CenturyLink®

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February 17, 2014

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

Re: In the Matter of the Commission Investigation of the Completion of Long Distance Calls to Rural Areas in Minnesota
MPUC Docket No. P-999/CI-12-1329

Dear Dr. Haar:

Enclosed please find CenturyLink's Comments regarding the above-referenced matter.

Very truly yours,

/s/ Jason D. Topp

Jason D. Topp

JDT/bardm

Enclosures

cc: Service List

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STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
David Boyd	Commissioner
Nancy Lange	Commissioner
J. Dennis O'Brien	Commissioner
Betsy Wergin	Commissioner

Re: In the Matter of the Commission Investigation of the Completion of Long Distance Calls to Rural Areas in Minnesota
MPUC Docket No. P-999/CI-12-1329

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

Dianne Barthel hereby certifies that on the 17th day of February, 2014, she e-filed a true and correct copy of CenturyLink's Comments by posting it on www.edockets.state.mn.us. Said document was also served via U.S. mail and e-mail as designated on the Official Service List on file with the Minnesota Public Utilities Commission.

/s/ Dianne Barthel
Dianne Barthel

Subscribed and sworn to before me
this 17th day of February, 2014.

/s/ LeAnn M. Cammarata
Notary Public

My Commission Expires Jan 31, 2015

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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CENTURYLINK'S COMMENTS

I. INTRODUCTION AND SUMMARY

CenturyLink is both a facilities-based provider of long distance services and an incumbent local exchange services provider in both rural and non-rural areas. As such, it has a keen interest in ensuring that its long distance customers have their calls satisfactorily terminate as intended and that its local exchange customers, both rural and non-rural, satisfactorily receive the calls that others place to them. CenturyLink has cooperated with, and will continue to cooperate with, the FCC and state regulators as they gather information necessary to assess the extent of the rural call completion issue, identify the cause(s) of the issue and fashion appropriate responses to the issue.

The petition filed by the Department of Commerce and the Commission Notice focus on intermediate providers. The use of intermediate providers by long distance providers predates the rise of the current call completion issue. For many years, long distance providers have successfully used intermediate providers where they do not have their own facilities to directly connect to a termination point in the Public Switched Telephone

Network (PSTN). Intermediate providers have also been used to buttress the reliability of the networks of long distance providers by supplying back-up facilities in the event of network outages. Additionally, because traffic flows are constantly changing, long distance providers have used intermediate providers to handle overflow traffic in those instances where the capital investment for additional facilities cannot be justified because spikes in traffic volumes are either infrequent or unpredictable.[1] The failure to consider these other necessary uses of intermediate providers may exacerbate rather than improve rural call completion.

In these comments, CenturyLink (1) provides an overview of federal efforts to address call completion issues; (2) discusses the specific issues raised by the Commission in its notice for comments; and (3) recommends that the Commission take advantage of data that will be available through new FCC rules and seek to correct any issues through the originating interexchange carriers rather than attempt to regulate intermediate carriers.

II. BACKGROUND

The Federal Communications Commission (FCC) has been heavily involved in call completion issues over the last several years.

[1] An example of an infrequent event that generates excessively high calling volumes is election year polling. Unforeseeable natural and manmade disasters can produce excessively high calling volumes. When a long distance provider experiences a very high volume of originating calls from an area, it may need to use feature group trunks ordinarily used for terminating traffic in that area to originate traffic in order to avoid having to block originating calls. This may necessitate the use of one or more intermediate carriers to backfill for the temporarily lost terminating traffic capacity.

A. Universal Service Fund/Intercarrier Compensation Ruling

On November 18, 2011, the Commission released the *USF/ICC Transformation Order*,[2] which, among other things, established a number of new rules requiring carriers to adjust, over a period of years, many of their terminating switched access charges effective every July 1, as part of a transition to a bill-and-keep regime. Beginning in 2014, price cap and rate-of-return carriers begin a series of rate reductions to transition certain terminating interstate and intrastate switched access rates to bill-and-keep.

The *USF/ICC Transformation Order* also re-emphasized the Commission's longstanding prohibition on call blocking. The Commission also made clear that the general prohibition on call blocking by carriers applies to VoIP-to-PSTN traffic.[3] Finally, the Commission prohibited call blocking by providers of interconnected VoIP services as well as providers of "one-way" VoIP services.[4]

In addition, the Commission adopted rules to address so-called "phantom traffic," that is, traffic that terminating networks receive that lacks certain identifying information for calls. The lack of such basic information to accompany calls has also resulted in calls being delivered without the correct caller identification, which is a common call quality complaint in rural areas. In the *USF/ICC Transformation Order*, the Commission found that service providers in the call path were intentionally removing or altering identifying information to avoid paying the terminating rates that would apply if the call were accurately signaled and

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[2] *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform-Mobility Fund,* WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-32, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*).
[3] *USF/ICC Transformation Order*, 26 FCC Rcd at 18028-29, paras. 973-974.
[4] *Id.* at 18029, para. 974.

billed.[5] The Commission adopted rules requiring telecommunications carriers and providers of interconnected VoIP service to include the calling party's telephone number in all call signaling, and required intermediate providers to pass this signaling information, unaltered, to the next provider in a call path.

B. Declaratory Ruling

On February 6, 2012, the Wireline Competition Bureau of the Federal Communications Commission (FCC) issued a Declaratory Ruling to clarify the scope of its existing rules prohibiting the blocking, choking, reducing or restricting of telephone traffic.[6] Among other things, the FCC clarified that its prohibition against blocking, choking, reducing or otherwise restricting traffic extended to carriers' routing practices and that it was an unjust and unreasonable practice in violation of the Communications Act of 1934, as amended (Communications Act), and the FCC's rules to fail to correct problems resulting in degraded service or to "fail to ensure that intermediate providers, least-cost routers, or other entities acting for or employed by the carrier are performing adequately."

Prior to issuing the Declaratory Ruling, the FCC announced the creation of a Rural Call Completion Task Force (Task Force) to address call routing and termination problems in rural America. The Task Force has been investigating call completion issues since its formation, identifying specific issues and making sure that they are resolved.

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[5] *USF/ICC Transformation Order*, 26 FCC Rcd at 17890, para. 703.
[6] *2012 Declaratory Ruling*, 27 FCC Rcd 1351.

C. Level 3 Consent Decree

On March 12, 2013, the FCC released an Order in which it adopted a Consent Decree entered into between its Enforcement Bureau and Level 3 Communications.[7] The Consent Decree resolved and terminated the Enforcement Bureau's investigation into possible violations of several provisions in the Communications Act with respect to Level 3's call completion practices in rural areas, including its use and monitoring of intermediate providers. CenturyLink and most other LD providers use intermediate providers (also known as underlying carriers) to terminate some of their rural LD traffic. In the Consent Decree, Level 3 agreed to:

1. Designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer to oversee an agreed upon Compliance Plan with respect to rural call completion;

2. Develop and implement a Compliance Plan designed to ensure that Level 3's Rural Call Completion Rates meet the terms and conditions of the Consent Decree;

3. File periodic compliance reports concerning its performance under the terms of the Consent Decree;

4. Report its non-compliance with certain specific provisions in the Consent Decree within 15 calendar days of discovery; and

5. Make a voluntary contribution to the U.S. Treasury in the amount of $975,000.[8]

D. November 8, 2013 Report and Order

On November 8, 2013, the FCC issued a Report and Order adopting rules related to call completion. The new rules apply to providers of long-distance voice service that make

[7] *Level 3 Communications, LLC*, EB-12-IH-0087, Order, 28 FCC Rcd 2274 (*Level 3 Consent Decree*).
[8] For each quarterly reporting period identified in the Consent Decree, if Level 3 fails to meet its Rural Call Quality Commitment, it must make an additional voluntary contribution to the U.S. Treasury in the amount of $1M.

the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines (including the total of all of a provider's business and residential fixed subscriber lines and mobile phones, aggregated over all of the provider's affiliates), regardless of whether those providers are facilities-based. These entities have the most direct access to call delivery data and the ability to control the call path (either directly or via contract). (¶ 20)

The rules impose a variety of data retention and reporting requirements on long distance providers. The rules require covered providers to record and retain the following information for each long-distance call attempt: (1) calling party number; (2) called party number; (3) date; (4) time of day; (5) whether the call is handed off to an intermediate provider and, if so, which intermediate provider; (6) whether the call is going to a rural carrier and, if so, which rural carrier, as identified by its OCN; (7) whether the call is interstate; (8) whether the call attempt was answered; and (9) information indicating whether the call attempt was completed to the ILEC but signaled as "busy," "ring no answer," or "unassigned number." (¶¶ 40, 43)

The Order requires covered providers to submit a certified report to the Commission once per calendar quarter that includes for each full month in that quarter:

For each rural OCN:

(i) the OCN;

(ii) the state;

(iii) the number of interstate call attempts;

(iv) the number of interstate call attempts that were answered;

(v) the number of interstate call attempts that were not answered, reported separately for call attempts signaled as busy, ring no answer, or unassigned number;

(vi) the number of intrastate call attempts;

(vii) the number of intrastate call attempts that were answered; and

(viii) the number of intrastate call attempts that were not answered, reported separately for call attempts signaled as busy, ring no answer, or unassigned number.

The rules require similar data to be retained in the aggregate for non-rural OCNs. The FCC asserted it would use this information to calculate the percentage of calls answered (the "call answer rate") and the percentage of calls completed to the terminating provider (the "network effectiveness ratio," or "NER"). The Commission includes a safe harbor in its rules which reduces the data reporting and retention requirements for long distance carriers that certify that they use two or fewer intermediate carriers to complete calls.

The requirements of the rules will become effective after the government completes its paperwork reduction act analysis, likely in the middle of 2014.

E. Further Notice of Proposed Rulemaking

The FCC is in the process of taking comments on further rules that it should adopt related to call completion. Specific topics it has raised include (1) whether it should impose reporting or certification requirements on intermediate carriers; (2) whether it should adopt specific rules related to call blocking or choking; and (3) whether it should impose reporting or other requirements on rural local companies that terminate calls.

III. DISCUSSION

Commission action with respect to call completion should take into account the extensive activity on the federal level and take advantage of the information that will be produced as a part of that process. In doing so, this Commission should recognize that the federal measures designed to address call completion issues are in progress. Specifically, many commenters suspect high access rates may be an underlying cause of call completion issues. Those rates are in the process of modification and therefore that potential economic cause of call completion issues should be reduced over time. Furthermore, the reporting and data retention requirements required by new FCC rules have not taken effect. Such requirements are designed to have the dual impact of identifying call completion issues and addressing problems when they arise.

With respect to the specific questions set forth by the Commission, CenturyLink comments as follows.

> **Question 1: Are intermediate providers that provide either transport or switching for intrastate Minnesota calls subject to the Commission's jurisdiction as provided in 237.74 Subd. 12 or other statute?**
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> **Question 2: If intermediate providers are subject to the Commission's jurisdiction, should they be required to obtain a certificate of authority or be subject to a certification/registration process?**
>
> **Question 3: If intermediate providers are required to be certified or register with the Commission, should retail interexchange carriers be required to only use certified/registered intermediate providers for the termination of toll calls?**
>
> **Question 4: If intermediate providers are subject to the Commission's jurisdiction, what requirements, as outlined in Minnesota Rules 7811 and 7812 are applicable and which requirements are not applicable?**

Any effort by the Minnesota Commission to assert jurisdiction over intermediate carriers is likely to meet strong opposition and is likely to be overturned by the courts. Problems with Commission jurisdiction relate both to its statutory authority and the geographic location of such carriers. Minn. Stat. § 237.74, subd. 12, provides the Commission with jurisdiction over "telecommunications carriers." "Telecommunications Carrier" is defined by statute as a "person, firm, association, or corporation authorized to furnish one or more of the following services to the public . . . [including interexchange service]."[9] In many, if not most cases, intermediate carriers do not offer services to the public. Instead, they offer services to interexchange carriers. Thus, it appears likely that the Commission does not have jurisdiction over intermediate carriers.[10]

The Commission should also expect challenges related to geography if it were to assert jurisdiction over intermediate carriers. It is entirely possible that an intermediate carrier could provide services related to intrastate calls without actually performing any functions within the State of Minnesota. Thus, even if the Commission could get past the statutory hurdle, its ability to assert jurisdiction over intermediate carriers is likely limited.

Question 5: If intermediate providers are not subject to the Commission's jurisdiction, are there any actions that the Commission can take to ensure that calls to rural Minnesota customers are properly completed?

The scope of the call completion issue will be significantly affected by the effectiveness of the new FCC Rules requiring data retention and reporting as well as a proposed safe harbor providing incentives for interexchange carriers to limit the use of intermediate carriers. CenturyLink respectfully suggests the Commission give those mechanisms an opportunity to address these issues and monitor their success.

In the meantime, the Commission and the Department can, and should, address individual issues that arise with the interexchange carrier responsible for making the initial routing decisions on each call. Interexchange carriers should make contact information available and have the ability to quickly investigate and resolve any issues that arise.

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[9] Minn. Stat. § 237.01, Subd. 6.

[10] Other provisions provide the commission with jurisdiction over "telephone companies." *See e.g.* Minn. Stat. § 237.02 (defining the general authority of the Department and the Commission as over telephone and telecommunications companies); Minn. Stat. § 237.081 (authorizing investigations of telephone companies).

In addition, the Commission should encourage rural incumbent carriers to make test lines available so that interexchange carriers have the opportunity and ability to test the effectiveness of their call routing.

Question 6: If intermediate providers are not subject to the Commission's jurisdiction, should the responsibility for any call termination problems rest solely with the originating interexchange carrier?

IXCs should not be held "solely" responsible for such issues but should provide the most effective vehicle for the Commission to address any issues that arise. The Commission has jurisdiction over IXCs for intrastate purposes and these IXCs are responsible to customers.

Although the rural call completion issue has been attributed to the use of intermediate providers, it must be noted that not all call completion problems are due to the use of intermediate providers. In a call path, network equipment, equipment components, transport facilities and customer owned/controlled equipment can impact the characteristics of a call and its ability to complete. Such impacts can be constant or intermittent.

Question 7: If intermediate providers are not subject to the Commission's jurisdiction, what requirements should the Commission place on the originating interexchange carriers to ensure call termination problems do not occur?

There is no need for additional blanket requirements. The newly issued FCC order and the Commission's ability to investigate are likely to be sufficient and should be allowed a chance to succeed.

Nonetheless, to the extent issues arise with its traffic, CenturyLink urges the Commission to come to the Company with those issues. CenturyLink will promptly investigate and address issues as they arise.

Question 8: Should there be "point of contact" information for any intermediate carrier so that any call failures identified can more readily be addressed?

The most effective method for the Commission to address issues associated with intermediate carriers is through contacting the originating interexchange carrier, having the interexchange carrier investigate the issue and, if an intermediate carrier is the cause of the call completion issue, have the interexchange carrier resolve the issue and identify the intermediate carrier involved. Because routing decisions of interexchange carriers can vary and issues exist related to the Commission's jurisdiction over intermediate carriers, this approach provides the Commission with not only the most effective means of identifying the source of the problem but also the ability to identify intermediate carriers that may be causing issues with Minnesota intrastate long distance calls.

Question 9: Should there be a requirement that any contract between an originating interexchange carrier and an intermediate carrier require the full cooperation of the intermediate carrier to resolve any call failures, including any inquires by regulatory agencies?

The FCC requirements will significantly alter the contracts that exist between interexchange carriers and intermediate providers. The FCC requirements place significant incentive on interexchange carriers to ensure that intermediate providers are required to cooperate to address call completion issues that arise. If the Minnesota Commission focuses its investigation on interexchange carriers, there should be no need for a regulatory requirement associated with such agreements.

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

In addition to the FCC reporting and data retention requirements discussed in these comments, CenturyLink has regularly scheduled meetings with its intermediate providers to review quality measures, completion issues, trouble tickets, etc. CenturyLink also has a well documented process to address call completion issues which is described below:

- Where there is an issue with the performance of a CenturyLink customer's long distance service, and the customer contacts CenturyLink, CenturyLink opens a trouble report ticket, the issue is identified and documented, and troubleshooting takes place.

- If the issue is related to routing, the route path is reviewed and may be changed and tested for efficacy to allow the customer's traffic to properly flow.

- If an underlying carrier is involved in the problem, it is removed from the path (NPA/NXX) and a trouble report ticket is opened with the underlying carrier. That carrier must conduct a root cause analysis, address the issue to resolution, take corrective action, test its fix, notify CenturyLink, and test with CenturyLink before CenturyLink will re-instate it to be used for processing calls and close the trouble report ticket.

- The original customer issue is worked, its resolution tested and confirmed, and it is closed with the customer.

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

The FCC reporting requirements will generate significant amounts of data addressing this issue.

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?**

All interchange carriers, including CenturyLink, are in the process of re-drafting contracts with intermediate carriers to comply with FCC rules. While the specific terms of existing agreements vary, all of them require that intermediate carriers perform in compliance with applicable statutory and regulatory requirements. Thus, to the extent, a carrier violated (a)-(d), CenturyLink believes that the intermediate carriers would be in violation of existing contracts.

Protocol standards (for SS7 or SIP[11]) address requirements for how quickly a call must be completed to an end user.

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.

CenturyLink has informed all intermediate carriers with which it does business that it will identify them if their call routing is the cause of a call completion problem. Accordingly, to the extent any call completion issues arise related to CenturyLink long distance traffic, it will identify the intermediate carrier to which it handed the traffic.

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?

As is discussed above, FCC orders, such as the FCC/ISF Transformation Order, already prohibit such practices.

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[11] "SS7" means signaling system 7 which is a method by which carriers exchange packeted machine message information to maintain control over the connection of a call. "SIP" refers to "session initiation protocol" which serves the same function for IP based connections.

IV. CONCLUSION

CenturyLink urges the Commission to take advantage of the data reporting and retention requirements imposed by the FCC in order to understand the scope of the call completion issue in Minnesota. CenturyLink respectfully suggests that the Commission require terminating local providers to make test lines available so that interexchange carriers can test their call paths to ensure in real time that their call path decisions have been effective. CenturyLink recommends that the Commission allow the federal requirements to take effect and analyze their impact before imposing additional requirements at this time.

Dated this 17th day of February, 2014.

CENTURYLINK

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