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February 13, 2017

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

**CONFIDENTIAL - NOT FOR PUBLIC
INSPECTION**

[Redacted Version]

Re: Telnyx LLC *Authorization to Obtain Numbering Resources Pursuant to Section 52.15(g) of the Commission's Rules*, WC Docket No. 16-172

Dear Ms. Dortch:

This letter is submitted on behalf of Telnyx LLC (“Telnyx”), which received authorization to obtain numbering resources as a provider of interconnected VoIP services in the above captioned proceeding.

Telnyx provides Internet protocol communications services, including interconnected VoIP services to Internet protocol communications services providers and enterprise customers. Telnyx’s services are all provided on a nomadic basis – the customer can access the service from anywhere with a broadband connection to the public Internet. As we discussed in our December meeting with Sanford Williams and Marilyn Jones of the Wireline Competition Bureau, pursuant to its authorization, Telnyx has requested numbering resources in a number of states from Neustar, as the numbering administrator. In each instance, Telnyx has provided the relevant state regulatory agency with the notification and information required under the Commission’s order in *Numbering Policies for Modern Communications*, Report and Order, rel. June 22, 2015 (Docket Nos. WC 13-97, WC 04-36, WC 07-243, CC 95-116, CC 01-92, WC 10-90, and CC 99-200) (the “Numbering Order”) and the Commission’s rules (47 C.F.R. § 52.15(g)(3)(iv)). Telnyx has used the 30-day notice template provided by INC, which has been accepted by nearly all states.

In some cases, before responding to Neustar, the state agency has contacted Telnyx to discuss its offering, in order to determine whether any additional state requirements might apply. As a result, all but three of the states that have acted to date have notified Neustar that they have no objection to the request. The exceptions are [] and [].

The [] Public Service Commission (“PSC”) has notified Neustar that it will not process the notification provided by Telnyx, and as a result Neustar has notified Telnyx that it will

not provide the numbers requested by Telnyx (see the email printout attached as Exhibit A). The PSC's position, as set forth in its version of the ATIS form attached as Exhibit B) and its response to Telnyx's inquiries (see Exhibit C) is that Telnyx must register with the Corporations Division of the Department of [] before the PSC will process its notification. Telnyx has no plant, property, equipment nor employees or offices in []. Under Section [] Laws, it is not doing business in the state and therefore has no obligation to register with the Corporations Division of the [] Department of []. Registration as an entity doing business within a state triggers a variety of reporting and filing obligations that no business, especially a startup such as Telnyx, wants to undertake unless it is required to do so by law. Thus, Telnyx strenuously objects to the PSC's attempt to use the numbering process to coerce it into accepting unnecessary duties in [].

The [] situation is even more egregious. At the behest of the [] Utility Regulatory Commission ("URC"), Neustar rejected Telnyx's request for numbers. According to Neustar, the request was rejected because:

The [] Utility Regulatory Commission indicated that the proper forms per [] Codes [] were not received. [] Code [] requires that a person or entity seeking to provide communications services in [] file an application for a [] with the URC. Communications services are identified in []. Additionally, [] Code [] requires any person or entity engaged in or transacting business in [] to register with the [] Secretary of State. Proof of registration is a requirement for a [].

(See the email printout attached as Exhibit D). The [] Application form and instructions can be found on the URC website at []. As you can see, the [] Application is essentially an application for CLEC status. It is more intrusive and requires more information than the [] form, and as discussed below, both are inconsistent with the language and intent of the *Numbering Order*. In addition, as is the case in [], Telnyx has no plant, property, equipment nor employees or offices in [] and it is not doing business in the state. [] does not apply because merely using a number in an [] NPA does not mean that an entity is "engaged in or transacting business in the state of []" and thus required to register with the [] Secretary of State.

The key goals of the Commission in enacting the reforms in the *Numbering Order* were to increase competition, prevent number exhaustion, and improve service, especially as it relates to number portability. The actions of the PSC and the URC run counter to each of these goals. As a result of the agencies' actions, Telnyx is forced to continue to obtain numbers on behalf of its service provider customers via intermediaries. These intermediaries not only charge Telnyx a monthly fee for every number, they often charge exorbitant port-out fees which in turn Telnyx is forced to levy on its customers.

In regards to number portability, the decisions made by [] and [] affect more than the constituents of their respective states. They impact customers that may have been issued numbers in states, but no longer live in them. Often, consumers switch to VoIP services like Google Voice in order to have true number mobility, allowing them the ability to make and receive phone calls across multiple devices using the same number. These services help prevent number exhaustion by replacing the one device, one number paradigm with the one subscriber, one number paradigm and help lower prices through increased competition.

Without direct access to numbering resources in [], Telnyx is unable to facilitate porting of any [] number, regardless of where the end user of that number may reside. This is because number portability relies on having an LRN in the same LATA as the telephone number. In other words, an end user with a [] number may live in Illinois, but will be unable to port his number to a service that is powered by Telnyx because of []'s refusal to provide even minimal numbering resources. In this case, a call would be routed through [], but would neither terminate or originate in the State. The same is true for numbers in [] NPAs.

The hurdle that the state agencies seek to impose is similar to other burdensome proposals that the Commission specifically declined to adopt in the *Numbering Order*. For example, it declined to require interconnected VoIP providers to take numbers from certain rate centers chosen by the state commissions in more populous areas or in blocks of less than 1000 numbers, because no such restrictions were imposed on telecommunications carriers. It went on to conclude that additional restrictions beyond those that it adopted in the Order “are unnecessary and would significantly disadvantage interconnected VoIP providers relative to competing carriers offering voice services.” *Numbering Order* at para. 48. In his statement approving the adoption of the *Numbering Order*, Chairman Pai noted that he was “especially excited we’ve made clear that interconnected VoIP providers need only apply once to serve anywhere in the nation. This one-and-done system keeps regulatory barriers to telephone numbers low, which ultimately will benefit would-be competitors and competition.” <https://www.fcc.gov/document/fcc-releases-voip-direct-access-numbering-report-and-order/pai-statement>.

Under the *Numbering Order*, a state may not require a Commission-authorized interconnected VoIP provider to register to do business or impose other state registration requirements simply because the authorized provider has requested numbers assigned to a rate center in that state. Telnyx would like to discuss with the Wireline Competition Bureau ways to resolve this issue in an expeditious manner that would not require the volume of staff resources involved in a declaratory ruling proceeding under §1.2 of the Commission’s rules. I will contact the Bureau this week about setting up a meeting to discuss such options.

Telnyx respectfully requests that, pursuant to Sections 0.457 and 0.459 of the Commission’s rules, 47 C.F.R. §§ 0.457 and 0.459, the Commission withhold from public inspection and accord confidential treatment to the bracketed portions of this letter and the entirety of Exhibits A through D because they contain sensitive trade secrets and commercial information that

falls within Exemption 4 of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(b)(4). The bracketed portions and the Exhibits contain proprietary commercial information concerning the states in which Telnyx will be expanding its network and providing numbering resources pursuant to its Commission authorization, and also contains details of its current and future commercial and operational plans. Telnyx operates in the voice over internet protocol (VOIP) market. It has dozens, if not hundreds, of competitors in the VOIP market. The bracketed information and the information in the Exhibits is commercially sensitive information that would customarily be guarded from disclosure to those competitors. Disclosure of the operational and commercial information in brackets or in the Exhibits would give any of Telnyx’s competitors an unfair competitive advantage and undercut Telnyx’s position in this highly competitive industry. The release of the information would therefore result in substantial competitive harm to Telnyx.

Telnyx has not previously disclosed the information to the public or any competitors. Telnyx requests that the information be treated as confidential for a period of two years, or until Telnyx has received the requested numbers in the two states. This period is necessary due to the proprietary nature of the information.

Should you have any questions, please contact me. We look forward to working with the Commission to resolve this issue.

Respectfully submitted,



Mark C. Del Bianco
Counsel to Telnyx LLC

cc: Sanford Williams, WCB
Marilyn Jones, WCB