

**STATE OF MINNESOTA**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF MINNESOTA**

<b>Beverly Jones</b>	<b>Chair</b>
<b>Heydinger</b>	
<b>David C. Boyd</b>	<b>Commissioner</b>
<b>Nancy Lange</b>	<b>Commissioner</b>
<b>Dan Lipschultz</b>	<b>Commissioner</b>
<b>Betsy Wergin</b>	<b>Commissioner</b>

**In the Matter of the Commission Investigation   MPUC Docket No. P999/C1-12-1329**  
**Of the Completion of Long-Distance Calls to**  
**Rural Areas in Minnesota                           COMMENTS OF AT&T CORP**

AT&T Corp (“AT&T”) respectfully submits these comments in response to the Commission’s “Notice of Commission Investigation and Solicitation of Comments,” dated January 16, 2013. AT&T is a telecommunications carrier certificated to provide local and long distance service in Minnesota. In these comments, AT&T will first provide general comments on what it believes to be the proper approach to dealing with the problems of rural call completion. AT&T will then address specific questions for which the Commission has invited responses.

**I.     General Comments**

As a preliminary matter, AT&T understands and shares the concerns discussed by the Minnesota Department of Commerce (“DOC”) in its comments dated January 13, 2014. AT&T takes the issue of call completion very seriously and strives to provide a superior level of service to our customers. To this end, AT&T follows industry best practices and actively manages relationships with intermediate providers through contract and oversight, a practice that in AT&T’s experience works to ensure quality call completion. In addition, AT&T makes limited use of alternative providers and currently limits to one the number of intermediate providers in any call path, thereby resolving many of the symptoms of call completion problems, such as excessive call set up time and inaccurate ring tones or intercept messages.

AT&T believes that from a regulatory standpoint, the issue of rural call completion is better addressed on a nationwide, rather than a state-by-state, basis. The FCC has recognized that the problem of call completion and call termination in rural areas is not localized, but rather a national problem which requires FCC action to resolve. Noting that such problems are of particular concern in rural areas served by rate-of-return carriers where switched access costs to complete calls can be significantly higher than in non-rural areas, the FCC has taken significant steps to both eliminate the incentives for carriers to avoid call completion to rural areas and re-emphasize the obligation of all carriers to avoid practices that allow or effectively allow these conditions to persist.

In its November 18, 2011 *ICC/Transformational Order*,<sup>1</sup> the FCC reaffirmed its longstanding prohibition on call blocking. Specifically, the FCC reiterated that call blocking has the potential to degrade the reliability of the nation's telecommunications network, stating that "the ubiquity and reliability of the nation's telecommunications network is of paramount importance to the explicit goals of the Communications Act of 1934, as amended."<sup>2</sup>

In addition, by establishing a steady and certain glide path to bill-and-keep for terminating access for all traffic, the FCC took a significant step toward removing what DOC's Comments (p. 11) recognize as one of the root causes of call completion problems in rural areas, i.e., the use of least cost routers to minimize or avoid high terminating switched access rates charged by rural, rate of return local exchange carriers. The FCC has concluded that, when fully implemented, the new bill-and-keep compensation method "will remove the primary incentives

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<sup>1</sup> In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket no. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, ("ICC/USF Transformational Order").

<sup>2</sup> ICC/USF Transformational Order at ¶ 734.

for the use of cost-saving practices that appear to be undermining the reliability of telephone service.”<sup>3</sup>

Furthermore, recognizing that the incentives that fueled call blocking and choking practices would not be immediately eliminated by the ICC/CAF Transformational Order, on February 6, 2012, the FCC issued a Declaratory Ruling, *In the Matter of Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Establishing Just and Reasonable Rates for Local Exchange Carriers*. In its Order, the FCC set forth an unambiguous standard, stating:

[W]e clarify that a carrier that knows or should know that calls are not completed to certain areas, and engages in acts (or omissions) that allow or effectively allow these conditions to persist, may be liable for a violation of section 201 of the Act. We also emphasize that it may be a violation of Section 202 to provide discriminatory service with respect to calls placed to rural areas. Finally, we clarify that a carrier remains responsible for the provision of service to its customers even when it contracts with another provider to carry the call to its destination.<sup>4</sup>

While being careful not to dictate how carriers must route traffic, the Commission emphasized that a variety of tools exist to assist carriers in meeting their obligations.<sup>5</sup>

The industry has proactively developed guidelines to complement the requirements set forth by the FCC. The Alliance for Telecommunications Industry Solutions (“ATIS”), through the Next Generation Interconnection Interoperability Forum (“NGIIF”) Committee, on August 15, 2012 issued ATIS – 0300106, ATIS Standard on “Intercarrier Call Completion/Call Termination Handbook” (“Handbook”). Although not legally binding, the ATIS standards are generally recognized as the ‘gold standard’ for industry best practices. In this case, the

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<sup>3</sup> Id., at ¶801. See also 47 C.F.R. §§51.907, 51.909.

<sup>4</sup> *In the Matter of Developing an Unified Intercarrier Compensation Regime*, CC Docket 01-92, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, (“Call Blocking Declaratory Ruling”) at ¶11.

<sup>5</sup> Among the practices that the FCC identified are practices that are currently used by AT&T to manage its suppliers of termination services. For example, as noted by the FCC, AT&T prohibits looping and requires a vendor to return the call to AT&T if it is not able to complete it. Additionally, AT&T has specific provisions that ensure that a terminating vendor does not take any actions to make traffic appear as other than US-originated long distance traffic.

Handbook documents those practices that the FCC identified in its Declaratory Order as necessary to properly address rural connectivity issues.

Finally, and most recently, the FCC adopted rules addressing the rural call completion issue in its November 8, 2013 “Rural Call Completion Order”.<sup>6</sup> The DOC’s Comments (pp. 8-9, 11) provide a summary of those rules, which AT&T will not repeat here. AT&T does, however, wish to point out certain aspects of the rules that support the conclusion that they are likely to be more effective in addressing the rural call completion problems than the rules are given credit for by the DOC.

*First*, to reduce the burden on covered providers, and to “create incentives for providers to improve their rural call completion performance immediately”<sup>7</sup>, the FCC adopted a safe harbor and a waiver process that would decrease the requirements to record, retain and report call attempt data. Under the safe harbor, a provider that limits intermediate providers (not including terminating tandems) to no more than two in any call path would only have to retain data for three months and would be relieved of the requirement to file quarterly reports after one year. The FCC expressly disagreed with the “skepticism” expressed by some parties regarding the safe harbor’s “efficacy in preventing rural call completion problems,” stating that “[o]ur experience in investigating and resolving rural call completion complaints suggests that problems with routing calls to rural areas typically arise where more than two intermediate providers are involved in transmitting a call.”<sup>8</sup> Accordingly, the FCC “expect[s] fewer rural call completion issues, if any, to arise regarding providers that qualify for the safe harbor.”

*Second*, the FCC adopted a waiver process in which the burdensome record retention and

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<sup>6</sup> *In the matter of Rural Call Completion*, WC Docket No- 13-39, *Report and Order and Further Notice of Proposed Rulemaking*, adopted October 28, 2013, released November 8, 2013 (“*Rural Call Completion Order*”).

<sup>7</sup> *Rural Call Completion Order* at ¶ 85.

<sup>8</sup> *Id.* at ¶ 87.

reporting requirements could be significantly reduced by allowing a provider to record, retain and report information based on a statistical sampling method approved by the Wireline Competition Bureau. To grant such a waiver, the Bureau would consider whether the provider (i) satisfies the safe harbor, (ii) implements industry best practices, such as those adopted by the industry through the *ATIS Handbook*, and (iii) monitors its own performance on an ILEC-by-ILEC basis.<sup>9</sup> The FCC stated that by adopting this waiver process, “we hope to encourage providers to adopt practices and processes to prevent rural call completion problems from occurring in the first place, thus benefitting rural consumers and avoiding the need for enforcement.”<sup>10</sup>

*Third*, the FCC adopted a rule prohibiting “false audible ringing,” which “occurs when an originating or intermediate provider prematurely triggers audible ring tones to the caller before the call setup request has actually reached the terminating rural provider. That is, the calling party believes the phone is ringing at the called party’s premises when it is not.”<sup>11</sup> The FCC “expects this rule will improve the call completion rates to rural areas, therefore benefitting consumers and industry alike.”<sup>12</sup> Notably, this rule applies to intermediate providers as well as to all originating providers, including local exchange carriers, interexchange carriers, commercial mobile radio service (CMRS) providers, interconnected VoIP, and one-way VoIP providers.<sup>13</sup> Furthermore, the rule applies to intrastate as well as interstate calls.<sup>14</sup>

Finally, as DOC notes, the FCC is “seeking comments on additional measures intended to further ensure reasonable and nondiscriminatory service to rural areas, including additional

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<sup>9</sup> Id. at ¶ 96.

<sup>10</sup> Id. at ¶ 97.

<sup>11</sup> Id. at ¶ 111.

<sup>12</sup> Id. at ¶ 114.

<sup>13</sup> Id. at ¶ 115.

<sup>14</sup> Id.

reforms pertaining to autodialer traffic, intermediate providers and on other Safe Harbor Options and reporting requirements.” DOC Comments at 9.

In light of the actions that have been taken by the industry and the FCC to address problems with rural call completion, as summarized above, AT&T believes that there is no need for the Commission to adopt Minnesota-specific rules. At a minimum, the Commission should forbear from imposing its own state-specific regulations until after there has been experience with the rules recently adopted by the FCC.

## **II. Responses to Questions**

### **Questions 1, 2 and 4**

AT&T does not offer an opinion on whether “intermediate providers” which provide only transport functions are subject to the Commission’s jurisdiction and, if so, how they should be regulated. AT&T disagrees, however, with Question 1’s definition of “intermediate providers” as providers of “either transport or switching for Minnesota intrastate calls”. For reasons identified by the FCC, providers of only switching functions, but not transport, should not be considered to be “intermediate providers” for purposes of any regulations related to their by originating carriers:

Some commenters seek clarification on whether, if a provider other than the terminating rural ILEC operates the terminating tandem switch, that provider counts as an intermediate provider for purposes of eligibility for this safe harbor. We clarify that it does not. Our experience in investigating rural call completion complaints indicates that when a call does reach the terminating tandem, regardless of ownership, it is completed by the rural ILEC with a very high degree of reliability. Accordingly, if a provider merely operates a terminating tandem that delivers traffic to a rural ILEC, delivering traffic to the terminating tandem operated by that provider does not count as using an additional intermediate provider for purposes of this safe harbor.<sup>15</sup>

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<sup>15</sup> Id. at ¶ 91.

**Questions 3, 5, 6, 7, 8 and 9**

The focus of these questions is on what regulations, if any, intended to address the issue of rural call completion should be adopted, depending on whether or not intermediate providers are required to be certified. For the reasons discussed in Section I, General Comments, above, AT&T does not believe that the Commission should establish state-specific rules on this subject, at least at this time.

**Question 10: What processes are in place to monitor call completion problems?**

AT&T constantly monitors network performance through its Global Network Operations Center. Where AT&T uses intermediate providers, the contracts with those providers include performance and reporting requirements. Finally, AT&T has a dedicated email box for rural carriers to use if they encounter call completion issues for fast track resolution.

**Question 11: What data has been collected to demonstrate that calls through the originating interexchange carrier are completing?**

See the response to Question 10 above. The FCC's *Rural Call Completion Order*, discussed above, also addresses specific reporting requirements to monitor rural call completion.

**Question 12: If an originating interexchange carrier, do the contracts you have with intermediate providers:**

- a) ensure that all calls will be completed?
- b) require that if the intermediate carrier cannot complete the call, it must be handed back for completion?
- c) ensure that the intermediate carrier is not providing a false ring back?
- d) require that the intermediate carrier is not changing the originating number?
- e) establish how quickly a call must be completed to the terminating end-user?

AT&T's contracts with intermediate providers include all of the requirements described in subparts b) through e) of this question.

With respect to subpart a), it is impossible to ensure that *all* calls are completed. Nonetheless, AT&T's contracts with intermediate providers mandate completion rates of over 99%.

**Question 13: Do confidentiality clauses in contracts with intermediate providers exist that would prevent the disclosure of information needed to determine where a call failed in the call path? If so, explain why such clauses do, or do not, interfere with resolution of call completion issues.**

AT&T's contracts with intermediate providers do not include confidentiality clauses that prevent the disclosure of information needed to determine where a call failed in the call path.

**Question 14: How should the Commission deal with intrastate calls in which the calling party number has been stripped, or altered so that the call appears interstate when in fact the call is intrastate?**

Given the requirement that interstate and intrastate terminating switched access rates mirror one another, it is not clear that is the situation described in the question should still be an issue. In any event, industry best practices, to which AT&T adheres, prohibit the stripping and altering of calling party numbers.



February 17, 2014

Respectfully submitted,

AT&T Corp.

*/s/ Karl B. Anderson*

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## CERTIFICATE OF SERVICE

I, Karl B. Anderson, General Attorney for AT&T, certify that a copy of the foregoing **COMMENTS OF AT&T CORP.** was served on each of the parties of the Service List by U.S. Mail and/or electronic filing on February 17, 2014.

*/s/ Karl B. Anderson*

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Karl B. Anderson

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