

Minnesota Public Utilities Commission

Staff Briefing Paper

Meeting Date: October 16, 2014..... Agenda Item** # 3

Companies: All Telephone Companies and Telecommunications Carriers

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

- Issues:
1. Should the Commission reconsider its July 21, 2014 Order Requiring Interexchange Carriers to Report Call Completion Complaints?
 2. Should the Commission's July 21, 2014 Order be modified?

Please Note: Minn. Rules 7829.3000, subp. 6, states that “[t]he commission shall decide a petition for rehearing, amendment, vacation, reconsideration, or reargument with or without a hearing or oral argument. The commission may vacate or stay the order, or part of the order, that is the subject of the petition, pending action on the petition.

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Relevant Documents

Order Requiring Interexchange Carriers to Report Call Completion Complaints July 21, 2014
Minnesota Cable Communications Association Petition for Reconsideration July 31, 2014
Integra Petition for Reconsideration August 11, 2014
Department of Commerce Answer to Cable Communications Associations' Petition..... August 11, 2014
Department of Commerce Answer to Integra's Petition..... August 21, 2014
Minnesota Cable Communications' Answer to Integra Petition for Reconsideration August 21, 2014

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Background

Since at least 2010, rural telephone customers have reported that they sometimes failed to receive long distance telephone calls and facsimile transmissions. The rural call completion issue has many characteristics: call blocking, dropped calls, call routing problems, and long set-up times with false ringing where callers are led to believe incorrectly that the called phone is ringing.

On January 13, 2014, the Department of Commerce (the Department) filed a petition recommending that the Commission open an investigation regarding rural telephone call completion issues.

On January 16, 2014, the Commission issued a notice soliciting comments from interested parties regarding the issues raised in the Department's petition.

Between February 14, and March 19, 2014 the following parties filed comments and/or reply comments: AT&T, CenturyLink, Integra Telecom, Minnesota Cable Communications Association, Minnesota Telecom Alliance, Sprint Corporation, TW Telecom of Minnesota LLC, Verizon Communications and the Department.

On June 26, 2014, the Commission met to consider the matter. Representatives of a northern Minnesota manufacturer of rubber truck conversion systems, Mattracks, appeared at the hearing and indicated that some 10 to 15 million dollars' worth of business were estimated to be lost because of call completion issues. In addition to Mattracks, the following parties addressed the Commission at the hearing: Cable Association, Frontier, CenturyLink, MTA, Integra, and the Department.

On July 21, 2014, the Commission issued its Order Requiring Interexchange Carriers to Report Call Completion Complaints in which the Commission, among other things:

- (1) resolved to
 - keep this docket open;
 - track the Federal Communications Commission's initiatives; and
 - investigate complaints relating to this issue on a case-by-case basis;
- (2) admonished that
 - removal or altering of call signaling information to commit fraud is a serious offense;
- (3) required
 - rural incumbent carriers to make test lines available; and

- all interexchange carriers to report each call completion complaint they receive, including a number of details,¹ on a quarterly basis, effective immediately, for a year.

On July 31, 2014, the Minnesota Cable Association (Cable or Cable Association) filed a petition for reconsideration arguing the Commission's Order lacked a factual foundation for the exercise of its jurisdiction and unlawfully imposed new regulations of general applicability and future effect without following required rulemaking procedures. Cable also claimed that the Commission presumed intrastate rural call completion issues without evidence. Cable asked that the Commission rescind the portions of its Order that apply to originating long distance carriers in Minnesota and limit its efforts to pursuing investigations of rural call completion problems on a case by case basis.

On August 11, 2014, the Department of Commerce (Department) filed its Answer to Cable's petition. The Department noted that the Commission has already considered and denied Cable's petition.

On August 11, 2014 Integra filed a petition for reconsideration or, in the alternative, to amend and clarify portions of the Order. Integra supported the request by Cable to "proceed on a case by case basis to investigate rural call completion complaints." In the event the Commission denies reconsideration, Integra proposed numerous amendments and clarifications for the Commission's consideration.

On August 21, 2014, the Department filed its Answer to Integra's Petition. The Department recommended that the Commission deny Integra's petition for reconsideration as well as Integra's proposed amendment/clarification of the Commission's order.

On August 21, 2014, Cable filed its Answer to Integra's Petition for Reconsideration. Cable asked that the Commission pursue intrastate rural call completion problems on a case-by-case basis rather than impose new reporting requirements on all originating long distance providers. Cable also suggested a small clarification to one of Integra's suggestions.

¹ The report must include a root cause analysis, the name of the intermediate provider (if determined responsible), the intermediate provider's past performance, a description of steps taken to eliminate the issue, and an indication as to whether test lines were made available by the terminating incumbent local exchange carrier.

Procedure for Reconsideration

The Commission's rules and practices establish the procedure guiding petitions for reconsideration.

Minn. Stat. Rules pt. 7829.3000, cited in full below, establishes criteria for the filing of petitions for reconsideration. Under subpt. 1 of 7829.3000, any party **or person affected** by the Commission's decision may file a petition for rehearing, amendment, vacation, reconsideration, or reargument.

Out of the parties which filed comments and made oral arguments (previously enumerated), the Cable Association and Integra filed petitions for reconsideration. The Department of Commerce was the only party to answer the petitions for reconsideration.

The Commission's policy guides considerations of the petitions to reconsider:

Any action of the Commission may be reconsidered. However, only a Commissioner voting on the prevailing side may move to reconsider. If the motion to reconsider passes, then the matter is before the Commission. The Commission may then alter, amend, rescind, or uphold its previous decision. The same question cannot be reconsidered a second time. (Mason, sec. 457.2.) However, the Commission may at any time, on its own motion or upon the motion of an interested party, upon notice, reopen any case after issuing an order. (Minn. Stat. sec. 216B.25.) [Minnesota Public Utilities Commission, Operating Procedures and Policy, Meeting Procedures, issued February 1, 1995]

Chair Heydinger and Commissioners Lange, Lipschultz, and Wergin were present at the Agenda Meeting and voted unanimously for the motion at the agenda meeting on June 26, 2014. Thus, any one of these four members of the Commission may move the Commission to reconsider the Commission's order.

7829.3000 PETITION AFTER COMMISSION DECISION.

Subpart 1. **Time for request.** A party or a person aggrieved and directly affected by a commission decision or order may file a petition for rehearing, amendment, vacation, reconsideration, or reargument within 20 days of the date the decision or order is served by the executive secretary.

Subp. 2. **Content of request.** A petition for rehearing, amendment, vacation, reconsideration, or reargument must set forth specifically the grounds relied upon or errors claimed. A request for amendment must set forth the specific amendments desired and the reasons for the amendments.

Subp. 3. **Service.** A petition for rehearing, amendment, vacation, reconsideration, or reargument, and an answer, reply, or comment, must be served on the parties and participants in the proceeding to which they relate.

Subp. 4. **Answers.** Other parties to the proceeding shall file answers to a petition for rehearing, amendment, vacation, reconsideration, or reargument within ten days of service of the petition.

Subp. 5. **Replies.** Replies are not permitted unless specifically authorized by the commission.

Subp. 6. **Commission action.** The commission shall decide a petition for rehearing, amendment, vacation, reconsideration, or reargument with or without a hearing or oral argument. The commission may vacate or stay the order, or part of the order, that is the subject of the petition, pending action on the petition.

Subp. 7. **Second petition not entertained.** A second petition for rehearing, amendment, vacation, reconsideration, or reargument of a commission decision or order by the same party or parties and upon the same grounds as a former petition that has been considered and denied, will not be entertained.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

Published Electronically: *August 21, 2007*

Issue 1. Should the Commission reconsider its July 21, 2014 Order Requiring Interexchange Carriers to Report Call Completion Complaints?

Party Positions

Minnesota Cable Association (Cable) Petition for Reconsideration

Cable argues that the Commission's Order constitutes an unlawful rulemaking and violates Minn. Stat. § 14.02, Subd. 4 and Minn. Stat. § 14.05, Subd. 1.

Cable notes that the Commission's order adopted a statement of general applicability (§ 14.02, Subd. 4) to all interexchange carriers including those that did not actively participate in the docket without following specific rulemaking procedure (§ 14.05, Subd. 1).

Cable alleges that the Commission's Order:

1. lacks a sufficient factual foundation for its exercise of authority;
2. proceeds on anecdotal information in requiring interexchange companies to file call completion complaint reports;²
3. unlawfully imposes new regulations of general applicability and future effect on all interexchange carriers, most of which were not parties to this proceeding, without following required rulemaking procedures; consequently, a large majority of the companies most affected by the Commission's new regulations have had no voice in their making;
4. is aimed at all interexchange carriers, including those who carry exclusively interstate traffic;³ and
5. rejects the recommendation to await the Federal Communications Commission's (FCC) national reporting requirements to take effect, evaluate the Minnesota-specific results contained in those reports, and use those data to determine whether there is a problem with completion of intrastate calls in Minnesota.

² Cable noted that its members are "unaware of problems with long distance intrastate rural call completion problems involving such calls originated by their customers and find no proven examples of intrastate long distance call completion problems in the record of this proceeding." Cable further stated that its members "Midcontinent Communications and Comcast both testify there have been no complaints of call completion problems with calls to rural exchanges in Minnesota." Cable attached Affidavits from Midcontinent Communications and Comcast to its petition.

³ This claim reflects Staff's understanding of Cable's assertion: "The Commission acknowledges that its jurisdiction extends only to intrastate interexchange calls, yet the Order requires carriers to investigate 'each call completion complaint they receive to the Commission and the Department on a quarterly basis.'" (pp. 1-2 of Cable's petition).

Cable asks that the Commission rescind, or substantially modify the portions of its Order affecting originating long distance carriers in Minnesota, and limit its efforts to pursuing investigations of rural call completion problems on a case-by-case basis.

Integra Petition for Reconsideration

Integra asks that the Commission reconsider the reporting requirements and adopt a case-by-case approach to rural call completion complaints.

Integra argues that requiring the degree of information required by the Commission, for each call completion complaint received, is unnecessary and may hinder resolution of genuine rural call completion issues by diverting some of the resources that would otherwise be fully dedicated to resolving these issues. Integra notes that it collaborates closely with all parties when a call completion complaint is received and asks that the Commission encourage this collaborative process. To the extent this process is unsuccessful, or a party is not completely satisfied with the outcome, the customer or carrier can file a complaint with the Commission.

In the alternative, Integra suggests a number of amendments to, and clarifications of, the Commission's Order.

Department's Answer to the Petitions

The Department notes that the difficulty with the rural call completion problem is that carriers do not know if, or when, the problem exists, but that the problem is a reality. The Department argues that the intrastate call completion problems may appear to be small because many of these calls are (or maybe) disguised as interstate calls.

The Department notes that because members of the Cable Association are not tracking rural call completion troubles, or determining whether the trouble is interstate or intrastate, there is no basis for Cable's claim that the evidence of rural call termination problem is anecdotal.

The Department acknowledges that the Commission does not have jurisdiction over interstate calls and cannot fully resolve this important issue for both intrastate and interstate calls.

The Department indicates that the Commission's Order does not constitute unlawful rulemaking because the Commission issued its notice soliciting comments from interested parties to all interexchange companies operating in Minnesota. The Department points out that the notice soliciting comments was sent to 503 persons by electronic filing, electronic mail, courier, interoffice mail, or by U.S. mail. The Department points out that the process was transparent and each interested originating interexchange carrier in Minnesota had the opportunity to participate in the proceeding at the level it chose to participate.

The Department also points out that the Commission has broad authority to act by order under Minnesota Statute 216B.23. subd. 2⁴ and that a rulemaking is unnecessary.

The Department attached the Commission's Order in P999/M-05-1169 (Attachment 3 to the Department's Answer) where the Commission disposed of arguments by two carriers that if the Commission wished to adopt new Eligible Telecommunications Carrier (ETC) designation criteria⁵ it must do so by rule rather than by Commission Order. In that Order, the Commission indicated, among other things, that it acted appropriately and served the notice and briefing paper to interested parties and afforded opportunity to parties to make oral comments.

Finally, the Department notes that neither Cable nor Integra has presented any new information for the Commission to reconsider its Order.

Staff

As an introductory matter, it is typical for the Commission to receive petitions for reconsideration of final orders.

The Commission's only order so far in this docket noted that this docket would be kept open, that the FCC's initiatives would be tracked, and that complaints would be investigated on a case-by-case basis. In addition to these steps, the Commission established certain reporting requirements to better understand the nature, scope and complexity of the call completion problems. These reporting requirements are at the heart of the petitions for reconsideration.

Integra's allegations that the Commission's reporting requirements would hinder resolution of genuine call completion issues by drawing resources away from the process is counter-intuitive, unsubstantiated and unproven. Integra's charge that the reporting requirements may run counter to the collaborative process is also unsubstantiated.

The essence of the problem of rural call completion is lack of quality of service and possible service discrimination. The Commission has broad investigatory authority to require data to ascertain the nature and extent of rural call completion problems. The data required to be filed are limited to those which are part, or arose out, of the investigations performed by the interexchange carriers pursuant to complaints filed with them.

⁴ This statute, in full, provides: "Whenever the commission shall find any regulations, measurements, practices, acts, or service to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory, or otherwise unreasonable or unlawful, or shall find that any service which can be reasonably demanded cannot be obtained, the commission shall determine and by order fix reasonable measurements, regulations, acts, practices, or service to be furnished, imposed, observed and followed in the future in lieu of those found to be unreasonable, inadequate, or otherwise unlawful, and shall make any other order respecting the measurement, regulation, act, practice, or service as shall be just and reasonable."

⁵ The two carriers, ACC and Western Wireless, sought for the Commission to simply adopt the FCC's proposed ETC designation standards, as those standards would be generally applicable to all carriers seeking ETC designation.

Minnesota statutes enable the Commission to undertake this broad inquiry just as the Commission's order required it.

In addition to the legal support for the Commission's Order provided by the Department, the Commission's order is in conformance with Minn. Stat. § 237.011(5). This statute charges the Commission with the duty of "maintaining or improving quality of service."

Further, Minn. Stat. § 237.081, in part, authorizes the Commission to investigate service inadequacies:

"[w]henver it **believes** that a service is inadequate . . . or that an investigation of **any matter relating to any telephone service** should **for any reason** be made, it may **on its own motion** investigate the service or matter **with or without notice**, except that the commission shall give notice to a telephone company before it investigates the level of rates charged by the company." [emphasis supplied]

Minn. Stat. § 237.081, Subd. 2(c), provides, in part, that if factual issues remain unresolved after the Commission's own investigation,

"the commission shall order that a contested case hearing be conducted under chapter 14 unless the complainant, the telephone company, and the commission agree that an expedited hearing under section 237.61 is appropriate."

The Commission has authority to investigate the interexchange carrier call completion problems because Minn. Stat. § 237.035 (e)(1) exempts interexchange carriers from **only** earnings or rate-of-return investigation, **not other** investigations:

"a telecommunications carrier is **not subject to rate-of-return or earnings investigations** under section 237.075 or 237.081;" [emphasis supplied]

Further, Minn. Stat. § 237.035 (b) specifically provides that

"Telecommunications carriers shall comply with sections 237.121 and 237.74."

Minn. Stat. § 237.121, relates to "prohibited practices," section (a) (2) specifically prohibits:

intentionally **impair[ing]** the speed, **quality**, or efficiency of services, products, or facilities offered to a consumer under a tariff, contract, or price list; [emphasis supplied]

Minn. Stat. § 237.74, Sub 2, provides, in part:

No telecommunications carrier shall unreasonably limit its service offerings to particular geographic areas unless facilities necessary for the service are not available and cannot be made available at reasonable costs.

Staff agrees with the Department that both Cable and Integra reiterate the points they previously made in writing and in oral arguments.

It is of some significance that of the parties which filed comments or provided oral arguments – AT&T, CenturyLink, Integra, Cable, Minnesota Telecom Alliance, Sprint Corporation, TW Telecom of Minnesota LLC, Verizon Communications and the Department – no party has supported, or even responded (other than the Department), to the two petitions for reconsideration.

Options

- 1. a.** Grant the petitions for reconsideration.
- 1. b.** Deny the petitions for reconsideration.
- 1. c.** Deny the petitions for reconsideration; modify the Order on the Commission's own motion.

Staff Note:

If the Commission denies the petitions for reconsideration, Staff suggests that the Commission, on its own motion, consider the due dates for, and the format of, the reporting requirements.

Section 2.d, page 17, discusses this issue.

2. *Should the Commission's July 21, 2014 Order be modified?*

2. a. Does the Commission wish to rescind the reporting requirements of the Order?

Party Positions

Integra and Cable support this modification, while the Department opposes it. Cable has asked that the Commission either refer the question of whether there are significant intrastate long distance call completion problems to an Administrative Law Judge, or proceed on a case by case basis to investigate rural call completion complaints.

Staff Note

If the Commission decides to rescind the reporting requirements of this portion of the Order, ordering paragraph 2 will be struck in its entirety:

- ~~2. All originating interexchange carriers doing business in Minnesota shall report each Call completion complaint they receive to the Commission and the Department on a quarterly basis, for a one year period. The report shall include the following details:~~
- ~~A. Root cause analysis on any call completion complaints for any intrastate call completion problem regardless of who reports the incident to the carrier;~~
 - ~~B. If an intermediate provider in the call path was responsible for call failure, the name of that intermediate provider and whether the intermediate provider was removed as a routing alternative;~~
 - ~~C. Any past performance or call failure problems that the interexchange carrier has had with the intermediate provider (if not already reported via this process);~~
 - ~~D. An explanation of what steps the interexchange carrier has taken with the intermediate provider to ensure call completion problems do not occur in the future; and~~
 - ~~E. Whether test lines were made available by the incumbent local exchange company in the exchange where the call failed, and if so, the testing process used by the interexchange carrier.~~

~~Interexchange companies that have not received a complaint need not file any reports.~~

Options

- 2. a. 1.** Rescind ordering paragraph 2 in its entirety.
- 2. a. 2.** Refer the question of whether there are significant intrastate long distance call completion problems to the Office of Administrative Hearings.
- 2. a. 3.** Other action by the Commission.
- 2. a. 4.** Take no action.

2. b. Does the Commission wish to clarify, in ordering paragraphs 2 and 2. A., that the call completion complaints refer to only intrastate calls and that the reporting requirements are restricted to intrastate calls?

Ordering paragraph 2 reads:

All originating interexchange carriers doing business in Minnesota shall report each call completion complaint they receive to the Commission and the Department on a quarterly basis, for a one-year period. The report shall include the following details:

Ordering paragraph 2. A. reads:

Root cause analysis on any call completion complaints for any intrastate call completion problem regardless of who reports the incident to the carrier;

Party Positions

Integra (Cable supports Integra's position)

Integra notes that ordering paragraph 2 requires all originating interexchange carriers to “report **each call completion complaint** they receive,” while the provision in ordering paragraph 2. A. requires “[r]oot cause analysis on any call completion complaints **for any intrastate call completion complaint** . . .”

Integra points out that the intrastate limitation is not uniformly included in the provisions of ordering paragraph 2.

Integra requests that the reference to intrastate calls be included in the definition of “call completion complaint” so that it clearly applies to ordering paragraph 2 and all of its subparts.

Department

The Department recognizes this modification as a somewhat redundant clarification as it is well understood that the Commission has jurisdiction to require reporting for only intrastate calls. The Department, however, sounded a cautionary/advisory note that a carrier should not change the jurisdiction of a call by stripping and replacing the call signaling information to make it appear to be an interstate call. The Department notes that originating interexchange carriers should be investigating complaints of call failures, but only those complaints concerning call failures which are determined to be intrastate are to be reported. Finally, the Department indicates that call failures should not be overlooked by the originating interexchange carrier simply because the call appears to be interstate based on the originating telephone number.

Staff

Integra's request is subsumed under the definition of reportable call completion complaints in Section 2. c. following. However, as a general matter, the Commission may clarify that its Order pertains to only intrastate call completion complaints and that complaints resolved upon investigation to be interstate calls are exempt from the reporting requirements.

Options

- 2. b. 1.** Clarify that the call completion complaints and reporting requirements refer to only intrastate calls.
- 2. b. 2.** Other action by the Commission.
- 2. b. 3.** Take no action.

- 2. c. Does the Commission wish to introduce new language that a reportable call completion complaint is related to the repeated failure of calls to terminate and to limit reportable call completion complaints to those involving termination to “rural” Minnesota carriers?**

Party Positions

Integra (Cable supports Integra’s position but suggests a modification)

Integra asks that the Commission clarify that a reportable call completion complaint is related to the repeated failure of intrastate calls to terminate to a specific end user or end users, during a time when the originating caller is able to terminate calls to other end users. This clarification would prevent a one-time event from being considered a call completion “problem,” and would also distinguish a genuine call completion problem from other network problems, such as an out-of-service condition.

Integra also requests that the Commission limit reportable call completion complaints to those involving termination to “rural” Minnesota carriers.

Integra notes that in its Rural Call Completion Order the FCC proposed a list of rural operating company numbers (OCNs), to be maintained by National Exchange Carrier Association (NECA), for which call completion performance must be recorded, retained, and reported. This list serves as a reference in determining whether a call completion complaint truly involves a “rural” terminating carrier, as contemplated by the FCC Order, and presumably also, the Minnesota Commission’s investigation.

Integra proposes the following amendment (new language) to the Order to “narrow the scope of the Commission’s request, and focus attention on potentially problematic areas:”

A reportable call completion complaint is a complaint by a carrier or customer, to an originating carrier, regarding the repeated failure of intrastate calls to terminate to an end user or end users associated with a rural carrier, as defined in the FCC Rural Call Completion Order, at a time when the customer[s] originating the call to an end user served by a rural carrier is able to terminate calls to other end users.

Cable

Cable notes that the phrases “end user associated with a rural carrier” and “end user served by a rural carrier” in Integra’s suggested language raise the question of what “associated with” or “served by” mean. Cable suggests that “associated with” and “served by” be changed to “of.”

Accordingly, Cable suggests the following language:

A reportable call completion complaint is a complaint by a carrier or customer, to an originating carrier, regarding the repeated failure of intrastate calls to terminate to an end user or end users ~~associated with~~ of a rural carrier, as defined in the FCC Rural Call Completion Order, at a time when the customer[s] originating the call to an end user ~~served by~~ of a rural carrier is able to terminate calls to other end users.

Department

The Department opposes both modifications proposed by Integra.

The Department apparently sees no merit in the proposed clarification that only repeated call failures constitute rural call completion problem. The Department notes that if a call fails once for a consumer, it is likely that the caller will make a second attempt and, if the call is completed on the second attempt, it seems extremely unlikely that a customer would ever report the failure on the first call attempt. The Department concludes that the Commission's decision should only be revisited if changes have a material impact.

Regarding limiting reportable call completion complaints to those involving termination to "rural" Minnesota carriers, the Department notes that the operating company numbers belong to rural incumbent telephone companies (ILECs). However, the Department points out that the problem with rural call completion also involves competitive local exchange carriers (CLECs) that serve in rural areas and that calls that fail to rural CLEC customers are just as problematic as calls that fail to rural ILECs and should not be eliminated from the reporting requirements of originating interexchange carriers for intrastate calls.

Staff

Integra's request seems to predetermine which call termination complaints the interexchange carriers would investigate. Integra should investigate all complaints regarding call termination and report the findings of the investigation.

Options

2. c. 1. Adopt Integra's proposed language given above.
2. c. 2. Adopt Cable's proposed language given above.
2. c. 3. Other action by the Commission.
2. c. 4. Take no action.

2. d. Does the Commission wish to clarify the format and timeframe for filing the quarterly reports?

Ordering paragraph 2 reads:

All originating interexchange carriers doing business in Minnesota shall report each call completion complaint they receive to the Commission and the Department on a quarterly basis, for a one-year period. The report shall include the following details:

Party Positions

Integra (Cable supports Integra's position)

Integra notes that the Order does not specify the timeframe of the quarterly reporting. Integra requests that the one-year reporting period begin on January 1, 2015 as this will provide carriers time to implement the processes necessary to comply with the reporting requirements, and align quarterly reporting with calendar quarters. Integra also recommends clarifying Order part 2 to indicate that the requested information contained in the subparts should be provided for each reportable complaint.

Integra has offered the following modification to the ordering paragraph 2:

All originating interexchange carriers doing business in Minnesota shall report each reportable call completion complaint they receive to the Commission and the Department on a quarterly basis, for a one-year period. Each quarterly report shall be due thirty (30) days following the completion of the quarter, with the first quarter covering January 1, 2015 through March 31, 2015. The report shall include the following details for each complaint:

Department

The Department does not support Integra's request.

All originating interexchange carriers were notified of the effective date and should be implementing whatever internal processes are necessary to track complaints. The Department does not object to Integra requiring additional time to implement processes to capture the data, However, all originating interexchange carriers should implement processes as quickly as they can to comply with the Commission's Order.

The Department does not believe it is necessary to restrict all carriers to the same reporting dates.

Staff Note

Staff has had a few inquiries relating to the format and due dates for the filing of the reports. Staff believes establishing firm due dates is helpful to the industry.

Integra's position that the reporting requirements somehow conflict with the collaborative process or that it would draw resources away from solving the problem has no bearing on collecting data for filing the reports. As such, Staff is unable to appreciate Integra's request to begin reporting in 2015.

Staff offers the following language, as an alternative to Integra's proposal, for the Commission's consideration:

“The required reports shall be filed beginning with the quarter ending December 2014 (for the three months October, November, December) no later than the last day of January 2015. The remaining three quarterly reports shall be due, respectively, on the last day of April, July, and October of 2015. The reports filed by the carriers shall address the requirements A through E of the Order in the format of their choice.”

Options

- 2. d. 1. Adopt Integra's proposed language given above.
- 2. d. 2. Adopt Staff alternative language given above.
- 2. d. 3. Other Commission action.
- 2. d. 4. Take no action.

2. e. Does the Commission wish to relax its root cause analysis requirement in ordering paragraph 2. A. so as to explicitly allow for an explanation for its absence?

Ordering paragraph 2.A reads:

Root cause analysis on any call completion complaints for any intrastate call completion problem regardless of who reports the incident to the carrier;

Party Positions

Integra (Cable supports Integra's position)

Integra notes that carriers will usually attempt to identify the cause of a call completion problem, but may not always be able to do so and that they may not even agree on which party was at fault. A problem could be intermittent, or have occurred at some point in the past, that makes determination of root cause difficult or impossible.

Integra proposes the following modification:

2.A. Root cause analysis or explanation as to why a root cause could not be determined ~~on any call completion complaints for any intrastate call completion problem regardless of who reports the incident to the carrier;~~

Integra justifies the deletion of the phrase

~~on any call completion complaints for any intrastate call completion problem~~

in light of the modifications it suggested in 2.c above regarding the definition of a reportable call completion complaint.

Integra has not explicitly justified deletion of the following phrase, but its definition of reportable call complaint limits the complainant to "carrier" or "customer:"

~~regardless of who reports the incident to the carrier;~~

Department

The Department is generally opposed to the modifications proposed by Integra. In this particular instance, however, the Department appears not to object to the following modification:

Root cause analysis or explanation as to why a root cause could not be determined;

However, the Department questions the need for this change. The Department notes that if a root cause explanation cannot be determined, the carrier should be providing an explanation to that effect in any event.

The Department objects to the deletion proposed by Integra with regard to the entity that may report the call completion problem. The Department notes that the complaint should be reported regardless of who reports the incident to the carrier.

Staff

Integra's proposal seems to indicate that calls may not terminate for "unknown" or "indeterminable" reasons and these types of responses will not be helpful in solving the call completion problem. An originated call simply cannot disappear without a valid reason and an investigation of this is what is at the heart of root cause analysis. It would be most revealing to know where exactly in the root cause analysis the investigation failed to point to the root cause.

Staff suggests that an adjective like "substantive" be included in any modification contemplated by the Commission.

Staff suggests the following language as an alternative:

Root cause analysis or a substantive explanation as to why a root cause could not be determined on any call completion complaints for any intrastate call completion problem regardless of who reports the incident to the carrier;

Options

2. e. 1. Adopt Integra's proposed full language:

Root cause analysis or explanation as to why a root cause could not be determined ~~on any call completion complaints for any intrastate call completion problem regardless of who reports the incident to the carrier;~~

2. e. 2. Approve partial modification of Integra's proposal: "Root cause analysis or explanation as to why a root cause could not be determined;" so, the full ordering paragraph reads:

Root cause analysis or explanation as to why a root cause could not be determined on any call completion complaints for any intrastate call completion problem regardless of who reports the incident to the carrier;

2. e. 3. Adopt Staff's proposed language:

Root cause analysis or a substantive explanation as to why a root cause could not be determined on any call completion complaints for any intrastate call completion problem regardless of who reports the incident to the carrier;

2. e. 4. Other Commission action.

2. e. 5. Take no action.

2. f. Does the Commission wish to modify its reporting requirement, in ordering paragraph 2. B., that the identity of the intermediate carrier be disclosed if that carrier was responsible for call termination failure?

Ordering paragraph 2. B. reads:

If an intermediate provider in the call path was responsible for call failure, the name of that intermediate provider and whether the intermediate provider was removed as a routing alternative;

Party Positions

Integra (Cable supports Integra's position)

As part of the root cause analysis, Integra requests that the Commission clarify that the originating interexchange carrier be required to only provide the name of the intermediate provider to which the originating carrier routed the call without assigning any responsibility for assigning legitimate fault to that carrier. Integra notes that there may be multiple intermediate providers involved in a call path, but the originating carrier would typically be able to identify only the initial intermediate provider. Consequently, Integra proposes to only name the intermediate carrier without any implication of who was responsible for any call termination failure.

Integra proposes the following modification:

- 2.B. If an intermediate provider is used in the call path ~~was responsible for call failure,~~ the name of the intermediate provider to which the originating carrier routed the call ~~and whether the intermediate provider was removed as a routing alternative;~~ and

Department

The Department notes that the root cause analysis mentioned in ordering paragraph 2.A. requires the originating interexchange carrier to disclose whether an intermediate provider was at fault. Thus, the basis for Integra's modifications is moot. The Department also does not agree to the deleted portion of the sentence on whether the intermediate provider was removed as a routing alternative. If a rural call termination problem was caused by an intermediate provider, the corrective actions taken by the originating interexchange carrier, if any, should be identified. If the intermediate provider was removed as a routing alternative, that information should be disclosed.

Staff

Integra proposes to simply reveal the first intermediate carrier's identity and nothing else. This proposal is not at all helpful in understanding call completion problems, and is particularly unhelpful when there is more than one carrier involved in dropping calls.

There will be no value to the reports if the Commission adopts Integra's proposal. Integra's proposal shows only too clearly its reluctance to perform an in-depth root cause analysis. If there is a dispute between Integra and the intermediate carrier(s), it is important that the Commission be fully apprised of it in the process of reaching a final resolution of the call termination problem.

Options

- 2. f. 1.** Adopt Integra's proposed full language given above.
- 2. f. 2.** Other Commission action.
- 2. f. 3.** Take no action.

2. g. Does the Commission wish to delete its reporting requirement, in ordering paragraph 2. C, that interexchange carriers report any past performance or call failure problems they have had with intermediate provider?

Ordering paragraph 2. C. reads:

Any past performance or call failure problems that the interexchange carrier has had with the intermediate provider (if not already reported via this process);

Party Positions

Integra (Cable supports Integra's position)

Integra notes that it does not capture this information presently and would not be able to readily provide this information. If required to provide information, it would be incomplete and potentially lead to incorrect conclusions. Further, Integra notes that its requested amendment to ordering paragraph 2.B, to require the reporting of the intermediate provider in all instances, would provide the Commission with insight into intermediate providers' performance over time.

Integra requests that the Commission strike the entire ordering paragraph:

~~2.C. Any past performance or call failure problems that the interexchange carrier has had with the intermediate provider (if not already reported via this process);~~

Department

The Department notes that while past information may not be recorded or available, going forward, the root cause of rural call completion failures should be undertaken and problems with intermediate providers should be identified.

The Department adds that the recognition that the identities of intermediate providers that are the source of problems will be disclosed in the root cause analysis, if applicable, is reflected in the Commission's Order where it states "if not already reported via this process." Simply because an intermediate provider is identified as carrying some level of responsibility with call failures does not mean that the intermediate provider can no longer be used. However, the secrecy that has existed with intermediate providers compounded with the blame attributed to their actions suggests that disclosure of intermediate providers that are identified as the cause of rural call completion failures may reduce the occurrence of such failures.

Options

- 2. g. 1.** Adopt Integra's proposed deletion of ordering paragraph 2. C.
- 2. g. 2.** Other Commission action.
- 2. g. 3.** Take no action.

2. h. Does the Commission wish to modify ordering paragraph 2. D requiring interexchange carriers to disclose steps taken with intermediate carriers to ensure that call completion problems do not occur in the future?

Ordering paragraph 2. D. reads:

An explanation of what steps the interexchange carrier has taken with the intermediate provider to ensure call completion problems do not occur in the future; and

Party Positions

Integra (Cable supports Integra's position)

In line with earlier suggestions relating to intermediate carriers, Integra proposes the following modification to ordering paragraph 2. D:

An explanation of what steps the interexchange carrier has taken to resolve the issue, including whether the call path was rerouted and whether test lines were requested and made available. ~~with the intermediate provider to ensure call completion problems do not occur in the future; and~~

Department

The Department points out that the proposed modification changes the meaning of the Commission's Order and opposes the proposed modification.

Staff

Staff agrees with the Department that Integra's proposal changes completely the intent of the Commission's Order. Clearly, the Order looks prospectively, at the future, as to the steps taken to root out the call completion problem, whereas Integra's proposal looks back historically, or contemporarily, at how a problem was, or has been, solved. Effectively, Integra proposes to limit the steps taken to rerouting of call paths and to the availability and use of test lines.

Options

- 2. h. 1.** Adopt Integra's proposed modification of ordering paragraph 2. D.
- 2. h. 2.** Other Commission action.
- 2. h. 3.** Take no action.

2. i. Does the Commission wish to delete in its entirety ordering paragraph 2. E relating to the availability of test lines from incumbent local exchange companies and the testing process used by the interexchange carriers?

Ordering paragraph 2. E. reads:

Whether test lines were made available by the incumbent local exchange company in the exchange where the call failed, and if so, the testing process used by the interexchange carrier.

Party Positions

Integra (Cable supports Integra's position)

Integra maintains that ordering paragraphs 2. D and 2. E require carriers to disclose actions taken to resolve the complaint. Integra adds that actions taken could include alternative routing, the use of test lines, or some other action. Reporting on the use of test lines separately is therefore not necessary. The availability and use of test lines is useful when a customer/carrier is experiencing a call termination problem in real time, but not all complaints are reported under this scenario. Carriers should use test lines to troubleshoot call termination problems only when that method is likely to help resolve the issue.

Integra suggests that the ordering paragraph 2. E. be deleted in its entirety:

~~Whether test lines were made available by the incumbent local exchange company in the exchange where the call failed, and if so, the testing process used by the interexchange carrier.~~

Department

The Department notes that Integra's proposal turns the purpose of test lines to be a means of resolving problems after the problems have occurred. The Department notes that test lines were intended to serve as a preventative measure and to ensure that the call paths used to terminate calls to rural areas function properly. The Department adds that if a carrier is reporting a call completion problem, it would be good to know if the call path(s) were available from the local exchange carrier, as well as whether testing occurred by the originating interexchange carrier.

Staff

Ordering paragraph 2. D. deals with all the steps taken to root out call completion problems and Integra can certainly include the topics of test lines and alternative routing in this section.

Ordering paragraph 2. E. specifically relates to test lines.

If Integra has answered questions relating to the test lines in 2. D., Integra need only say, in answer to reporting requirement 2. E., “see above.” Integra has not stated a valid reason for modifying this reporting requirement.

Options

- 2. i. 1.** Adopt Integra’s proposed modification of ordering paragraph 2. D.
- 2. i. 2.** Other Commission action.
- 2. i. 3.** Take no action.

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