

August 21, 2014

Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce**  
Docket No. P999/CI-12-1329

Dear Dr. Haar:

Attached is the Answer of the Minnesota Department of Commerce to the Petition of Integra Telecom of Minnesota, Inc. and Eschelon Telecom of Minnesota, Inc. dba as Integra (collectively, Integra) for Reconsideration of the Commission's July 21, 2014 Order in the following matter:

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

The Department recommends the Commission deny Integra's Petition for Reconsideration.

Sincerely,

/s/ BONNIE JOHNSON  
Public Utilities Telecommunications Analyst

/s/ GREGORY J. DOYLE  
Manager, Telecommunications

BJ/GJD/ja  
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET No. P999/CI-12-1329

**I. BACKGROUND**

On July 21, 2014, the Minnesota Public Utilities Commission (Commission) issued its Order Requiring Interexchange Carriers to Report Call Completion Complaints (Order).

Ten days after the Commission issued its Order, on July 31, 2014, the Minnesota Cable Communications Association (MCCA) filed a Petition for Reconsideration (Petition) of the Commission's Order.

On August 11, 2014, the Department provided its Answer to the MCCA Petition.

Twenty days after the Commission issued its Order, on August 11, 2014, Integra filed a Petition for Reconsideration (Integra Petition) of the Commission's Order.

The Department provides this Answer to Integra's Petition of the Order.

**II. ADDRESSING ONLY THOSE COMPLAINTS MADE DIRECTLY TO THE COMMISSION WILL NOT PROVIDE THE NEEDED RELIEF TO RURAL TELECOMMUNICATIONS PROVIDERS AND CONSUMERS**

Integra supports the MCCA Petition and asks the Commission to reconsider its Order and opt for intervention on a complaint basis.<sup>1</sup> Integra believes that the Commission should minimize its role with rural call completion problems by taking an approach that "allows and empowers the industry to problem-solve independent of the Commission."<sup>2</sup>

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<sup>1</sup> Integra Petition, pp. 2-3.

<sup>2</sup> Integra Petition, p. 2.

If indeed the telecommunication industry was able to solve the problems with rural call completion without government intervention, they have failed to do so. The rural call completion problem has existed since at least prior to June 28, 2007, when the FCC issued a declaratory ruling responding to concerns expressed by local exchange carriers (LECs) and consumers about the “blocking or potential blocking of interexchange calls that terminate with certain local exchange carriers as a form of self-help to resolve disputes concerning the access rates of these local exchange carriers.”<sup>3</sup> As the Department stated in its Answer to the MCCA, the problems of rural call completion continue. The ability for consumers to originate and terminate calls to other consumers in Minnesota is too important for the Commission to sit idly by, on the promise that the industry will self-regulate, nor should the Commission wait for the actions of the FCC to resolve the issue.

Further evidence of continued delay of the FCC order requiring data collection providing any relief for the rural call completion problem is provided in an August 18, 2014 Ex Parte Notice to the FCC filed by the NTCA – The Rural Broadband Association (NTCA), WTA – Advocates for Rural Broadband (WTA) and the National Exchange Carriers Association (NECA). See Attachment 1. The Ex Parte notice states:

NTCA–The Rural Broadband Association (“NTCA”), WTA – Advocates for Rural Broadband (“WTA”) and the National Exchange Carrier Association (“NECA”) (collectively, the “Rural Representatives”) write to express concern about the continuing delay in implementation of the rural call completion order. Although rules to address rural call completion problems were adopted in October 2013, a full ten months later not only are the record keeping and reporting rules not in effect, but it is our understanding that the Federal Communications Commission (the “Commission”) has yet to complete the submissions to the Office of Management and Budget necessary for approval and implementation – meaning that the rules are likely still many months away from even starting to take effect.

The Department has provided its Answer to MCCA’s Petition and does not believe Integra has provided any additional evidence to support changing the Commission’s Order in support of the MCCA petition.

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<sup>3</sup> In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers; Call Blocking by Carriers, WC Docket No. 07-135, *Declaratory Ruling and Order*, June 28, 2007, para 1. (2007 *Declaratory Order*) at [https://prodnet.www.neca.org/wawatch/wwpdf/062907\\_2.pdf](https://prodnet.www.neca.org/wawatch/wwpdf/062907_2.pdf)

### III. REQUEST FOR THE COMMISSION TO AMEND AND CLARIFY ITS ORDER

If the Commission does not reconsider its order as sought by the MCCA, Integra asks the Commission to amend and clarify its call completion reporting requirements. The Department addresses the requests for amendment and those for clarification separately below.

#### A. REQUESTS FOR THE COMMISSION TO AMEND THE REPORTING REQUIREMENTS

- 1) Integra recommends that the Commission change ordering paragraph 2.A. as follows:

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;<sup>4</sup>

If a root cause explanation cannot be determined, the carrier should be providing an explanation to that effect. Thus, the Department does not believe that the change proposed by Integra will result in different reporting. If the Commission decides to clarify its Order, the Department does not object to the inclusion of the phrase “or explanation as to why a root cause could not be determined.” The Department does not agree, however, to the deleted portion of the sentence by Integra. The complaint should be reported regardless of who reports the incident to the carrier.

- 2) Integra also requests that the Order part 2. B. be amended as follows:

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<sup>5</sup>

Integra’s primary argument is that “[c]arriers working to resolve a call completion problem will not always agree on what party is at fault.”<sup>6</sup> However, the root cause analysis required 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

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<sup>4</sup> Integra Petition, p. 6.

<sup>5</sup> Integra Petition, p. 7.

<sup>6</sup> Integra Petition, p. 6.

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.

- 3) Integra requests the Commission delete ordering language concerning the reporting of past performance by intermediate providers:

~~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);~~

Integra argues that it does not capture this information today and would not be able to readily provide this information.<sup>7</sup> Obviously, if Integra, or other originating interexchange carriers, do not have past performance information available, they will be unable to provide it. However, going forward, the root cause of rural call completion failures should be undertaken and problems with intermediate providers should be identified. The recognition that the identities of intermediate provider 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.

- 4) Integra argues the reporting requirement on whether the originating interexchange tested call termination via test lines made available by the local exchange carrier. Integra proposes the following changes to the Order:

~~2.D C. 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~~

~~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.<sup>8</sup>~~

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<sup>7</sup> Integra Petition, p. 7.

<sup>8</sup> Integra Petition, p. 8.

The changes proposed by Integra change the meaning of the Commission's Order. In the edits proposed by Integra, it turns the purpose of test lines to be a means of resolving problems after the problems have occurred. Integra argues that test lines (to resolve complaints) are "...useful when a customer/carrier is experiencing a call termination problem in real time..."<sup>9</sup> Although the edits proposed by Integra are for test lines to assist in resolving problems that have occurred, Integra does appear to believe that test lines are often useful for this purpose.<sup>10</sup>

The Department's recommendation concerning test lines, which the Commission adopted, was intended to serve as a preventative measure. As ordered, testing enables originating interexchange carriers to ensure that the call paths they are using to terminate calls to rural areas function properly. 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.

In the event the Commission reconsiders its Order, the Department recommends that each of the amended reporting requirements proposed by Integra be denied.

#### *B. REQUESTS FOR CLARIFICATION OF THE ORDER*

Some of Integra's petition is essentially clarification of the intent of the Commission's Order. Specifically, Integra proposes clarifications to make clear that the required reporting is specific to the repeated failure of only intrastate calls<sup>11</sup> and calls to rural exchanges.<sup>12</sup>

- 1) Integra proposes to add the following definition of reportable call completion complaints:

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.<sup>13</sup>

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<sup>9</sup> Integra Petition, pp. 7-8.

<sup>10</sup> Integra Petition, pp. 7-8.

<sup>11</sup> Integra Petition, p. 3.

<sup>12</sup> Integra Petition, pp. 4-5.

<sup>13</sup> Integra Petition, p. 5.

While some of Integra's proposed language appears to be acceptable, the value added to the Commission's current Order would appear to be minimal. It is well understood that the Commission has jurisdiction to require reporting for only intrastate calls. But, as stated in the Department's Answer to the MCCA petition, a call is intrastate if it both originates and terminates in Minnesota. A carrier cannot change the jurisdiction of the call by stripping and replacing the call signaling information to make it appear to be an interstate call. 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. 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.

Integra also argues that there should only be reporting where there is a repeated call failure.<sup>14</sup> If a call fails once for a consumer, it is likely that the caller will make a second attempt. 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 Commission's decision should only be revisited if changes have a material impact.

Regarding Integra's recommendation that reportable call completion complaints be limited to only those call failures that terminate to a rural carrier as defined in the FCC Rural Call Completion Order, the Department opposes this limitation. The operating company numbers to which the FCC is requiring reporting is limited to rural incumbent telephone companies.<sup>15</sup> The problem with rural call completion, however, also involves competitive local exchange carriers (CLECs) that serve in rural areas. 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.

- 2) Integra also asks that the Commission modify its Order to specify the timeframe for the quarterly reporting. Integra proposes the following changes:

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:

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<sup>14</sup> Integra Petition, p. 3.

<sup>15</sup> *List of OCNs Public Notice*, 28 FCC Rcd at 5190-91. The list of OCNs on NECA's website can be found at: <http://www.neca.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8874&libID=8894>

The Order was effective on July 21, 2014. All originating interexchange carriers were notified of the effective date and should be implementing whatever internal processes are necessary to track complaints. For example, CenturyLink has indicated that its first report will include July, August and September and that it will provide the report by November 1, 2014, presumably because CenturyLink already has processes in place and was tracking these complaints. CenturyLink said the July report will only include incidents from July 21<sup>st</sup> forward, but that this will prevent having partial month reporting going forward.

The Department does not believe it is necessary to restrict all carriers to the same reporting dates. If Integra needs some time to implement processes to capture the data, the Department has no objection. However, all originating interexchange carriers should implement processes as quickly as they can to comply with the Commission's Order.

In the event the Commission reconsiders its Order, the Department recommends that the clarifications sought by Integra be rejected.

#### **IV. COMMISSION ALTERNATIVES**

*A. Should the Commission grant Integra's petition for reconsideration?*

1. Grant Integra's petition for reconsideration.
2. Deny Integra's petition for reconsideration.

The Commission would not proceed further unless it grants the petition for reconsideration.

*B. What aspects of the Commission's Order should be changed?*

1. Find that one or more of the changes proposed by Integra should be adopted.
2. Find that no changes should be made to the Commission's Order.
3. Modify the Order as the Commission deems appropriate.

#### **V. DEPARTMENT RECOMMENDATION**

Integra provided no new information that would compel the Commission to reconsider its Order. The Department recommends alternative A.2, to Deny Integra's petition for reconsideration.

/ja



# ATTACHMENT 1



August 18, 2014

***Ex Parte Notice***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re:**

***In the Matter of Rural Call Completion, WC Docket No. 13-39***

Dear Ms. Dortch:

NTCA–The Rural Broadband Association (“NTCA”), WTA – Advocates for Rural Broadband (“WTA”) and the National Exchange Carrier Association (“NECA”) (collectively, the “Rural Representatives”) write to express concern about the continuing delay in implementation of the rural call completion order. Although rules to address rural call completion problems were adopted in October 2013, a full ten months later not only are the record keeping and reporting rules not in effect, but it is our understanding that the Federal Communications Commission (the “Commission”) has yet to complete the submissions to the Office of Management and Budget necessary for approval and implementation – meaning that the rules are likely still many months away from even starting to take effect.

Rural call incompleteness is a problem of which the Commission has been aware of for many years. The Rural Representatives first brought the issue to the attention of Commission staff in a series of letters and meetings in early 2011. There is an ample record that includes data and anecdotal information describing the extent of the problem and the serious public safety and financial ramifications of call failure. Rural communities, businesses and individuals’ well-being and safety are being compromised on a daily basis. Family members have been unable to contact loved ones, rural businesses have lost opportunities and customers, doctors have been unable to reach patients, hospitals have been unable to reach on-call emergency surgeons and there is a reported instance in which a 911 call center was unable to make emergency call backs.

While the Commission has taken intermediate steps to address rural call incompleteness, more than three years after the Commission was made aware of the issue, calls to rural consumers continue to fail. Yet, beyond a handful of individual consent decrees, neither the Commission nor the public has any better visibility into the precise sources of such problems and a clear sense of how to address

Marlene H. Dortch  
August 18, 2014  
Page 2 of 2

them today than three years ago. Given the Commission's professed commitment to identifying and remedying the causes of call incompleteness, it is far past time for the Commission to put into place the tools necessary to do so.

The Rural Representatives therefore urge the Commission to promptly submit the rural call completion record keeping and reporting requirements for the necessary approvals. The greater transparency provided by the pending rules will ensure that the industry more seriously addresses this issue and will provide the Commission with the necessary tools to take appropriate further action, whether that may be additional rules or enforcement of existing requirements. The Rural Representatives also urge the Commission to act on its Further Notice of Proposed Rulemaking, specifically addressing concerns regarding intermediate providers. Without visibility into the intermediate provider marketplace, any problems arising within such networks may continue to prove difficult, if not impossible, for the Commission to identify and remedy.

The Commission must act immediately to ensure that calls complete. It has taken some important steps toward that goal, but it simply needs to finish the job by: (1) ensuring its reporting and record-keeping rules finally take effect; (2) using the data obtained via those reports to help identify and remedy the causes of rural call incompleteness; and (3) ensuring greater transparency in the opaque intermediate provider marketplace.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Jill Canfield

Jill Canfield  
Director of Legal and Industry,  
Assistant General Counsel  
NTCA – The Rural Broadband Association

/s/ DERRICK B. OWENS

DERRICK B. OWENS  
Vice President of Government Affairs  
WTA -- Advocates for Rural Broadband  
317 Massachusetts Ave., NE, Ste. 300  
Washington, DC 20002

/s/ Jeffrey E. Dupree

Jeffrey E. Dupree  
Vice President - Government Relations  
NECA  
1634 Eye Street NW, Suite 510  
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## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce  
Comments**

**Docket No. P999/CI-12-1329**

**Dated this 21<sup>st</sup> day of August 2014**

**/s/Sharon Ferguson**

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