposed to review the contract, but that we shouldn't look too hard because time was of the essence and any suggested changes would require further negotiations, meaning forget it. For instance, when I asked about provisions concerning ownership in a telecommunications service provider and the treatment of VoIP, my questions were brushed aside. The responses always boiled down to some combination of that's how it has been done before and this isn't the Commission's contract. In this order, however, the Commission is “approving” the contract, which includes the specific terms. That's a very different exercise and, in the end, I am unable to endorse every clause of the contract.

If it were going to be problematic for Commissioners to question specific terms, then the solution would have been for the full Commission to be brought in at an earlier stage. Or the entire process should have been set up differently from the start. Is this a private contract or not? Either the Commission is actively involved, and the process is treated like a government procurement with much greater transparency, or the Commission is not involved except to review for consistency with the Act. Asking Commissioners to “approve” a contract with little to no input is trying to have it both ways. That's untenable.

Perhaps that is why all future outreach and oversight, including the authority to approve material contract changes, is being delegated to various Bureaus and Offices. That is not a satisfactory solution either. The full Commission was brought in to solve problems that had arisen earlier in the process, so I am concerned that returning the locus of the proceeding to the Bureaus and the North American Portability Management LLC (NAPM) will result in less transparency and could create new problems.

I am also concerned that too much information was withheld from certain participants for too long. In particular, while the NAPM and Telcordia ultimately re-filed the contract with significantly fewer redactions, enabling more people to review it than before, there was clearly no reason to shield all



of that information upfront. Moreover, once representatives that had access to the documents voiced concerns, including some of the same points I flagged, they too were ignored. To be clear, I do not agree with each and every issue that was raised. But the unnecessary withholding of information and the dismissive attitude towards concerns raised in the record are further examples of the lack of forethought and attention given to matters of process that have plagued this proceeding.

Based on my concerns about certain language in the contract and order, due to my continued misgivings regarding process, and given the substantial delegations of authority, I must concur in part and dissent in part. At the same time, it is likely that, notwithstanding the delays, there will still be savings for carriers, and ultimately consumers. Further, we are affirming the principle that competition among providers to offer these services is warranted and necessary. It is the prospect of savings, even if diminished, and the benefits of contract competition, which the Commission should use elsewhere, that enables me to approve in part.