

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

In the Matter of	)	
	)	WC Docket No. 09-109
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	)	CC Docket No. 95-116

---

**COMMENTS OF THE  
NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**

---

**I. INTRODUCTION**

On March 8, 2011, the Federal Communications Commission (“FCC” or “Commission”) released an Order and Request for Comment at the above-captioned dockets.<sup>1</sup> In that Order, the Wireline Competition Bureau takes four actions in furtherance of the selection of the next local number portability administrator (“LNPA”).<sup>2</sup> The Order provides:

First, we delegate authority to the North American Numbering Council (NANC), working in consultation with the North American Portability Management LLC (NAPM), to implement a process for selecting the next LNPA. Second, the Bureau seeks comment on the specific process that the NANC and NAPM shall use. In particular, the Bureau seeks comment on a proposal by the NANC Chair and the NAPM regarding their respective roles in the LNPA selection process. Following the comment period, the Bureau will set forth more details about the

---

<sup>1</sup> DA 11-454 (rel. March 8, 2011).

<sup>2</sup> *Order* at ¶ 1. The LNPA provides local number portability services under a contract with an industry consortium. *Id.* Local number portability allows customers to retain their telephone number in the same location if they switch service providers. *Id.* at ¶. 2.

LNPA selection process. Third, we direct the NANC to recommend to the Federal Communications Commission (Commission) one or more independent, non-governmental entities to serve as the next LNPA. Fourth, we outline the Bureau's role in overseeing the LNPA selection process.<sup>3</sup>

The National Association of State Utility Consumer Advocates ("NASUCA")<sup>4</sup> submits these Comments in response to the FCC's request for comment on the specific process that shall be used to choose the next LNPA. NASUCA has been a voting member on the North American Numbering Council ("NANC") since its creation and actively seeks to ensure that the FCC's administration of telephone numbering resources is in the public interest and promotes the competitive provision of telecommunications services while ensuring minimal consumer disruption and inconvenience in their service.

In general, and as discussed further below, NASUCA submits that the process of selecting the LNPA should be open and transparent to ensure that the administration of telephone numbers and local number portability is in the public interest and consistent with all applicable laws and regulations.

## II. COMMENTS

### A. Introduction.

In the federal Telecommunications Act of 1996 ("TA-96"), Congress gave the FCC "exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to

---

<sup>3</sup> Id. at ¶ 1 (citation omitted).

<sup>4</sup> NASUCA is a voluntary association of advocate offices in more than 40 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA's members are designated by laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General's office). NASUCA's associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority.

the United States.”<sup>5</sup> At the same time, Congress required the FCC to “create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis.”<sup>6</sup> As a result, in its *First LNP Order*, the FCC directed the NANC to recommend one or more independent, non-government entities, not aligned with any particular telecommunications segment, to serve as the LNPA.<sup>7</sup> Based on NANC’s recommendation, the FCC selected Neustar to be the LNPA.<sup>8</sup> Neustar has been the LNPA since 1997; its current contract expires on December 31, 2015.<sup>9</sup> The FCC now seeks comment on the specific process to be used when selecting the next LNPA following the expiration of the Neustar contract. More specifically, the FCC seeks comment on a proposal presented by the NANC Chair and North American Portability Management LLC (“NAPM”) regarding the process to be used.

NASUCA submits that, in general, and subject to certain clarifications discussed below, the NANC Chair/NAPM proposal provides an appropriate procedure that will likely ensure an open and transparent process for numbering administration. The proposal begins with a reaffirmation from the FCC that the NANC is authorized to oversee the selection of the LNPA and make a recommendation to the FCC. The proposal then provides details regarding how NANC would perform these tasks, including the establishment of an LNPA selection working group and the issuance of Requests for Information and Requests for Proposals. The proposal

---

<sup>5</sup> 47 U.S.C. § 251(e)(1).

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

<sup>7</sup> See, *Order* at ¶ 3, *citing*, Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996) (“*First LNP Order*”) and 47 CFR § 52.25(c) (“the NANC shall select a local number portability administrator(s) (LNPA(s)) to administer the regional databases within seven months of the initial meeting of the NANC”).

<sup>8</sup> *Order* at para 4, *citing*, Telephone Number Portability, Second Report and Order, 12 FCC Rcd 12281, 12297-98 (1998) (“*Second LNP Order*”).

<sup>9</sup> *Id.* The original Neustar contract was extended on multiple occasions by amendment to the original contract.

demonstrates that it is consistent with the current delegations of authority and FCC rules regarding LNPA selection and more clearly defines the role of the NANC, the NAPM and the FCC in the overall process.

B. The Process Of Selecting The LNPA Should Be Open And Transparent To Ensure That The Administration Of Telephone Numbers And Local Number Portability Is In The Public Interest And Consistent With All Applicable Laws And Regulations.

In TA-96, Congress determined that “the Commission shall seek to promote the policies and purposes of this Act favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience and necessity.”<sup>10</sup> Such competitive provision of telecommunications services should also apply to the administration of numbering resources and the selection of the LNPA. NASUCA submits that the selection of the LNPA should also be open and transparent and consistent with all applicable laws and regulations.

The process of choosing an LNPA should be open to all bidders to ensure that the most qualified entity is chosen, while also ensuring that telephone numbers are being administered efficiently and cost-effectively. Without characterization of the performance of Neustar as the LNPA, and without prejudice to whether Neustar should continue in its role as the LNPA, opening the bidding process to a variety of participants will ensure that the public resources being devoted to number administration are being used effectively. A competitive process should ensure that the most qualified entity is chosen as the LNPA and, as such, that the FCC’s resources are being used effectively.

Neither TA-96 nor the FCC’s rules and regulations provide a specific procedure for selecting an LNPA. Especially because the terms of the contract for the LNPA involve hundreds

---

<sup>10</sup> 47 U.S.C. § 257(b).

of millions of dollars, it is important that an adequate and an appropriate procedure be in place to ensure that such resources are being used efficiently and effectively.

NASUCA is aware that, in the past, LNPA contracts beyond the initial contract established in 1997 were extended by amendment and not with a bidding process. Yet other entities have attempted to bid on the LNPA contract but were unable to do so.<sup>11</sup>

NASUCA submits that fundamental decisions regarding the administration of numbering sources, as well as the expenditure of federal money, should be made by entities that are publicly accountable. That is, the government, in this case, the FCC based on recommendations from the NANC, should determine what federal contracts are consummated or amended. When federal money is spent, for example, the federal government, or its duly authorized agent, should determine and approve the details of such expenditures. Such authority should not be delegated to a non-governmental authority that cannot be held publicly accountable.

In general, the competitive provision of telecommunications services can lead to better service at lower prices. Competition can help ensure that consumers get the best service for the best price and that the best qualified administrators, who provide efficient services, are selected. Competition can also provide the incentives necessary to develop and implement innovative methods to solve challenges and reap the benefits of diversification. With regard to the administration of numbering resources and the selection of an LNPA specifically, the FCC has recognized that having options of service providers to administer numbering sources will provide “more favorable terms and conditions than if only one database administrator had been selected.”<sup>12</sup>

---

<sup>11</sup> *In the Matter of The Petition of Telcordia Technologies, Inc. To Reform Amendment 57 and to Order a Competitive Bidding Process for Number Portability Administration*, Petition of Telcordia Technologies, WC Docket No. 07-149 (dated June 13, 2007).

<sup>12</sup> *Second LNP Order, supra*, 12 FCC Rcd at 12305.

Furthermore, NASUCA supports the involvement of NANC in having the final recommendation to the FCC of an LNPA because NANC has a varied membership that includes public advocates (i.e., NASUCA) as well as state representatives through the National Association of Regulatory Utility Commissioners (“NARUC”). This opportunity is provided in the NANC Chair/NAPM proposal. In contrast, relying solely on the NAPM, for example, to select the LNPA would effectively preclude public advocates and state input since the NAPM is an industry-only organization. NANC is the numbering policy advisor to the FCC and in that role should be assisting the FCC in making the important public policy decision of who administers the national numbering resources.

Thus NASUCA supports an open and transparent process for selecting the LNPA so that consumers realize the benefits of the competitive provision of telecommunications services. Such decisions should be made only by the FCC based on recommendations from the NANC. The NANC Chair/NAPM proposal satisfies these requirements and should be adopted by the FCC, pending the provision of the clarifications discussed below.

C. The NANC Chair/NAPM Proposal Could Be Approved As The LNPA Selection Process With Certain Modifications Or Clarifications.

The NANC proposal generally provides a suitable process for selecting an LNPA but some modifications or clarifications should be provided before the proposal is approved. First, the FCC should clarify what constitutes FCC action when discussed in the proposal. The proposal provides, for example, that “upon approval by the NANC, the selection(s) made by the NAPM LLC shall be forwarded to the Commission for approval.”<sup>13</sup> Given the multi-layered hierarchy of the FCC, NASUCA submits that the FCC should clarify more specifically what constitutes “Commission approval” before approving the NANC Chair/NAPM proposal. The

---

<sup>13</sup> See, *Order* at Attachment A, page 7, para III.D.

FCC should clarify whether action at a public meeting by a quorum of the Commissioners is required to approve the recommendation made by the NANC and the NAPM or if, for example, action by the Chief of the Wireline Competition Bureau, or some other FCC entity, would constitute sufficient approval. The FCC should ensure when addressing this proposal to clarify specifically how approval by the FCC is obtained when selecting the LNPA.

Second, NASUCA questions the advisability of the FCC authorizing the NAPM to “negotiate a contract(s) with the selected vendor(s) upon final approval of the vendor(s).”<sup>14</sup> NASUCA submits that the proposal should either be amended to include FCC involvement with the negotiation process or, in the alternative, be amended to clarify that the FCC has final approval authority of the contract negotiated by NAPM. As discussed above, NASUCA submits that a governmental entity should approve and be involved with the expenditure of federal funding and also with the administration of telephone numbering resources. Currently, the NANC Chair/NAPM proposal appears to provide the NAPM with the final authority to negotiate and approve the contract with the LNPA. While NASUCA recognizes the resource constraints that may limit the FCC’s significant involvement in the LNPA contract negotiating process, if the FCC determines not to be so involved, it should at a minimum explicitly reserve final approval authority over the negotiated contract. Such authority should be made clear in the final process the FCC approves to select the LNPA.

### **III. CONCLUSION**

NASUCA submits that the process of selecting the LNPA should be open and transparent to ensure that the administration of telephone numbers and local number portability is in the

---

<sup>14</sup> See, id. at Attachment A, page 3, para. I.6.a.

public interest and consistent with all applicable laws and regulations. Such a process will allow consumers to reap the benefit so the competitive provision of telecommunications services. The proposal presented by the NANC Chair/NAPM could be approved for purposes of selecting an LNPA with certain modifications or clarifications provided by the FCC.

Respectfully submitted,

/s/ David C. Bergmann

David C. Bergmann, Assistant Consumers' Counsel  
Chair, NASUCA Telecommunications Committee  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215-3485  
Phone (614) 466-8574  
Fax (614) 466-9475  
[bergmann@occ.state.oh.us](mailto:bergmann@occ.state.oh.us)

**NASUCA**

8380 Colesville Road, Suite 101  
Silver Spring, MD 20910  
Phone (301) 589-6313  
Fax (301) 589-6380

March 22, 2011  
140408