

LNPA Transition Update: A Closer Look at Recent Developments and Their Impact on Transition Timing; Overall Timing Unlikely to be Affected

Transition Update

In this article, we discuss the impact of two recent developments in the transition of the Local Number Portability Administrator (LNPA) contract. First, NAPM LLC, who is party to the contract, placed a filing urging the FCC to hasten its review of the new LNPA contract and warning of delays if the FCC is unable to approve the contract promptly. Second, the *Washington Post* ran a story stating that an indefinite amount of Telcordia's new NPAC source code would need to be rewritten. As detailed below, the FCC approval process is unlikely to affect transition timing in the ways suggested by NAPM's filing.

Analysis of NAPM's Ex Parte Filing

NAPM companies push for urgency, but their warnings are likely to be overstated. On May 2, Todd Daubert, counsel for NAPM LLC, made a filing with the FCC summarizing an ex parte meeting that he and the co-chairs of NAPM held with a group of legal advisors to the commissioners and two deputy chiefs of the Wireless Competition Bureau. The language in the notice seeks to add urgency to the FCC's review of the contract, raising the possibility of transition delays unless the FCC moves quickly: "Moreover, unless the New MSA is approved very soon, the transition dates may have to be extended beyond the third quarter of 2017, which means that the dates would likely have to be extended into the first quarter of 2018 due to the hold on NPAC changes, because of significant increased porting activity, during the holidays. Therefore, it is critical that the FCC approve the New MSA within days."

Circumstances make it unlikely that a quarter-long delay would happen. Due to the financial incentives involved, NAPM members are likely seeking to create a sense of urgency through an artificial deadline rather than warn of a realistic scenario. There are several reasons that this is the case. Sources close to the parties believe the transition is still likely to come within the end of Q3 2017 as NAPM has projected; one expert noted that this timeline represents a totally reasonable, if conservative, estimate. Further, as the source explained, the window for a possible holiday-related delay would be shorter than the whole fourth quarter. As the source clarified, NAPM LLC does not have a formal policy barring changes in this period, but it would be reasonable for NAPM to put a hold on major changes to the NPAC for the period between Thanksgiving (Black Friday) and the weeks just after Christmas, when new phone activations are heaviest.

To the extent that FCC contract approval still can affect transition timing, the remainder of the approval process is likely to move quickly. Per transition updates from NAPM, the draft of the contract being reviewed by the FCC has already been revised with changes discussed with FCC staff. The FCC has not explicitly stated how formal the process for final commission approval needs to be, but the substantive work at this phase would mostly consist of signing off on a document already vetted by bureau staff, and could be done quickly.

Neustar's application for review of second protective order unlikely to gain traction. Also worth noting is an appeal by Neustar of the FCC's second protective order, which the FCC published to deal with the treatment of sensitive information in the contract review. Neustar filed the application for review on April 11, and both NAPM and Telcordia filed written oppositions later in the month. Conversations with sources reflect that this application is unlikely to gain traction or cause any material delay with the FCC's process; staff, who tend to strongly disfavor

Neustar because of its extensive advocacy, are very likely to see the filing as a delay tactic and rule against it. The protective order has been [on circulation](#) at the commission level since April 5 and could be voted out any time.

Analysis of Security-Related Stories in Media

Washington Post story consistent with Neustar’s advocacy through the media. The *Washington Post* recently ran an [article](#) stating the FCC had required Telcordia to rewrite code for its LNPA platform after discovering that a foreign engineer had worked on the project, which was out of compliance with government-imposed security measures. The article quoted an FCC spokesman as saying, “Consistent with that review and in close coordination with the national security agencies, the commission and Telcordia agreed that the company would discard the pre-contract work performed and start entirely anew.” Conversations with sources reflect that to the extent some work must be redone, it is unlikely to make a material impact on the transition timeline. One source said, “There are ongoing code modifications in the NPAC all the time,” meaning that this procedure is more routine than the article implies.

Stakeholders should also note the article is consistent with Neustar’s ongoing advocacy through the media. Other examples include articles that seemingly arose organically but were based on research funded by Neustar – company-funded reports from the Chertoff Group and Open Technology Institute both eventually showed up in as news articles.

Timeline of Contract Review Process

Below are the key dates in the process so far, based on public filings by NAPM:

- October 26, 2015: Negotiation of the terms and conditions of the draft MSA substantially completed.
- November 6, 2015: NAPM LLC votes to approve the MSA with approval conditioned on submission to the FCC for formal review and approval and the FCC requiring no substantive changes as a result of the review process.
- March 28, 2016: NAPM LLC votes to approve MSA with substantive changes based in part on informal discussions with the FCC.
- March 31, 2016: NAPM submits revised draft of MSA to FCC, along with redacted public version.