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March 19, 2014

Dr. Burl W. Haar
Minnesota Public Utilities Commission
350 Metro Square Building
121 Seventh Place East
St. Paul, MN 55101-2147

Via: E-File

Re: In the Matter of the Commission Investigation of the Completion of Long-Distance Calls
to Rural Areas in Minnesota
Docket No. P999/CI-12-1329

Dear Dr. Haar:

I enclose via e-filing in the above-referenced docket Verizon's Reply Comments and an Affidavit of Service.

Please contact me if you have any questions.

Sincerely,

/s/Gregory R. Merz

Gregory Merz

GRM/akm
Enclosures

GP:3634654 v1

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**STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
David C. Boyd	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

**In the Matter of the Commission
Investigation of the Completion of Long-
Distance Calls to Rural Areas in Minnesota**

Docket No. P999/CI-12-1329

VERIZON'S REPLY COMMENTS

On behalf of its wholly-owned subsidiaries regulated by the Commission, Verizon Communications Inc. ("Verizon") submits these reply comments pursuant to the schedule established by the Commission's January 16, 2014 "Notice of Commission Investigation and Solicitation of Comments" ("Notice").

Introduction

Verizon is committed to providing the highest level of service to its customers and has every incentive to ensure that their calls arrive successfully at their intended destinations. The Federal Communications Commission ("FCC") has taken a number of steps to ensure that all calls will complete, including those placed to rural areas. Other than a handful of isolated issues referenced second-hand in comments in this docket – cases that may or may not have anything to do with call routing practices and/or the use of intermediate carriers – there is no evidence of a widespread intrastate call completion problem in Minnesota. All commenting carriers agree that adopting state-specific call completion rules is unnecessary in light of the FCC's actions and would actually be counterproductive and create potential conflict with national standards. New Commission mandates are unjustified and unwarranted, particularly ones as exacting and

impossible to implement as those proposed by the Minnesota Department of Commerce (“DOC”).

Discussion

Rather than address each of the fourteen issues set forth in the Notice, Verizon limits its reply comments to a few high-level points.

I. The Commission Should Follow the Unanimous Industry Recommendation Against State-Specific Action

All industry commenters recommend against independent action by this Commission in light of the extensive action the FCC has already taken to address rural call completion concerns.¹ Even rural local exchange carriers that have raised call completion concerns agree that the FCC and industry-led actions will capably address any remaining issues, rendering separate Commission action unnecessary. It is particularly telling that the Minnesota Telecom Alliance (“MTA”) – the association that originally sought DOC’s assistance, resulting in this investigation – has now advised the Commission that separate state action is unnecessary in light of the FCC’s efforts and the legal constraints on the Commission’s authority:

*The severity of these problems led the MTA to bring this issue forward to the Department, even though the MTA recognized that the problem was substantially related to interstate traffic. Such a step appeared to be the best alternative available at the time in that there was little indication that the FCC would take comprehensive action to address this significant problem. **Since that time the FCC has taken comprehensive action, as further described below. In light of the FCC action (which includes both interstate and intrastate traffic), the absence of Commission jurisdiction over interstate traffic, and the possibility of confusion between FCC and Commission actions, the MTA believes that the most effective approach at this time would be to facilitate the FCC processes***

¹ See “Comments of AT&T Corp” (Feb. 17, 2014) (“AT&T Comments”) at 2-6; “CenturyLink’s Comments” (Feb. 17, 2014) (“CenturyLink Comments”) at 2-8; “Comments of Integra” (Feb. 17, 2014) (“Integra Comments”) at 2-4; “Comments of Minnesota Cable Communications Association” (Feb. 17, 2014) (“MCCA Comments”) at 2-4; “Initial Comments of Minnesota Telecom Alliance” (Feb. 17, 2014) (“MTA Comments”) at 3-6; “Comments of tw telecom of Minnesota llc” (Feb. 17, 2014) (“tw telecom Comments”) at 1-3; “Comments of Sprint Corporation” (Feb. 17, 2014) (“Sprint Comments”) at 1-3.

*rather than for the Commission to take separate action with respect to Minnesota intrastate traffic.*²

In other words, the organization that sought to bring this issue to the forefront now agrees that Minnesota-specific requirements for intrastate calls are unnecessary. DOC offers the lone dissent, still pressing for Commission action and adoption of excessively complicated standards even though no carrier or industry association – including MTA – deems such state action warranted. To the contrary, many commenters explain that Commission attempts to wade into the field would be impermissible due to various limitations on the Commission’s authority,³ and would be detrimental, even if permissible. As MTA succinctly stated, “independent commission action would be premature at best and counterproductive at worst.” MTA Comments at 2.

In Docket No. P999/DI-12-1329 (which resulted in the Commission opening the instant investigation), DOC stated that it “does not believe that the actions of the Federal Communications Commission (FCC) will fully resolve the rural call completion problems.”⁴ DOC offered no support for this conclusion, other than to say that the FCC’s efforts “will not prevent call failures from occurring until the cause of the problem is clearly identified and addressed.” *Id.* Of course, the same would be true of any state-initiated effort, which likewise could not prevent particular issues until their cause is known. DOC proposes adoption of severe requirements that would effectively require carriers to launch a full-scale investigation of every alleged incomplete interexchange call placed in Minnesota – regardless of the cause or whether

² See MTA Comments at 3 (emphasis added).

³ See, e.g., AT&T Comments at 6 (Commission cannot treat switching-only providers as “intermediate providers” due to FCC findings); CenturyLink Comments at 8-9 (Commission lacks jurisdiction over intermediate providers); MTA Comments at 7-8 (intermediate providers do not qualify as “telephone companies” or “telecommunications carriers” subject to Commission jurisdiction); tw telecom Comments at 3 (intermediate providers are not “telecommunications carriers” under Minnesota law).

⁴ See “Comments of the Minnesota Department of Commerce” (January 13, 2014), Docket No. P999/DI-12-1329 (“DOC 1st Comments”) at 2.

an intermediate provider was even involved – and unobtainable omniscience of the performance of every intermediate carrier operating in the state, if not throughout the entire country. DOC’s proposals are not only excessive and prohibitively expensive, they are unnecessary given that the FCC’s rural call completion efforts are already well underway. DOC’s suggestions would likely impede carriers’ ability to resolve any issues that may arise.

DOC acknowledges that the FCC data collection process extends to both interstate and intrastate calls.⁵ Its suggestion that the Commission initiate a separate new monthly data collection process solely for intrastate calls in Minnesota (DOC Comments at 5) makes little sense given that: (1) developing and maintaining two separate data collection and reporting processes would place an unwarranted burden on carriers; (2) the FCC will begin receiving a trove of rural call completion data in just a few months; (3) the FCC has confirmed that it will release that data, upon request, to states that have the capacity to maintain its confidentiality⁶ (as Minnesota does); and (4) the FCC has sought to limit the burdens that its new rules will place on carriers via a safe harbor and waiver process, provided a carrier adopts certain practices.⁷ Given that the FCC is working to reduce reporting burdens on providers, there is no reason to *increase* carriers’ reporting burdens by adopting overlapping and unnecessary state-specific requirements – particularly monthly reporting requirements that would require a detailed investigation of literally every alleged call failure throughout the state. As MTA stated, “[t]he Commission should avoid taking any action that might jeopardize successful implementation of current FCC data collection and reporting requirements. The FCC’s data recording, retention and reporting

⁵ DOC 1st Comments at 11.

⁶ See “Report and Order and Further Notice of Proposed Rulemaking,” *In the Matter of Rural Call Completion*, FCC 13-135 (rel. November 8, 2013) at ¶ 109 (“*Rural Call Completion Reporting Order*”).

⁷ See *Rural Call Completion Reporting Order* at ¶¶ 85-100.

rules apply to both interstate and intrastate calls. There is no indication right now that increased granularity of data or monitoring is necessary.” MTA Comments at 13 (footnotes omitted).

Notably, DOC has cited just two alleged examples of intrastate call completion issues in Minnesota – situations offered by MTA that may have nothing to do with call routing practices and/or the use of intermediate providers.⁸ Instead, DOC relies primarily on *federal filings made with the FCC*, by *national* carrier organizations, as an ostensible basis for state-specific action.⁹ DOC’s reliance on federal materials only underscores that, to the extent rural call completion concerns persist, they are not unique to any given state and the best approach to addressing them is at the national level, as the FCC is already doing.¹⁰ As every carrier offering initial comments agreed, additional Minnesota-specific action to address rural call completion is unnecessary and unjustified.

II. Independent Commission Action Would Interfere With National Efforts That Are Already Well Underway.

Not only are individual state requirements unnecessary, they could ultimately become problematic, since many of the policies established and being addressed at the federal level will apply on a nationwide basis. Similarly, telecommunications carriers are most likely to implement technical or standards-based solutions throughout regional or nationwide networks, not single-state networks. Moreover, carriers often enter into contracts to exchange traffic with

⁸ DOC 1st Comments at 5.

⁹ *Id.* at Attachments 1, 2 & 4.

¹⁰ For example, last month, the FCC’s Enforcement Bureau adopted a consent decree under which Windstream agreed to make a \$2.5 million voluntary contribution to the U.S. Treasury as part of resolving an investigation into its use of intermediate providers to complete long-distance calls to rural areas. *See* Order and Consent Decree, *In the Matter of Windstream Corporation*, DA 14-152 (rel. February 20, 2014) at ¶ 20 (available on-line at http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0220/DA-14-152A1.pdf) (“Windstream CD”). Last year, Level 3 entered into consent decree to resolve a similar investigation into its call routing practices in rural areas, under which it made a \$975,000 contribution to the U.S. Treasury and agreed to future contributions of \$1,000,000 if its metrics fall below a certain threshold. *See* Consent Decree, *In the Matter of Level 3 Communications, LLC*, DA 13-371, 28 FCC Rcd 2272 (rel. March 12, 2013) at ¶ 20.

other carriers on a national basis. As discussed below, it would be costly, inefficient, and potentially impossible, to try to modify those contracts to address (potentially multiple and not necessarily consistent) state-specific call completion requirements.

For example, DOC suggests that any intermediate carrier that “is known to have poor call completion performance, or has been removed from a particular route by any originating interexchange carrier due to poor performance on more than one occasion, should no longer be allowed to carry intrastate calls in Minnesota.”¹¹ First, it is wholly impracticable to require omniscience on the part of Minnesota IXCs about which intermediate carriers are “known to have poor call completion performance,” whatever that vague standard may mean – it is unclear whether DOC’s proposal is even limited to “poor call completion performance” specific to intrastate calls in Minnesota, as opposed to performance in other states or in the interstate jurisdiction – much less omniscience of which intermediate carriers have been removed by any interexchange carrier, from any specific particular intrastate route in Minnesota, on more than one occasion.

Second, aside from these impracticalities, such a requirement would conceivably require IXCs to terminate national agreements with intermediate carriers that cover both interstate and intrastate calls, due solely to a Minnesota-specific requirement that, at best, could legally extend only to intrastate calls in Minnesota. Not only does the Commission lack jurisdiction to regulate interstate call routing agreements,¹² but as the FCC and Windstream acknowledged in their

¹¹ See “Comments of the Minnesota Department of Commerce” (Feb. 18, 2014), Docket No. P999/CI-12-1329 (“DOC 2nd Comments”) at 5.

¹² Some commenters question the Commission’s jurisdiction over intrastate arrangements. While Verizon does not take a position on the jurisdictional questions posed in the Notice, it notes that several commenters questioned the Commission’s authority to regulate intermediate providers given the limitations of the statutory definition of “telecommunications carrier” (*see* Minn. Stat. § 237.01, Subd. 6). *See* CenturyLink Comments at 8-9; MTA Comments at 7-8; tw telecom Comments at 3. Similarly, although DOC offered a list of statutes that it claims authorize the Commission to regulate intermediate carriers (*see* DOC 2nd Comments at 2), it fails to acknowledge that pursuant to Minn. Stat. § 237.035, many of them do not apply to “telecommunications carriers,” even should

consent decree, there may be routes for which there is no commercially-reasonable alternative to the current intermediate provider. Windstream CD at ¶ 15(e). DOC's proposed standard also would not accommodate situations in which removal was part of a trouble-shooting process, for example, or where removal resulted in correction of a non-recurring technical issue (as opposed to a systemic problem). DOC's draconian proposal to mandate termination of contracts with intermediate providers at the proverbial drop of a hat could leave such routes entirely unserved, preventing the completion of many calls, to the detriment of consumers.

It would also be expensive and impractical (if not outright impossible), to attempt to alter the nature of a national business relationship between carriers (and establish different contractual liability and indemnity provisions) in order to comply with unique requirements established in a single jurisdiction. Adoption of state-specific requirements could conflict with or undermine the establishment of a uniform policy framework and standardized intercarrier obligations negotiated to comply with federal requirements. Indeed, given the interconnected and inter-operational character of telecommunications networks, it is likely that requirements imposed in Minnesota, ostensibly limited to purely "intrastate" traffic, could complicate the ability of carriers to efficiently manage networks engineered to handle both interstate and intrastate traffic, causing nationwide ripple effects. Complex jurisdictional issues would undoubtedly arise if the Commission attempted to establish its own requirements in this area, potentially detrimentally affecting services provided throughout the country. As evidenced by efforts to resolve specific call completion complaints, it is often difficult to trace the origins and causes of these issues. It

intermediate providers qualify as such, and thus confer no authority on the Commission to take the actions DOC suggests. Moreover, DOC is incorrect in asserting that "[o]bviously if the intermediate provider is already authorized to provide interexchange, local or local niche services, the Commission already has jurisdiction over them." DOC 2nd Comments at 2. The fact that a certificated carrier offers some services that fall under the Commission's jurisdiction does not grant the Commission blanket authority to regulate *any* service offered by that carrier – for example, the Commission has no jurisdiction to regulate a certificated local exchange carrier's broadband service offerings simply because it has jurisdiction over aspects of the carrier's local exchange service.

is also unclear how state requirements could be applied solely to intrastate communications. This is critical because the Commission does not have the authority to resolve issues or take enforcement action in connection with interstate traffic. Even when calls are destined for customers in Minnesota, the Commission has no authority to act if the calls originated in other states.

Moreover, the industry recognized long ago that working cooperatively is a highly beneficial way of addressing problems when they do occur (and preventing them in the future). In addition to participating in ongoing efforts focused on call completion issues at the national level, Verizon has established a dedicated toll-free number (800-285-3776) that other carriers can call to obtain immediate attention should a problem occur. Personnel in Verizon's centralized maintenance center are trained to work with other carriers to investigate specific call completion issues. They will open trouble tickets if warranted, and endeavor to resolve any problems promptly.

Resolving call completion/call termination issues on a carrier-to-carrier basis is more efficient and effective than trying to accomplish the same result through a set of new administrative rules or requirements. This is particularly so given that there are many reasons why some calls are not delivered correctly. Some are technical, some involve end user equipment, and others are due to inadvertent human error (*e.g.*, incorrect entry of information). State-specific requirements could interfere with carriers' ability to troubleshoot and implement technical solutions in a uniform and efficient manner. For example, DOC proposes what amounts to a strict liability standard under which originating interexchange carriers would be held solely responsible for calls that do not complete. DOC 2nd Comments at 5. This ignores the reality that not all calls fail to complete due to the action (or inaction) of the originating

interexchange provider or its intermediate carrier. The problem could instead be with the network functionality of the called party's local exchange carrier, the called party's customer premises equipment, and so on.

DOC's proposal also focuses exclusively on IXC's and intermediate carriers and ignores that information from terminating carriers is also necessary to analyze call completion performance. For example, information on the percentage of phone numbers that terminating carriers utilize enables identification of situations in which low call answer rates are due to unallocated numbers. The percentage of a terminating carrier's customers that subscribe to voice mail helps determine whether low answer rates may vary based on the usage characteristics of the called party. The on-net answer rate for calls to the terminating carrier's customers similarly aids analysis by allowing a comparison to answer rates for long distance calls to the same customers, helping to eliminate variation based on called party characteristics. Carriers can often resolve call completion issues by working together, but inflexible rules holding one carrier strictly liable for situations not attributable to it (or its intermediate provider), or focusing exclusively on one end of a call, will not aid a cooperative approach.

It is unreasonable to expect that creating new and potentially conflicting state requirements will assist in solving the various kinds of issues that can occur, or will be effective in resolving problems that do arise. Given the complex nature of network routing, modern telecommunications equipment and sophisticated software, the service providers themselves are best capable of troubleshooting specific situations and resolving them based on their knowledge of their own facilities, systems and operations. The carriers' own employees are also in a better position to respond to specific issues raised by other carriers and consumers and to address them in a timely manner, than is a regulatory agency enforcing rules of general applicability. An

administrative process necessarily takes time to initiate and lasts longer, and is not as likely to resolve issues or achieve customer satisfaction as quickly or efficiently as carriers collaboratively working toward resolution of call completion issues.

For such reasons, a group of rural telecom associations – including NTCA – the Rural Broadband Association (on whose federal filings DOC relied in asserting that Minnesota should adopt state-specific rules) – just last month advised the FCC that it should *refrain from codifying* existing prohibitions against call blocking and choking, as doing so would be unduly complex, consume resources unnecessarily and detract from the FCC’s enforcement efforts.¹³

Conclusion

Instead of adopting impractical and unnecessary Minnesota-specific requirements, the Commission should encourage and support ongoing FCC action and carriers’ cooperative efforts to resolve complex technical issues on a carrier-to-carrier basis. The Commission can always address complaints on a case-by-case basis (provided it has jurisdiction), but should not waste its own or the industry’s resources conducting a proceeding to adopt unnecessary and potentially detrimental state-specific rural call routing requirements that the industry universally deems more harmful than helpful.

¹³ See “Reply Comments of the National Exchange Carrier Association, Inc.; NTCA – The Rural Broadband Association; Eastern Rural Telecom Association; and WTA – Advocates for Rural Broadband,” *In the Matter of Rural Call Completion*, WC Docket No. 13-39 (February 18, 2014) at 9 (available on-line at <http://apps.fcc.gov/ecfs/document/view?id=7521073652>).

Dated: March 19, 2014

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