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July 30, 2010

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**VIA OVERNIGHT MAIL**

Honorable Betty Ann Kane  
Chairman  
District of Columbia Public Service Commission  
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Re: Response of Neustar, Inc. (Neustar) to the North American Numbering Council's (NANC) Status Update Dated May 21, 2010 (the "Status Update").

Dear Chairman Kane and Mssr. Gray:

Neustar first would like to thank you both for your efforts to finally resolve issues that have been the subject of significant NANC debate and process over the past six years. This letter responds to the Status Update<sup>1</sup> that you recently provided to the NANC. From the Status Update, it appears that several policy issues originally identified in the 2005 Future of Numbering Working Group (FoN WG) Report and Recommendation on NANC Change Orders 399 & 400 ("*399/400 Report*")<sup>2</sup> continue to inform your consideration of Telcordia Technology, Inc.'s (Telcordia) dispute<sup>3</sup> regarding the Local Number Portability Administration Working Group (LNPA WG)'s approval and the North American Portability Management LLC (NAPM LLC)'s adoption of Change Orders 429, 430 and 435 (the "Change Orders").

<sup>1</sup> Letter from The Honorable Betty Ann Kane, Chairman, District of Columbia Public Service Commission, to the North American Number Council at 4-5 (May 21, 2010) ("Status Update").

<sup>2</sup> See NANC, Future of Numbering Working Group, *Report and Recommendation on NANC Change Orders 399 & 400* at 3.4 (rev. June 10, 2005) ("*399/400 Report*").

<sup>3</sup> Letter from John Nakahata, Wiltshire Grannis to Thomas Koutsky, Chairman, North American Numbering Council (May 26, 2009) (*Telcordia Request*).

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Almost two years ago, the NANC's LNPA WG approved the Change Orders to include three optional data parameters into the Number Portability Administration Center (NPAC) database. These data parameters include the following: one for Voice Uniform Resource Identifiers (Voice URI); one for Multimedia Messaging Services (MMS) URI; and one for Short Messaging Service (SMS) URI. Following the LNPA WG's approval, over a year ago, the NAPM LLC and Neustar, the database's administrator, negotiated and executed Amendment 72 to each of their regional Contractor Services Agreement for NPAC/SMS (the Master Agreements), which authorized implementation of the Change Orders into an already-existing NPAC data field.

Fortunately, now that the LNPA WG's decision is before the NANC, this body can put an end to Telcordia's continuing effort to delay needed improvements to the NPAC for the purposes of gaining competitive advantage through litigation.<sup>4</sup> Telcordia's claims are not—and never have been—about the policy or legal implications of the Change Orders. Instead, they boil down to a competitor's attempt to gain competitive advantage. Indeed, Telcordia, itself a registry vendor, is the only party that truly stands to benefit from this dispute, while carriers—who overwhelmingly support the addition of the URIs—are harmed. As stated succinctly by the carriers directly affected, “[p]reventing the implementation of these parameters in the NPAC ... undermine[s] ... competition and efficiency.”<sup>5</sup>

The Status Update identifies several policy issues, originally identified in the *399/400 Report*, which apparently continues to inform the Dispute Resolution Committee's consideration of the Change Orders.<sup>6</sup> Since the 2005 release of the

<sup>4</sup> See Letter from Dan A. Sciallo, Berenaum Weinshienk, to Marlene Dortch, Secretary, Federal Communications Commission at 7 (June 18, 2009) (*NAPM LLC Ex Parte*) (stating that “[t]his is at least the 10<sup>th</sup> time in the last six months that Telcordia has complained to the FCC or the NANC over Telcordia's disagreement with decisions made by the NAPM LLC.”); see *Telcordia Request; Petition of Telcordia Technologies to Reform or Strike Amendment 70*, WC Docket No. 07-149 (filed May 20, 2009) (“*Telcordia Petition*”).

<sup>5</sup> Letter from Anna Miller, T-Mobile, to The Honorable Betty Ann Kane, Chairman, District of Columbia Public Service Commission at 4 (Aug. 17, 2009) (*T-Mobile Comments*); see also Letter from Karen Reidy, Comptel, to The Honorable Betty Ann Kane, Chairman, District of Columbia Public Service Commission at 1 (Aug. 14, 2009) (*Comptel Comments*).

<sup>6</sup> See Status Update at 4-5 (citing *399/400 Report* at Section 3.4).

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*399/400 Report*, the identified issues have been resolved in favor of approving the Change Orders:

- *First*, all of the policy issues identified in the Status Update have been resolved since they were first identified in 2005. Since then, Federal Communications Commission (FCC or Commission) policy has made clear that the NPAC is a “dynamic” database that may facilitate IP to IP routing. And Commission Rule 52.25(f)<sup>7</sup> authorizes the addition of the URI fields to the NPAC database.
- *Second*, Amendment 70 to the NPAC contracts has mitigated any concerns regarding the cost of the optional URI fields on providers that may not use them.
- *Third*, the Change Orders should be considered and adopted together.
- *Fourth*, the Change Orders make sense relative to the current and long-term needs of the industry. And both the LNPA WG and the NAPM LLC approved and adopted the Change Orders according to a long-standing, reliable change management process that should not be undermined.

Further delaying NANC ratification of the Change Orders will only hold back technological advances in number portability and jeopardize the process by which the NPAC database is regularly and reliably updated. Accordingly, the NANC should act promptly to end Telcordia’s efforts to forestall improvements that are plainly in the public interest and approve the Change Orders.

**I. FIELDS THAT FACILITATE ROUTING OF IP TO IP SERVICES RIGHTFULLY BELONG IN THE NPAC DATABASE.**

The Status Update asks “whether services involving only IP-IP versus PSTN should be in the NPAC.”<sup>8</sup> Both the Commission’s policies and rules dictate that fields that facilitate the routing of IP to IP services rightfully belong in the NPAC

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<sup>7</sup> See 47 C.F.R. § 52.25.

<sup>8</sup> See Status Update at 4 & 5 (quoting *399/400 Report* at Section 3.4).



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database. *First*, the FCC has made clear that the NPAC should be a “dynamic” database, and as a result, parameters that facilitate the routing of IP to IP services rightfully belong, particularly as circuit-switched networks are transitioned to IP. *Second*, Commission Rule 52.25(f)<sup>9</sup> authorizes the addition of the URI fields to the NPAC database.

**A. Commission Policy Makes Clear that the NPAC Database is Intended to Be a “Dynamic Concept” That Evolves.**

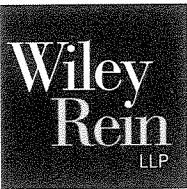
In 2007, the Commission made clear that fields that facilitate the routing of IP to IP services belong in the NPAC database when it determined that the local number portability (LNP) rules should apply to interconnected voice over IP (VoIP) providers. The Commission concluded that “Congress’s intent is that number portability be a ‘dynamic concept’” and “the Act provides ample authority for the logical extension of porting obligations due to technological changes in how telephone service is provided to end-user customers.”<sup>10</sup> Since then, the Commission has further emphasized that number portability should keep pace with technological advances. In particular, the Commission recently shortened porting intervals for simple ports because “technological advances have enabled number porting to be accomplished in a much shorter time period.”<sup>11</sup>

And given the large-scale, industry-wide transition from circuit-switched networks to IP-based networks that is already well underway, technological advances in number portability will become even more important. For this reason, parameters that facilitate the routing of IP to IP services are not only rightfully included in the NPAC database but are necessary to the long-term needs of the industry. For example, these parameters will increase efficiencies in carrier operations and reduce costs. As such, the Change Orders offer a practical and

<sup>9</sup> See 47 C.F.R. § 52.25.

<sup>10</sup> See *Telephone Number Requirements for IP-Enabled Services Providers*, WC Docket No. 07-243, *Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking*, 22 FCC Rcd at 19531, 19544 ¶ 23 (2007) (“*Interconnected VoIP LNP Order*”).

<sup>11</sup> *Local Number Portability Porting Interval and Validation Requirements*, WC Docket No. 07-244, *Report and Order and Further Notice of Proposed Rulemaking*, 24 FCC Rcd 6084, 6087, ¶ 7 (2009) (“*2009 Interval R&O*”).



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technically sound alternative for provisioning and synchronizing telephone numbers to URI routing databases for ported and pooled telephone numbers. If anything, parameters that facilitate IP to IP routing will become increasingly important to ensure that call routing remains as reliable and efficient in the future as it is today.

**B. Commission Rule 52.25 Authorizes the Addition of URI Elements to the NPAC Database.**

Section 52.25 of the Commission's rules authorizes the addition of URI elements to the NPAC database. Rule 52.25(f) states in relevant part: "The information contained in the regional databases shall be limited to the information necessary to route telephone calls to the appropriate telecommunications carriers."<sup>12</sup> Contrary to Telcordia's proposed restrictive interpretation of the word "necessary," the Commission intended Rule 52.25(f) to ensure that the database operate efficiently and effectively. Ironically, Telcordia's own citation proves the point. In *AT&T Corp. v. Iowa Utils., Bd.*,<sup>13</sup> the U.S. Supreme Court rejected the FCC's "flexible use of the word 'necessary'" in the context of rules adopted at the same time as the Commission adopted the rule in question. As such, in 1996, when the FCC used the term "necessary," it plainly intended a "flexible use of the word."<sup>14</sup> Nevertheless, the use of the word necessary must be further informed by the flexibility afforded by the use of the word "telephone call."

1. The Term "Telephone Call" Includes Both Telecommunications and Information Services.

Both Congress and the Commission have used the term "telephone call" when referring to services that could be either "telecommunications services"<sup>15</sup> or

<sup>12</sup> 47 C.F.R. § 52.25(f).

<sup>13</sup> 525 U.S. 366, 388 (1999).

<sup>14</sup> Telcordia Reply at 12.

<sup>15</sup> See 47 U.S.C. § 153(46) ("The term 'telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used."); *id.* § 153(43) ("The term 'telecommunications' means the transmission, between or among points specified by the user, of

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“information services”<sup>16</sup> under the 1996 Act definitions. In effect, the term has been used to mean more than just basic voice transmission service on numerous occasions.<sup>17</sup> For example, the Telecommunications Consumer Protection Act of 1991,<sup>18</sup> which protects consumers from various telemarketing practices, prohibits “telephone calls” that include the transmission of information services consisting of “artificial or prerecorded voice” messages to residential lines.<sup>19</sup> The Commission has clearly interpreted the TCPA’s prohibition on autodialed telephone calls as “encompass[ing] both voice calls and text calls to wireless numbers including, for example, short message service (SMS) calls.”<sup>20</sup> Moreover, Section 223 of the Communications Act makes it unlawful to place “telephone calls” that deliver pre-recorded “dial-a-porn” messages.<sup>21</sup> And based on this broad interpretation by both

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information of the user’s choosing, without change in the form or content of the information as sent and received.”).

<sup>16</sup> See 47 U.S.C. § 153(20) (“The term ‘information service’ means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.”).

<sup>17</sup> See *Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information*, 22 FCC Rcd 6927, 6956 ¶ 56 (2007); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report to Congress, 13 FCC Rcd 11501, 11544 (1998) (Stevens Report) (deferring classification of “‘phone-to-phone’ IP telephony” services).

<sup>18</sup> 47 U.S.C. § 227.

<sup>19</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Request of ACA International for Clarification and Declaratory Ruling*, 23 FCC Rcd 559, 560 (2008); see also 47 C.F.R. § 64.1200 *et seq.*

<sup>20</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 18 FCC Rcd 14014, 14115 (2003); see also *Rules and Regulations Implementing and Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 19 FCC Rcd 15927, 15934 (2004) (stating that the “prohibition on using automatic telephone dialing systems to make calls to wireless phone numbers applies to text messages (e.g., phone-to-phone SMS), as well as voice calls”).

<sup>21</sup> See *Sable Communications v. FCC*, 492 U.S. 115 (1989).

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Congress and the Commission, the industry has likewise recognized that “calls” means more than just telecommunications services.<sup>22</sup>

Recent court opinions also support a broad interpretation of the term “telephone call.” In particular, the U.S. Court of Appeals for the Ninth Circuit, the Arizona Supreme Court, and the U.S. District Court Northern District of Illinois have all held that the TCPA’s prohibition on certain telemarketing calls extends to text messages.<sup>23</sup> As the Arizona Supreme Court explained, “[t]he TCPA does not limit the attempt to communicate by telephone to two-way real time voice ‘intercommunication’ . . . It is the act of making a call, that is, of attempting to communicate to a cellular telephone number using certain equipment, that the TCPA prohibits. Whether the call had the potential for a two-way real time voice communication is irrelevant.”<sup>24</sup> The Ninth Circuit similarly stated, “[g]iven that the TCPA was enacted to regulate the receipt of automated telephone calls, Congress used the word ‘call’ to refer to an attempt to communicate by telephone.”<sup>25</sup>

And the nature of the NPAC database itself—which has long included fields related to the routing of information services—supports this reading of Rule 52.25(f). For example, NPAC Releases 1 and 2 included fields associated with Inter-Switch Voice Messaging Message Waiting Indicating (ISVM MWI) and Wireless Short Message Service (SMS), respectively.<sup>26</sup> ISVM<sup>27</sup> and SMS<sup>28</sup> are

<sup>22</sup> See *NAPM LLC Ex Parte*.

<sup>23</sup> See *Satterfield v. Simon & Schuster*, 2009 WL 1708081 (9th Cir. June 19, 2009); *Joffe v. Acacia Mortgage Corp.*, 211 Ariz. 325 (2006); see also *See, e.g., Lozano v. Twentieth Century Fox Film Corp.*, No. 09 CV 6344, 2010 WL 1197884 at \* 8 (N.D. Ill. Mar. 23, 2010) (“The court agrees with the FCC’s interpretation of section 227 of the TCPA applies to text messages . . . . Plaintiff has sufficiently alleged that the text message . . . constitutes a call for the purposes of the TCPA.”); *Abbas v. Selling Source, LLC* No. 09 CV 3413, 2009 WL 4884471 at \*7 (N.D. Ill. Dec. 14, 2009) (“The court agrees with the FCC’s interpretation that congressional findings and intent apply with equal force to SMS messages. The court concludes that an SMS message is a “call” within the meaning of the TCPA.”).

<sup>24</sup> *Joffe*, 211 Ariz. at 329-30.

<sup>25</sup> *Satterfield*, 569 F.3d at 953 n.3.

<sup>26</sup> *399/400 Report* at 7.

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information services, yet these services have been supported by the NPAC nearly from the start. Telcordia's assertion that only information related to the routing of telecommunications services cannot be correct—the term “telephone calls” as used in Rule 52.25(f) broadly includes both telecommunications and information services.

The new SMS and MMS URI parameters in the Change Orders 430 and 435 are analogous to these other data fields that are not directly related to the routing of voice traffic yet have long been included in the NPAC database. These parameters permit the routing of services other than traditional circuit-switched voice services and thereby facilitate portability just as some of the current database fields do. The superficial differences between the URI parameters and the current data fields are inapposite. Accordingly, they further the NPAC's essential purpose as contemplated by the Commission and the LNPA WG, and thus do not violate Commission Rule 52.25(f).<sup>29</sup>

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<sup>27</sup> ISVM, a voice mail service provided on a centralized basis, is an information service. Like plain voice mail, this service allows users to store information and interact with stored information unrelated to the placing of a telephone call. These characteristics place voice mail, as well as electronic mail, firmly in the enhanced (information) service category. *See Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry)*, 84 FCC.2d 50, 54-55 (1980).

<sup>28</sup> SMS is a store-and-forward method of transmitting messages to and from wireless devices. Store-and-forward technology is generally considered a characteristic of an information service. *See, e.g., Policy and Rules Concerning the Interstate, Interexchange Marketplace*, Further Notice of Proposed Rulemaking, 13 FCC Rcd 21531, 21533 (1998).

<sup>29</sup> Telcordia also states, “As the Future of Numbering Working Group report observed, ‘the NANC may be embarking upon a groundbreaking venture to allow IP-to-IP routing information to reside in this “telecommunications services” database.’” Telcordia Request at 13 (quoting *399/400 Report* at 26). However, the statement is misleading. The FoN WG itself did not make this observation. Rather, the *399/400 Report* includes two sections addressing the arguments for and against adopting Change Order 400: one drafted by industry participants supporting Change Order 400, and one drafted by those opposing it, including Telcordia. *See 399/400 Report* at 9; NANC Future of Numbering Working Group, *Concerns and Issues re NANC Change Order 400* (May 11, 2005) (listing Adam Newman from Telcordia Technologies, Inc. as a “Source”). This statement was

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Ultimately, the Commission's use of the broad term "telephone call"—as opposed to "telecommunications services"—in Rule 52.25(f) indicates that it recognized the need for some flexibility in how the number portability database should evolve with the development of new technologies beyond then existing circuit-switched voice telephone service. Indeed, this interpretation is consistent with the Commission's belief that Congress's intended number portability to be a "dynamic concept" that accommodates technological changes.<sup>30</sup> It is also consistent with the Commission's general policy favoring the rapid deployment of next-generation communications services. The activation of the Voice, MMS, and SMS URI parameters to the NPAC database is necessary to facilitate the economical and efficient provision of these burgeoning services. Thus, to read Rule 52.25(f) consistently with the Communications Act's use of the term, the Commission's rules, as well as the Commission's understanding of the nature of the NPAC database, the term "telephone call" must encompass other non-circuit-switched voice services that also require or are affected by "number portability."

2. URI Parameters Are "Necessary" to the Routing of Telephone Calls Within the Meaning of Rule 52.25.

Despite Telcordia's past claims to the contrary, the term "necessary" in Section 52.25(f) is not so restrictive as to mean that simply because calls today are routed without the URI parameters, those parameters are not "necessary" to the routing of telephone calls. Such a narrow interpretation cannot be supported by FCC precedent or policy.

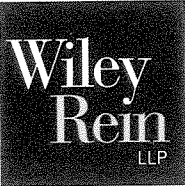
*First*, the limiting language in Section 52.25(f) was not intended to exclude alternative routing information. Instead, it was put in place to prevent information

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lifted from the "Opposition" section of the Report and thus in no way reflects the views of the FoN WG. Indeed, Telcordia's Request is riddled with such misleading claims.

<sup>30</sup> *Interconnected VoIP LNP Order*, 22 FCC Red at 19544 (citing *Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 96-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Red 23697, 23708 (2003) (discussing the reasonableness of differences in porting obligations due to differences in the technological feasibility of different types of porting)).



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that had nothing to do with number portability *or call routing generally* from being included in the database. By extension, to understand properly the scope of rule 52.25(f), the stated limitation must be read in the context of the *First LNP Order*, which first articulated the rule. In that order, the FCC stated:

We believe that, at this time, the information contained in the number portability regional databases should be limited to the information necessary to route telephone calls to the appropriate service providers. The NANC should determine the specific information necessary to provide number portability. To include, for example, the information necessary to provide E911 services or proprietary customer-specific information would complicate the functions of the number portability databases and impose requirements that may have varied impacts on different localities. For instance, because different localities have adopted different emergency response systems, the regional databases would have to be configured in such a fashion as to provision the appropriate emergency information to each locality's particular system. Similarly, special systems would need to be developed to restrict access to proprietary customer-specific information. In either instance, the necessary programming to add such capabilities to the regional databases would complicate the functionality of those databases.<sup>31</sup>

Thus, the rule was designed to ensure that the database excluded certain information wholly unrelated to routing, such as E911 or CPNI information. Based on their explicit reference to E911 and CPNI, the Commission's intended exclusion of certain data from the regional number portability databases clearly had a specific rationale – to avoid imposing locality-specific configurations and requirements on the regional databases. This rationale does not apply to the NPAC URI fields. The rule was also not designed to exclude information otherwise helpful to effectively and efficiently route telephone calls.

And contrary to Telcordia's prior arguments in this proceeding, Section 52.25(i)—which provides that “[i]ndividual carriers may mix information needed to provide other services or functions with the information downloaded from the

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<sup>31</sup> *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, 11 FCC Rcd 8352, 8403-04 (1996) (“*First LNP Order*”).

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regional databases at their own downstream databases”—does not suggest otherwise.<sup>32</sup> Rather, the rule simply clarifies that information wholly unrelated to routing does not belong in the NPAC database, but should instead be included in the downstream databases. The *First LNP Order* explains:

Because we require open access to the regional databases, it would be inequitable to require carriers to disseminate, by means of those databases, proprietary or customer-specific information. We therefore contemplate that the regional deployment of databases will permit individual carriers to own and operate their own downstream databases. These carrier-specific databases will allow individual carriers to provide number portability in conjunction with other functions and services. To the extent that individual carriers wish to mix information, proprietary or otherwise, necessary to provide other services or functions with the number portability data, they are free to do so at their downstream databases. We reiterate, however, that a carrier may not withhold any information necessary to provide number portability on the grounds that such data are combined with other information in its downstream database; it must furnish all information necessary to provide number portability to the regional databases as well as to its own downstream database.<sup>33</sup>

The Commission’s directions that the NPAC should contain the “specific information necessary to provide number portability,”<sup>34</sup> and that number portability should be provided “without impairment of quality, reliability, or convenience,”<sup>35</sup> as well as the statement in the 1997 LNPA Working Group Report that the NPAC is to be used “to provide billing, routing, and/or rating,”<sup>36</sup> each provide more clarity as to its intent with respect to the content and use of the NPAC database. The

<sup>32</sup> 47 C.F.R. § 52.25(i).

<sup>33</sup> *First LNP Order*, at 8404.

<sup>34</sup> *Id.* at 8403.

<sup>35</sup> *Id.* at 8366-67.

<sup>36</sup> North American Numbering Council, Local Number Portability Administration Selection Working Group, App. D, § 12.2.4 (April 25, 1997) (“LNPA WG Report”).

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“information necessary to provide number portability” from one carrier to another “without impairment of quality, reliability, or convenience” is much broader in scope than Telcordia’s definition would allow.

*Second*, it has always been recognized that the concept of number portability—via the NPAC database—encompasses more than the mere routing of telephone calls. The FCC elaborated upon the scope of the database in the *Second LNP Order*, which cited the LNPA WG Report and incorporated it into the FCC’s LNP rules.<sup>37</sup> Appendix D to the LNPA Working Group Report provides that NPAC users must be carriers or entities under contract with a carrier “to provide billing, routing, and/or rating” services for that carrier.<sup>38</sup> Appendix D further states that “[t]he above criteria limits [sic] NPAC access to those with an operational need for NPAC service in order to provide local number portability.”<sup>39</sup> Thus, if the NPAC were limited solely to the information “necessary” to route real-time voice transmissions as Telcordia argues, it would not contain nearly enough information to achieve its essential purpose—number portability. For example, the NPAC contains fields associated with CLASS, LIDB, and CNAM services, among others,<sup>40</sup> all of which enable number portability but would not meet Telcordia’s overly narrow definitions. A logical reading of the FCC rules and orders requires that the NPAC contain all of the information necessary to carry out the full set of number portability objectives enumerated in the FCC’s orders and regulations, including the LNPA WG Report.

*Third*, Telcordia’s reading of “necessary to route telephone calls” would unreasonably hinder the ability for the NPAC database to support technological development in telephone call routing because the legacy circuit-switched network

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<sup>37</sup> The LNPA WG Report is incorporated by reference at 47 C.F.R. § 52.26(a).

<sup>38</sup> LNPA WG Report, App. D, § 12.2.4.

<sup>39</sup> *Id.*

<sup>40</sup> For example, the NPAC also contains service provider type to distinguish between wireless and wireline telephone numbers; alternate service provider ID information to indicate when a carrier has given a number to a reseller, MVNO, VoIP provider, or other provider; and an activation timestamp to show when a ported number record was activated.

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might always be a functional—though less efficient and convenient—option to facilitate routing.<sup>41</sup> For example, the Voice URI enables the routing of a voice call that both originates and terminates with a different carrier as an IP call to be routed entirely as an IP call. But such a call *could* be routed without the Voice URI by transcoding the call data from its originating IP format to the time division multiplexing (TDM) format used by circuit-switched networks, routing the call to the terminating provider, and then transcoding the call back to its IP format for termination to the end user. Following Telcordia’s logic, even though this latter process is far less efficient and potentially diminishes the quality of calls, it must be maintained because, in light of its mere existence, any different process—including Voice URI—is technically not “necessary.” Such ossification of number portability technology is directly at odds with Congress’s intent to make number portability a “dynamic concept.” And the FCC surely could not have intended such an absurd result when it sought to exclude 911 information and CPNI from the NPAC.<sup>42</sup>

Recent statements and actions by the Commission make it clear that more than simply making it possible to switch between various services, the number portability process should rightfully strive for maximum convenience, efficiency and service equivalency. The importance of streamlining the porting process was underscored recently in the Commission’s proceedings to reduce the porting intervals for simple wireline and simple intermodal port request to one business day.<sup>43</sup> Previously, simple ports were required to be completed within four business

<sup>41</sup> See Telcordia Request at 13-14 (“All of these types of messages—IP-IP voice traffic, MMS and SMS—can be completed today using the NPAC only to identify the service provider ID associated with a ported number.”).

<sup>42</sup> On several occasions, Telcordia indicates that the FoN WG determined that Change Orders 429, 430, and 435 are not necessary to route telephone calls. See, e.g., Telcordia Request at 14 (“This was expressly addressed in the 2005 Future of Numbering Working Group Report on NANC Change Order 400: ‘No additional information beyond that currently in the NPAC is needed to complete telephone calls to the ported numbers through the PSTN.’” (quoting *399/400 Report* at 25)); see also *id.* at 4. However, the FoN WG made no such conclusion. As explained above, see *supra* n. 46, Telcordia selectively quotes language from the “Opposition” section of the *399/400 Report* that merely represents the views of industry opponents—including Telcordia itself—regarding Change Order 400, not the FoN WG.

<sup>43</sup> See *2009 Interval R&O*.



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days, however, “the telecommunications landscape has changed dramatically, and technological advances have enabled number porting to be accomplished in a much shorter time period.”<sup>44</sup> As such, the Commission concluded that “the interval of one business day strikes the appropriate balance . . . between enabling consumers to realize the benefits of LNP and the current technological and business capabilities of service providers.”<sup>45</sup>

Similarly here, all three IP parameters sought to be added to the NPAC database facilitate the more efficient routing of calls to numbers that have been pooled or ported from one carrier to another, some of which may be used for VoIP or other IP services. As the carriers point out, prohibiting such IP parameters because carriers could revert to the legacy network can lead to transcoding and other errors that will only increase in frequency as new IP services are deployed.<sup>46</sup> In fact, many IP services do not function if transcoded to TDM; they must be transmitted in an IP format from origination to termination. If these forms of communication are ever to cross from one network to another, IP routing information must be available to the providers. Also, the Commission has clearly directed that number portability should be provided “without impairment of quality, reliability, or convenience,”<sup>47</sup> as well as the Commission’s goal that “any long-term [portability] method ensure that carriers have the ability to route telephone calls and provide services to their customers independently from the networks of other carriers.”<sup>48</sup> As the Commission has explained, “[r]equiring carriers to rely on the networks of their competitors in order to route calls can have several undesirable effects.”<sup>49</sup>

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<sup>44</sup> *Id.* at 6087, ¶ 7.

<sup>45</sup> *Id.* at 6089, ¶ 7.

<sup>46</sup> *NAPM LLC Ex Parte* at 5.

<sup>47</sup> *First LNP Order*, 11 FCC Red at 8366-67.

<sup>48</sup> *Id.* at 8380.

<sup>49</sup> *Id.*



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Nor does the existence of fledging ENUM directories render it inappropriate to include the new parameters in the NPAC database. As the “Support” section of the *399/400 Report* states:

ENUM and NANC 400 have little technological overlap at this time and in fact they are complementary. Furthermore there are many outstanding issues with regard to ENUM deployment that will effect [sic] how and if carriers choose to use it as a tool for resolving TNs/ported TNs to URI mapping. To simply assume that issues such as those resolved by NANC 400 (TN to URI provisioning and update synchronization for ported and pooled TNs) will be efficiently and cost effectively resolved somewhere down the road could prove to be rather short sighted. NANC 400 can be complementary and likely beneficial to any routing solution that eventually entrenches itself (this data will always need to be provisioned in some manner).<sup>50</sup>

In other words, it is unclear what course ENUM may take. While some carriers may be attracted to one ENUM directory, other carriers may want to have alternative options.<sup>51</sup> Other IP routing options for carriers should not be precluded simply because of the ENUM database that Telcordia is deploying for the CC1 ENUM LLC.

Any other interpretation of Section 52.25(f) would jeopardize many of the modifications—which have bestowed enormous benefits on the public—that have been made to the NPAC since it began operation. As just one example, NANC Change Order 399 added SV type and Alternate Service Provider Identification (SPID) type indicator data fields. The latter information indicates when the carrier has given a telephone number to another operator such as a reseller, MVNO, or VoIP provider. Not only did the FCC direct that this information be included in the

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<sup>50</sup> *399/400 Report* at 21.

<sup>51</sup> See Comptel Comments at 2 (While private ENUM databases may offer an alternative means, . . . the Commission did not want carriers to be reliant on private databases for call routing . . .”).

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NPAC,<sup>52</sup> but this information has proven to be critical to law enforcement as it seeks to conduct searches as quickly and efficiently as possible to deliver accurate subpoenas without delay.<sup>53</sup> Thus, an unduly narrow interpretation of the rule would not only undercut existing Commission policies, but it would also undercut law enforcement's ability to investigate criminal wrongdoing.<sup>54</sup>

In sum, the Commission's rules and longstanding policies make clear that fields that facilitate IP to IP routing belong in the NPAC database.

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**II. THE RATE PLAN ADOPTED IN AMENDMENT 70 MITIGATES ANY CONCERN THAT ADDING THE URI PARAMETERS IN THE CHANGE ORDERS WOULD IMPOSE ADDITIONAL COSTS ON PROVIDERS THAT DO NOT USE THEM.**

The Status Update also asks whether adding the URI parameters in the Change Orders would impose costs upon service providers who do not use the optional features.<sup>55</sup> These concerns have been mitigated since the amended rate plan governing NPAC costs was adopted under Amendment 70 on January 28, 2009.<sup>56</sup> Through Amendment 70, the NAPM LLC and Neustar negotiated and

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<sup>52</sup> See Letter from Thomas J. Navin, Chief, Wireline Competition Bureau to Robert C. Atkinson, Chair, North American Numbering Council (Aug. 11, 2005).

<sup>53</sup> See Letter from Thomas J. Navin, Wiley Rein LLP, Counsel to Neustar, Inc., to the North American Numbering Council, Opposition to Telcordia's Request that NANC Resolve Dispute Concerning Necessity of Adding Certain URI Codes for the Completion of Telephone Calls, Appendix A (filed Aug. 14, 2009) (attaching letters and e-mails from the United States Marshals Service of the US Department of Justice; the Office of the District Attorney of Rockingham County, New York; and the Special Investigations Division of the Montgomery County (MD) Police Department all indicating the importance of Change Order 399).

<sup>54</sup> It is important to note that Telcordia provides no support for its assertion that "some NANC members believed that 47 C.F.R. § 52.25(f) precluded including the URIs in the NPAC because they were not necessary for the routing of telephone calls." See Telcordia Request at 5.

<sup>55</sup> Status Update at 4 (quoting *399/400 Report* at 3.4).

<sup>56</sup> See Amendment No. 70 to Contractor Services Agreement for Number Portability Administration Center/Service Management System (Extension and Modification), effective January



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implemented a fixed-rate price mechanism, which effected a substantial price reduction for the NAPM LLC. Amendment 70 provides a mechanism to modify the price (both upwards and downwards) if the number of transactions falls outside an established band.

Therefore, under the amended rate plan, if only a few carriers were to use these parameters, these additional transactions likely would be insufficient to raise the total number of transactions outside the band and affect the overall flat rate.

And as more and more carriers shift toward IP platforms, any net increase in the number of transactions, would likely be due to industry growth rather than the existence of new parameters. Put simply, any increase in costs would likely be driven by industry-wide use of the URI parameters, not the use of a small group of providers.

In short, all of the policy issues raised in the Status Update have been addressed, and they counsel toward approving the Change Orders.

### **III. THE CHANGE ORDERS SHOULD BE CONSIDERED TOGETHER.**

The Status Update also includes a question from the *399/400 Report* as to whether or not Change Orders 399 and 400 should be considered together.<sup>57</sup> This issue is now moot as these same Change Orders are no longer being considered. But it is worth noting that because Change Orders 429 and 430 were both originally included in Change Order 400, and Change Order 435 involves a similar URI element, it is logical and appropriate to consider these three change orders together.

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(Continued . . .)

28, 2009, by and between NeuStar, Inc. and the North American Portability Management LLC ("Amendment 70").

<sup>57</sup> Status Update at 4.

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**IV. THE CHANGE ORDERS MAKE SENSE RELATIVE TO BOTH THE CURRENT AND LONG-TERM NEEDS OF THE INDUSTRY AND WERE ADOPTED UNDER A STANDARD, RELIABLE PROCESS THAT SHOULD BE ENDORSED BY THE NANC.**

The Status Update also asks whether “these change orders make sense relative to the long-term needs of the industry” and mentioned points raised regarding NANC working groups’ ability to assess those needs.<sup>58</sup> The Change Orders at issue are critical to both the current and long-term needs of the industry and were adopted by long-standing process involving two of NANC’s expert working groups that allows for the careful consideration of industry needs. And, as such, this process should not be undermined.

As discussed above in Section I, given the large-scale, industry-wide transition from circuit-switched networks to IP-based networks that is already well underway, technological advances in number portability will become even more important. As a result, parameters that facilitate the routing of IP to IP services are not only rightfully included in the NPAC database but are necessary to the long-term needs of the industry. Specifically, the Change Orders approved by the LNPA WG meet the following business needs, which will only increase into the future:

- SMS Field: Historically, SMS has been a feature for wireless users only, but today it is growing into a broadband wireline feature as a result of the growth of IP-based broadband networks. SMS originating carriers need to know if a terminating 10-digit telephone number is SMS capable (wireless or broadband), and if so, the address of the terminating carrier’s network. This allows a message to be efficiently transported between the originating and terminating carrier networks. A standardized telephone number/SMS mapping process will eliminate attempts to deliver SMS to non-capable telephone numbers.<sup>59</sup>

<sup>58</sup> *Id.* at 5.

<sup>59</sup> See R3.4 Change Orders, updated 01/09/09, [http://www.npac.com/cmas/co\\_docs/R3dot4ChangeOrders\\_2009-01-09.docx](http://www.npac.com/cmas/co_docs/R3dot4ChangeOrders_2009-01-09.docx) (“Change Orders”) at 101.

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- MMS Field: There is a need to enable the ability for service providers and clearinghouses to look up routing information for IP-based services associated with ported and pooled numbers. Since default central office code level data does not exist for these telephone numbers, query engines that include a portability and pooling correction mechanism must be provisioned. The addition of this field will provision this mechanism and allow both individual service providers, as well as service bureaus, to update automatically their look up engines with new routing data.<sup>60</sup>
- Voice URI Field: No solution currently exists to address the issue of industry-wide distribution of IP end-point addressing information for IP-based voice service, and no solution addresses number portability for such services. Today, the vast majority of telephone numbers using IP-based voice services already involve an NPAC transaction. The addition of a Voice URI Field, would cost effectively provide an IP look up engine with URI information relating to a ported or pooled telephone number. These URIs will also benefit the industry by coordinating and synchronizing the update of SS7-based number portability look up databases with that of the IP-based look up databases.<sup>61</sup>

Additionally, the Change Orders were adopted by the LNPA WG and the NAPM LLC through the same process as hundreds of change orders in the past decade. This process has allowed for proper consideration of industry needs and should not now be second-guessed. Since the inception of the NPAC, the process used by the NANC, through its LNPA WG, for determining whether new fields, parameters, or data elements should be added to the database as required under FCC rules has remained the same. The process begins with consideration of the proposals by LNPA WG. Any changes approved by the LNPA WG are then referred for consideration by the NAPM LLC.

Moreover, this change management process originates from the beginning of the FCC's number portability rules. In the *First LNP Order*,<sup>62</sup> the Commission

<sup>60</sup> See *id.* at 85.

<sup>61</sup> See *id.* at 72.

<sup>62</sup> See *First LNP Order*.

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delegated certain authority over LNP issues to the NANC.<sup>63</sup> The NANC, as the FCC's website states, "conducts most of its business" through its working groups.<sup>64</sup> These groups are open to any interested party<sup>65</sup> and operate by consensus just as the NANC does.<sup>66</sup> And even when the NANC is meeting irregularly, the working groups continue to meet so that the items can be addressed in a timely manner. In this case, the LNPA WG meets monthly and thus can render decisions quickly and efficiently using the same procedures as the NANC to ensure that the database remains current with technological advancements.<sup>67</sup>

Indeed, the NANC Operating Manual provides that the LNPA WG's mission is to be "responsible for the business functionality of the national LNP system and how Service Providers inter-operate with it."<sup>68</sup> The Operating Manual goes on to state that the "LNPA WG was given the charter by the North American Number Council (NANC) for implementing Local Number Portability on a national level," and as part of that role "is . . . responsible for defining the requirements for

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<sup>63</sup> *Id.* at 8401-02; *see also Telephone Number Portability*, Second Report and Order, CC Docket No. 95-116 12 FCC Rcd 12281, 12289 (1997) ("In the [*First LNP Order*], the Commission directed the NANC to recommend one or more independent, non-governmental entities that are not aligned with any particular telecommunications segment, to serve as local number portability administrator(s). The Commission also directed the NANC to make recommendations regarding the administration selection process, the duties of local number portability administrator(s), the location of regional databases, the overall national architecture, and technical specifications for the regional databases.").

<sup>64</sup> Federal Communications Commission, NANC Working Groups, *available at* [http://www.fcc.gov/wcb/cpd/Nanc/working\\_groups.html](http://www.fcc.gov/wcb/cpd/Nanc/working_groups.html).

<sup>65</sup> NANC Operating Manual (Version 2) at 16 (Sept. 9, 2006) (NANC Operating Manual).

<sup>66</sup> *Id.* at 8, 20. As the NANC Operating Manual makes clear, consensus is not the same as unanimity. *See id.* at 8 ("When a decision must be made and unanimity is not possible, NANC decisions will be made by consensus.").

<sup>67</sup> In general, the LNPA WG meets in person or by conference call every month. In contrast, the NANC meets less frequently and not always at regular intervals. For example, nearly eighteen months passed between the NANC's two most recent meetings.

<sup>68</sup> NANC Operating Manual at 19.

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the national Number Portability Administration Center (NPAC) Service Management System (SMS) and how it interfaces to each Service Provider's local LNP system to enable LNP."<sup>69</sup>

Also, the NAPM LLC has held a long-standing and significant role in the process. By the time the *First LNP Order* was adopted, carriers throughout the country already had formed LLCs and begun negotiations on agreements with potential LNP Administrators. As a result, the NANC chose to forego an independent review process, and, based on the LLCs' recommendations, advised the Commission on the selection of the initial LNP Administrators.<sup>70</sup> In its *Second LNP Order*, the Commission adopted the LLCs' recommendation,<sup>71</sup> as well as NANC's recommendation that the NAPM LLCs "*provide immediate oversight and management of the [Administrators]*."<sup>72</sup> The Commission noted that "the LLCs were responsible for negotiating the contracts with their respective local number portability administrators,"<sup>73</sup> such that neither the NANC nor the Commission took a role in those negotiations or otherwise reviewed or approved the Master Agreements that govern the technical requirements of the NPAC. As the Commission explained, there was no indication that NANC or Commission oversight or review of the agreements "would be preferable to LLC oversight,"<sup>74</sup> as the LLCs are "best able to provide immediate oversight of" the Administrators.<sup>75</sup> The Commission provided that the NANC should have the more limited role of

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<sup>69</sup> *Id.*

<sup>70</sup> *Telephone Number Portability*, Second Report and Order, 12 FCC Rcd 12281, 12283-84, 12299-300 (1997) ("*Second LNP Order*").

<sup>71</sup> *Id.* at 12303.

<sup>72</sup> *Id.* at 12346 (emphasis added).

<sup>73</sup> *Id.* at 12346.

<sup>74</sup> *Id.* at 12303, 12350-51.

<sup>75</sup> *Id.* at 12346.

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reviewing and overseeing the LLCs' management of the Administrators, subject to Commission review.<sup>76</sup>

So, the NANC has played an oversight role in the change management process governing modifications to the LNP "architectural, technical and operational standards" and "related specifications and processes."<sup>77</sup> The FCC adopted the NANC's recommendation that the NANC be authorized "to approve or disapprove all [NPAC] changes, and that each respective regional LLC manage implementation of these changes with its respective [Administrator]."<sup>78</sup> The Commission explained that "each LLC is the entity with the greatest expertise regarding the structure and operation of the database for [each] region," and that, without LLC oversight of "database system enhancements and other modifications," the LLCs' expertise would be wasted, running "the risk that necessary modifications to the database system may be delayed."<sup>79</sup>

In this instance, the industry and other stakeholders have been considering the inclusion of the Voice, MMS, and SMS URIs in the NPAC database for a number of years. In 2004, the LNPA WG began consideration of Change Order 400, which proposed adding four IP parameters to an already-existing field in the NPAC database, including those enabling Voice and MMS data. The working group reached consensus that Change Order 400 should be included in the NPAC database in an "inactive state."<sup>80</sup> In 2005, the Commission directed that this Change Order be held in abeyance, but in a February 4, 2008 letter, the Chief of the Wireline Competition Bureau—relying on the Commission's action extending LNP obligations to interconnected VoIP providers—informed the NANC Chair that the

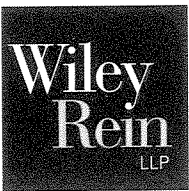
<sup>76</sup> *Id.* at 12345; *see also* 47 C.F.R. § 52.26(b)(2) (stating that the LLCs "shall manage and oversee the [Administrators], subject to review by the NANC"); *id.* § 52.26(b)(3) ("The NANC shall provide ongoing oversight of number portability administration, including oversight of the regional LLCs, subject to Commission review.").

<sup>77</sup> *Second LNP Order*, 12 FCC Rcd at 12321.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* at 12346.

<sup>80</sup> LNPA WG, April 2005 Meeting, Final Minutes at 14.



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“industry could reconsider Change Order 400 rather than continue to hold in abeyance its consideration.”<sup>81</sup> In doing so, the Wireline Bureau Chief gave the “green light” to the industry to include the new IP routing information in the NPAC database if it deemed such action appropriate.

Shortly after the abeyance was lifted, the industry began reexamining these issues. In May 2008, the LNPA WG separated Change Order 400 into four separate orders, one for each IP data parameter. Change Order 429 addresses Voice URI, Change Order 430 addresses MMS URI, Change Order 431 addresses PoC URI, and Change Order 432 addresses Presence URI. The LNPA WG later added Change Order 435 to address SMS URI. In January 2009, the LNPA WG reached consensus that three of the IP data parameters, *i.e.*, Change Orders 429, 430, and 435, should be forwarded to the NAPM LLC for consideration for inclusion in the NPAC. The NAPM LLC then approved Change Orders 429, 430, and 435 and asked Neustar to include them in the NPAC via Amendment 72 to the Master Agreements.

The LNPA WG and the NAPM LLC plainly had authority to implement the changes to the NPAC database, and they did so by following procedures used consistently for over a decade. At no time prior to Telcordia’s recent petition to the Commission<sup>82</sup> has any party complained that the change order approval process was flawed. Only now, while trying to hinder competition by precluding an IP routing option for carriers, does Telcordia raise this process as an issue.<sup>83</sup>

In its Reply, Telcordia concedes that Neustar and the NAPM LLC did not act improperly by implementing Amendment 72 without seeking NANC or

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<sup>81</sup> Letter from Dana R. Shaffer, Chief, Wireline Competition Bureau, to Thomas M. Koutsky, Chair, North American Numbering Council at 1 (Feb. 4, 2008).

<sup>82</sup> *See Telcordia Petition.*

<sup>83</sup> Telcordia’s longstanding relationship with the NANC and familiarity with its processes undermine the credibility of its request. As the provider of the Local Exchange Routing Guide and successor to Bellcore, the former administrator of the North American Numbering Plan, Telcordia has been participating in the NANC and the LNPA WG for more than a decade. Yet, at no time in the past did Telcordia assert that the LNPA WG and the NAPM LLC lacked the authority to make changes to the information included in the NPAC database.

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Commission approval. Specifically, Telcordia claims that a NANC determination regarding the appropriateness of adding new fields is required only “when the necessity of the information is called into question.”<sup>84</sup> According to Telcordia, this situation represents the first time in 12 years that questions have been raised about the necessity of adding new fields.<sup>85</sup> Thus, NANC participation is not typically part of the approval process for new fields, and implementation of Amendment 72 is not unlawful simply because NANC was not initially involved. In other words, Telcordia concedes that the LNPA WG and the NAPM LLC *did* possess the authority to add Voice, SMS, and MMS URIs to the NPAC database.

The fact that NANC has never before been required to make a “necessity” determination notwithstanding the addition of hundreds of new fields to the NPAC database that have contributed to its overall efficiency and effectiveness demonstrates that the NANC should be very deferential to the decisions of the NAPM LLC and the LNPA WG.

Ultimately, Telcordia raises this unprecedented challenge to Amendment 72 only to promote its own competitive interests. Specifically, Telcordia seeks to preclude an IP routing option for carriers in the NPAC database to promote its own IP-based routing database. The NANC should not incentivize these types of challenges that only hinder the development of the NPAC database by capitulating to Telcordia’s attempts to second-guess the LNPA WG’s and NAPM LLC’s reasonable decision that Amendment 72 is in the best interests of the carriers and their customers.

If the NANC now steps in to recommend overturning the reasonable decisions of the LNPA WG and the NAPM LLC, it would significantly hinder the technological evolution of the database and undermine Congressional intent to make

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<sup>84</sup> Letter from John T. Nakahata, Wiltshire & Grannis LLP, Counsel to Telcordia Technologies, Inc., to the North American Numbering Council, Reply in Support of Telcordia’s Request that NANC Resolve Dispute Concerning Necessity of Adding Certain URI Codes for the Completion of Telephone Calls at 2 (Aug. 31, 2009) (“Telcordia Reply”); *see also id.* at 5-6 (stating that “this proceeding is about what to do in the limited circumstance when a request to include data in the NPAC raises concerns that the data is not ‘necessary to route telephone calls to the appropriate telecommunications carrier’”).

<sup>85</sup> *Id.* at 6.

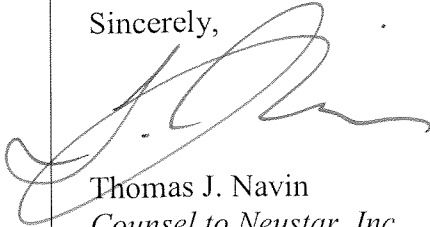
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number portability a “dynamic concept” that accommodates new technology. The data field approval process has worked well for over a decade, and there exists no reason to alter that process now.<sup>86</sup>

**V. CONCLUSION**

For the foregoing reasons, the NANC should act quickly to end Telcordia’s anti-competitive efforts by dismissing its dispute and approving the Change Orders.

Sincerely,



Thomas J. Navin  
*Counsel to Neustar, Inc.*

cc: Marilyn Jones, Designated Federal Officer, FCC  
Deborah Blue, Special Assistant to the DFO, FCC

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<sup>86</sup> Although the process has worked well to solve complex technological issues to the benefit of the industry and consumers, if the Commission or the NANC believes that the process should be changed, in order to avoid having to revisit change orders adopted over more than a decade, the process should only be changed prospectively.