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January 13, 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/DI-12-1329

Dear Dr. Haar:

Attached are the comments and recommendation of the Minnesota Department of Commerce (Department) in the following matter:

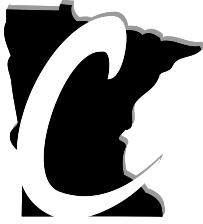
Investigation into Rural Call Completion

The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ BONNIE JOHNSON
Telecommunications Analyst

BJ/lt
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET No. P999/DI-12-1329

I. INTRODUCTION

The problem of long-distance telephone calls failing to complete to customers in rural areas of the nation has been occurring for several years. The problem is multi-faceted and includes call blocking, dropped calls, call routing problems, long set-up times with false ringing, which leads callers to incorrectly believe the phone is ringing at the terminating end of the call, and carriers changing call signaling information, including the calling party number to avoid or minimize access charges.¹ These problems are occurring in Minnesota to the detriment of rural telephone consumers, including rural businesses.

II. BACKGROUND

In December of 2012, the Minnesota Department of Commerce (Department) opened Docket No. P999/DI-12-1329 to investigate complaints concerning calls failing to complete to rural Minnesota consumers. The Department investigation examined the problems being experienced by consumers, rural incumbent local exchange carriers and rural competitive local exchange carriers. Since consumers that do not receive a call are unaware of the call attempt unless it is later called to their attention by the calling party, the problems are difficult to uncover.

¹ The term “calling party number” refers to the subscriber line number or the directory number contained in the calling party number parameter of the call set-up message associated with an interstate call on a Signaling System 7 network. See 47 C.F.R. §64.1600(e).

Despite the efforts taken on multiple fronts,² the rural call completion problem continues and has been described by rural associations as a crisis and is an ongoing problem in Minnesota. (See Attachments 1 and 2).

As the problems with rural call completion have existed for some time, and often seem to taper off, but then reappear, it is unlikely that this serious issue will resolve itself without action. For intrastate calls, the Department does not believe the actions of the Federal Communications Commission (FCC) will fully resolve the rural call completion problems. Thus, it seems appropriate for state regulators to consider what, if any, actions are appropriate to minimize rural call completion problems within their jurisdiction.

Although the Department opened its own investigation, a Commission investigation may be a better venue to solicit information from all interested parties as it would build a record that the Commission may use to order appropriate action. As has been done on previous occasions, the docket number of the Department investigation may be converted to a Commission investigation (CI). Or, the Commission may open a new docket number to investigate rural call completion problems.

III. STATEMENT OF ISSUES

The Department believes the question for the Commission to consider is whether there is any action that the state could take at this time to reduce the occurrences of calls failing to terminate in rural areas of Minnesota, or, better enable carriers to trouble shoot and resolve rural call completion issues in a timely manner. The recent actions by the FCC are positive steps to help address problems occurring with the completion of calls to rural areas. Specifically, two actions by the FCC may provide some relief as soon as the rules take effect. First, records of calls will be retained to allow root cause analysis to be performed when a call fails. Second, providers will be barred from transmitting an audible ring to a caller when the phone on the other end of the call is not actually ringing, making it more transparent to the caller that the call did not go through. The barring of the audible ring when the terminating side of the call is not actually ringing will serve to alert the caller that there is a problem, so it can be reported. Call information through the data collection should help to determine the reason for the failure. While the steps by the FCC are positive, they will not prevent call failures from occurring until the cause of the problem is clearly identified and addressed.

² See, for example, the August 1, 2013 response to the Honorable Patrick Leahy from FCC Wireline Chief, Julia A. Veach, which states: "The Commission has been attacking this problem on multiple fronts: investigating systemic problems with originating long distance providers, pointedly reminding long distance providers of their current obligations, proposing new Commission rules to address rural call completion problems, and acting daily on specific consumer and rural carrier complaints. These efforts are coordinated by an inter-bureau Rural Call Completion Task Force." See http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0823/DOC-322970A1.pdf

IV. APPLICABLE STATE LAW

Minnesota Statute 237.01, Subd. 6 states:

“Telecommunications carrier” means a person, firm, association, or corporation authorized to furnish one or more of the following telephone services to the public, but not otherwise authorized to furnish local exchange service: (1) interexchange telephone service; (2) local telephone service pursuant to a certificate granted under the authority of section 237.16, subdivision 4, before August 1, 1995; or (3) local service pursuant to a certificate granted under section 237.16, for the first time after August 1, 1995, except if granted to a successor to a telephone company otherwise authorized to furnish local exchange service. Telecommunications carrier does not include entities that derive more than 50 percent of their revenues from operator services provided to transient locations such as hotels, motels, and hospitals. In addition, telecommunications carrier does not include entities that provide centralized equal access services.

Minnesota Statute 237.121 states in part:

- (a) A telephone company or telecommunications carrier may not do any of the following with respect to services regulated by the commission:
- (2) intentionally impair the speed, quality, or efficiency of services, products, or facilities offered to a consumer under a tariff, contract, or price list;
 - (3) fail to provide a service, product, or facility to a consumer other than a telephone company or telecommunications carrier in accordance with its applicable tariffs, price lists, or contracts and with the commission’s rules and orders;
 - (4) refuse to provide a service, product, or facility to a telephone company or telecommunications carrier in accordance with its applicable tariffs, price lists, or contracts and with the commission’s rules and orders;

237.081, Subd. 1 and 237.74, Subd. 4 give the Commission authority to investigate “any matter relating to any telephone service”.

237.74, Subd. 2 states that “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.

Minnesota Statute 237.74, Subd. 12 states:

No telecommunications carrier shall construct or operate any line, plant, or system, or any extension of it, or acquire ownership or control of it, either directly or indirectly, without first obtaining from the commission a determination that the present or future public convenience and necessity require or will require the construction, operation, or acquisition, and a new certificate of territorial authority. Nothing in this subdivision requires a telecommunications carrier that has been certified by the commission to provide telephone service before August 1, 1993, to be recertified under this subdivision. Nothing in this subdivision shall be construed to allow or prohibit facilities bypass of the local exchange telephone company, nor shall it be construed to prohibit the commission from issuing orders concerning facilities bypass of the local exchange telephone company.

Minnesota Rule 7812.0100, Subp. 45, defines “Telecommunications” as “...any transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.”

Minnesota Rule 7812.0100 Subp. 47, defines “Telecommunications Services” as “...the offering of telecommunications under the commission's jurisdiction for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.”

The state definitions for “Telecommunications” and “Telecommunications Services” align closely with the FCC definitions.³

V. FEDERAL LAW AND RELATED ACTIVITY

47 C.F.R. §64.1601(a) addresses traffic delivery requirements for telecommunications carriers and providers of interconnected VoIP, and requires that:

- (1) Telecommunications carriers and providers of interconnected Voice over Internet Protocol (VoIP) services, in originating interstate or intrastate traffic on the public switched telephone network (PSTN) or originating interstate or intrastate traffic that is destined for the PSTN (collectively “PSTN Traffic”), are required to transmit for

³ See 47 USC § 153(42) and (46) which state, respectively: “The term ‘*telecommunications*’ means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received,” and “The term ‘*telecommunications service*’ means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.”

- (2) all PSTN Traffic the telephone number received from or assigned to or otherwise associated with the calling party to the next provider in the path from the originating provider to the terminating provider.
- (3) Intermediate providers within an interstate or intrastate call path that originates and/or terminates on the PSTN must pass unaltered to subsequent providers in the call path signaling information identifying the telephone number, or billing number, if different, of the calling party that is received with a call.

The FCC has recognized the significant public interest harms caused by the rural call completion failures described above and since 2007 has taken a number of steps to address the problem at the interstate level.

On June 28, 2007, 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.”⁴ The FCC declaratory ruling also reiterated its long held position that no carriers, including interexchange carriers, may block, choke, reduce or restrict traffic in any way.”⁵

On September 26, 2011, the FCC, observing that rural telephone companies had reported a 2000% increase in call completion complaints between April 2010 and March 2011, and acknowledging the need to “address and investigate the growing problems associated with calls to rural customers that are being delayed or are failing to connect”, announced the creation of the Rural Call Completion Task Force (Task Force).⁶ The Task Force met on October 18, 2011 to identify specific causes of the problem and discuss potential solutions with key stakeholders.

On November 18, 2011, the FCC released its USF/ICC Transformation Order which reformed intercarrier compensation and the Universal Service Fund.⁷ In that Order the FCC reiterated that call blocking has the potential to degrade the reliability of the nation’s telecommunications network and that call blocking harms consumers.⁸ The FCC also made clear that the general prohibition on call blocking by carriers applies to VoIP-PSTN traffic, including interconnected

⁴ 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

⁵ Id., para.6.

⁶ See FCC September 26, 2011 News Release at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-309841A1.pdf

⁷ In the Matter of Connect America, et al. in WC Dockets No. 10-90, 07-135, 03-109, and 10-208, GN Docket No. 09-51, CC Dockets 09-92 and 96-45, and WT Docket No 10-208, *Report and Order and Further Notice of Proposed Rulemaking (USF/ICC Transformation Order)* at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-161A1.pdf

⁸ Id., para. 734.

VoIP services⁹ as well as providers of “one-way” VoIP services.¹⁰ The FCC 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 that intermediate providers¹¹ pass this signaling information, unaltered, to the next provider in a call path.¹² On February 6, 2012, the FCC issued a second declaratory ruling¹³ on rural call completion issues in response to further complaints from rural associations, state utility commissions and consumers. The *2012 Declaratory Ruling* again clarified the scope of the FCC’s prohibition on blocking, choking, reducing, or restricting telephone traffic, stating that rural call routing practices that lead to call termination and quality problems may violate the prohibition against unjust and unreasonable practices in section 201 of the Communications Act of 1934, as amended (the Act) or may violate the carriers’ section 202 duty to refrain from unjust or unreasonable discrimination in practices, facilities, or services. The *2012 Declaratory Ruling* also noted that carriers may be subject to liability under section 217 of the Act for the actions of their agents or other persons acting for or employed by the carriers.¹⁴ The FCC stated that the practices causing rural call completion problems “adversely affect the ubiquity and reliability of the nation’s telecommunications network and threaten commerce, public safety, and the ability of consumers, businesses, and public health and safety officials in rural America to access and use a reliable network.”¹⁵

On February 4, 2013, the FCC initiated a rulemaking and sought comments on ways to address the issue of rural call completion. In the NPRM, the FCC provided the following description of rural call completion issues:

Completion rates of long-distance calls to rural telephone company service areas are frequently poor, even where overall performance of the intermediate provider appears acceptable. The problems manifest themselves in lengthy periods of dead air on the calling party’s end after dialing a number, audible ringing tones on the calling party’s end when the called party’s telephone never rings at all, false busy signals, inaccurate intercept messages, and the inability of one or both parties to hear the other when the call does go through. This causes rural businesses to lose customers, cuts families off from

⁹ 47 C.F.R. §9.3 defines interconnected VoIP service as a service that, *inter alia*, allows users “to receive calls that originate on the [PSTN] and to terminate calls to the [PSTN].”

¹⁰ *USF/ICC Transformation Order.*, paras. 973-974 (noting that one-way VoIP services allow customers to receive calls from, or place calls to, the PSTN, but not both).

¹¹ The FCC formalized the definition of “intermediate provider” in the *USF/ICC Transformation Order*, and codified it 47 C.F.R. §64.1600(f), which states “The term Intermediate Provider means any entity that carries or processes traffic that traverses or will traverse the PSTN at any point insofar as that entity neither originates nor terminates that traffic.”

¹² *USF/ICC Transformation Order.*, paras. 973-974

¹³ In the Matter of Developing a Unified Inter-carrier Compensation Regime, Establishing Just and Reasonable Rates for Local Exchange Carriers, CC Docket No. 01-92, WC Docket No. 07-135, *Declaratory Ruling*, February 6, 2012, para. 12. (*2012 Declaratory Ruling*) at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-154A1.pdf

¹⁴ *Id.*, para. 4.

¹⁵ *Id.*, para.6.

their relatives in rural areas, and creates potential for dangerous delays in public safety communications in rural areas.¹⁶

On May 8, 2013, the National Association of Regulatory Commissioners (NARUC) provided comments in response to the February 4, 2013 NPRM.¹⁷ In its comments, NARUC recognizes that the NPRM proposals are a good foundation but that the FCC should "...expand its rulemaking to incorporate NARUC's suggestions to ensure call failure causes are timely identified and either resolved or enforced in a meaningful way."¹⁸ The comments also ask the FCC to:

- (1) prohibit relaying false busy tones;
- (2) require reports on the causes of call failure;
- (3) not sanction a lower completion standard for rural areas;
- (4) allow no limitations or safe harbors regarding collection and retention of data;
- (5) establish the responsibilities of each carrier involved in routing a call with respect to researching customer complaints and/or working with the FCC or the state commission that receives a complaint;
- (6) assure the results of the analysis of each failed call is reported to the FCC and each interested state for tracking purposes and to determine if follow-up enforcement action is needed;
- (7) establish a reporting process that requires any entity involved in the routing of long distance calls to periodically report that its routing tables are updated and accurate;
- (8) create a registry for any entity or business that is included in any call path if that business is not otherwise registered/certified to provide telecommunications service;
- (9) require a database to be created with a single point of contact (SPOC) for each entity that is involved in a call path so rural call completion complaints, both intrastate and interstate, can be analyzed to determine the failure point and enforcement can occur if needed; and finally
- (10) ***recognize that states may continue existing, or undertake new, investigations or enforcement proceedings under independent state law addressing intrastate concerns with call completion based on information provided to the FCC or otherwise obtained.***¹⁹

¹⁶ In the Matter of Rural Call Completion, WC Docket No. 13-39, *Notice of Proposed Rulemaking*, February 4, 2013, para 2 at http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0207/FCC-13-18A1.pdf

¹⁷ In the Matter of Rural Call Completion, WC Docket No. 13-39 (rel. Feb. 7, 2013), NARUC May 8, 2013 comments at <http://www.naruc.org/Filings/13%200508%20NARUC%20Call%20Completion%20Comments%20fin.pdf>

¹⁸ *Id.*, p. 16.

¹⁹ *Id.*, pp. 14-16.

On May 13, 2013, several state Commissions, including the Minnesota PUC and DOC, filed comments in support of the NARUC May 8, 2013 comments and recommendations. The comments state: “The Joint State Commissions agree with NARUC that while the NPRM’s proposed data collection is a positive step for monitoring the rural call completion problem, collecting data alone is not sufficient to resolve the problem.”²⁰

On November 8, 2013, the FCC released a Report and Order (R&O) and Further Notice of Proposed Rulemaking (FNPRM).²¹ The FCC’s announcement of the decision included the following overview:

- Providers with over 100,000 lines that make the initial choice as to how to route a call must collect and retain data for six months and file quarterly reports. Providers may use this information to improve performance on their own. The data will also allow state regulators to better monitor performance and identify problem areas.
- False audible ringing is prohibited (signaling that leads the calling party to believe the phone is ringing at the called party’s premises when it is not). As a result, callers will no longer prematurely hang up, and providers will get better information about call performance.
- Providers taking advantage of the safe harbor, which incorporates an industry best practice to limit the number of intermediate long distance providers to two, will receive the benefit of reduced data retention and reporting obligations.
- To encourage providers to have all mechanisms in place to ensure calls to rural areas are completed, such as by meeting all industry best practices, providers will also have the option of requesting a waiver to have their retention and reporting obligations further reduced.²²

The FCC extended the newly promulgated rules regarding false audible ringing to intermediate providers²³ as well as all other “covered providers,”²⁴ but declined, at this time, to extend the

²⁰ *In the Matter of Rural Call Completion*, WC Docket No. 13-39 (rel. Feb. 7, 2013), Joint States Commissions May 13, 2013 comments at http://www.in.gov/iurc/files/Rural_Call_Completion_Joint_State_Commission_Comments13-39_05-13-2013.pdf.

²¹ *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. (*November 8 R&O and FNPRM*) at http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db1108/FCC-13-135A1.pdf

²² See FCC October 28, 2013 News Release at http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db1107/DOC-323719A1.pdf

²³ 47 C.F.R. 64.1600(f) defines “intermediate provider as “any entity that carries or processes traffic that traverses or will traverse the PSTN at any point insofar as that entity neither originates nor terminates that traffic.”

²⁴ The FCC’s rules define “covered providers” in 47 §64.2101(c) as a provider of long-distance voice service that makes the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines, counting the total of all business and residential fixed subscriber lines and mobile phones and aggregated over all of the providers’ affiliates. A covered provider may be a local exchange carrier as defined in section 64.4001(e), an interexchange carrier as defined in section 64.4001(d), a provider of commercial mobile radio service as defined in section 20.3, a provider of interconnected voice over Internet Protocol (VoIP) service as defined in 47 U.S.C.

reporting and retention rules promulgated in the R&O to intermediate providers, reinforcing that ***“the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or user, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or user as well as that of the person.”***²⁵ (Emphasis added.)

The FCC is also seeking comments in its FNPRM on additional measures intended to further ensure reasonable and nondiscriminatory service to rural areas, including additional reforms pertaining to autodialer traffic, intermediate providers, and on other Safe Harbor options and reporting requirements. Comments are due January 16, 2014 and Reply Comments are due February 18, 2014.

Congressional Activity

On May 23, 2013, U.S. Senators Amy Klobuchar (D-MN), Tim Johnson (D-SD) and Deb Fischer (R-NE) introduced a bipartisan resolution calling for action to improve rural communication.²⁶ The most recent mark-up of the resolution points out the disparity between rural and urban calls both as it relates to call completion and quality of calls. (See Attachment 3)

The seriousness of this problem is reflected in Senator Klobuchar’s statements in a May 29, 2013 news release:

Call completion problems aren’t just a nuisance for families trying to stay connected; they hurt small businesses that need reliable phone service to stay competitive and they are a public safety issue that can endanger citizens trying to make urgent calls. I’ve pushed hard to strengthen rural communications and I will continue to work to make sure communities can stay connected, hospitals have the resources they need to provide patients with the care they need, and local businesses can compete in the global economy.²⁷

§153(25), or a provider of non-interconnected VoIP service as defined in 47 U.S.C. §153(36) to the extent such a provider offers the capability to place calls to the public switched telephone network.”

²⁵ November 8, 2013 R&O and FNPRM, para. 26.

²⁶The Senate Resolution originally introduced by Sen. Klobuchar (D –Minn.), which expresses the sense of the Senate that telephone service must be improved in rural areas and no entity may discriminate against telephone users in those areas, was marked up by the Senate Commerce Committee on December 19, 2013, and sent to the full Senate. The Resolution calls on the FCC to aggressively pursue violators of the FCC’s rules and impose enforcement actions to discourage practices leading to uncompleted calls in rural areas and to move forward with clear and enforceable actions to establish a solution to discrimination against communications services in rural areas.

²⁷ See <http://www.klobuchar.senate.gov/public/news-releases?ID=d27e437d-efef-4b9d-bdfe-3fabf05cc841>

VI. ANALYSIS

There is frustration and helplessness for the calling and called customers as well as the local service providers when rural call completion issues occur. Customers sometimes blame the local service provider for the problem. To illustrate, the following is an email a rural Minnesota business sent to its local service provider:

If you don't get the incoming phone service fixed I am taking legal action against [Provider name redacted]. I was in Lancaster yesterday, at [Business name redacted]. They, nor I, could get through to [Business name redacted]. I don't care who is at fault or who is illegal or what. You sell the service, you picked [Business name redacted] carrier, you caught the carrier previously blocking calls and it continues to happen. You are responsible!! We had zero incoming sales calls yesterday where normally we would get 15 to 20 this time of year. You are now allowing 100% of our calls to be blocked. You have wrecked our company!!!!!! Tens of millions of dollars has been lost.²⁸

Local service providers have, in some cases, lost customers believing that if they change local service providers the problem will get resolved.

In another rural Minnesota example, a business contacted its local service provider and left a voice message stating that most days it had fourteen to seventeen dropped calls, that it was getting worse and not better, and that it could not do business. The business regretted to inform the carrier that it was changing providers and that maybe when the FCC gets the issue resolved it would come back.²⁹

In both of these examples, it is clear that rural businesses in Minnesota are greatly impacted. Further, because it is only by chance that a customer may learn that call attempts did not go through, it seems reasonable to infer that the problem is larger than just those incidents brought to either the companies or regulatory agencies. Also, while the impact on rural businesses may get and deserve a significant amount of the attention on this issue, residential consumers are experiencing the same problems.

Even more disturbing than impacts on rural businesses and residential customers are examples the NTCA has provided regarding public safety. For example, on August 13, 2103, the NTCA reported to FCC Commissioner Jessica Rosenworcel, about troubling, life-threatening examples of call failure, including a situation where an on-call surgeon was unable to receive a call from a

²⁸ Brent Christensen of the Minnesota Telephone Alliance (MTA) provided this, and other examples, of intrastate rural call completion issues to the Minnesota PUC and DOC via email on September 14, 2012.

²⁹ A local service provider in Minnesota provided this example and recorded message to Senator Al Franken's office and to the Minnesota Telephone Alliance (MTA) on August 27, 2013. The MTA forwarded the information to the DOC.

hospital for emergency surgery and a 911 call center was unable to do emergency call backs. (See Attachment 4) Other examples provided by the NTCA that jeopardize public safety include, a nursing home that could not receive doctor's orders, and a veteran's medical clinic that could not get calls from a hospital. (See Attachment 1).

The data collection required by the FCC includes both interstate and intrastate calls³⁰ and was justified in part on having information available to state commissions to enable the states to address local issues.³¹ Thus, the actions of the FCC were not intended to preclude action at the state level. In fact, the FCC stated that "We look forward to working with our state partners..."³² Even so, while the FCC is requiring intrastate data to be reported, it will be a long time, likely measured in months or even years, before the data needed to address the situation is collected, analyzed, and any necessary enforcement action is taken. Meanwhile, Minnesota consumers in rural areas are likely to continue to experience call completion issues.

The FCC recognized that call completion problems appear to be occurring particularly in rural areas served by rate-of-return carriers where the costs that long distance providers incur to complete calls are generally higher than in non-rural areas.³³ To minimize call termination charges, long distance providers often use third-party 'least-cost routers,' which attempt to connect calls to their destination at the lowest cost possible, usually within defined service parameters. Rural associations state that the call completion problems appear to arise from how originating carriers choose to set up the signaling and routing of their calls, and that many of these call routing and termination problems could lie with underlying routing providers selected by carriers who offer retail long distance services.³⁴

"Least-cost routers" are simply intermediate providers/carriers that are used for the delivery of telephone calls. They are "intermediate" because they do not have any direct relationship with either the originating or terminating end-users on a toll call. When an interexchange carrier sends interexchange telecommunications calls to an intermediate transport provider, the intermediate transport provider is performing the same function as the interexchange carrier, which has the responsibility to ensure that its calls are completed.³⁵ There may be several intermediate transport providers before the call is delivered to the carrier serving the called party. The intermediate transport providers deliver telecommunications calls further down the path to their destination.

³⁰ The FCC said it disagreed with the sole commenter (CenturyLink) who questioned its jurisdiction to apply recording, retention, and reporting requirements to intrastate long distance calls. It said that "Telephone services are mixed services, and allowing providers to record, retain and report only interstate information would provide an incomplete picture of the rural call completion problem..." November 8 R&O and FNPRM para.33.

³¹ November 8 R&O and FNPRM para.33-34.

³² Id., para 34..

³³ Although it was once believed that rural call completion issues were the direct result of third-party least cost routers' attempting to avoid higher costs to terminate calls, the FCC has since determined that "there appear to be multiple factors that cause rural call completion problems". November 8 R&O and FNPRM para. 16.

³⁴ 2012 Declaratory Ruling para.7. <https://prodnet.www.neca.org/publicationsdocs/wwwpdf/da12154.pdf>

³⁵ 47 U.S.C. §217.

To the extent that intermediate providers/carriers are engaged in the provision of a telecommunications service, the law may arguably place such carriers under the jurisdiction of the Minnesota Commission. The language in 237.74, Subd. 12, concerning the certification of telecommunications carriers states:

No telecommunications carrier shall construct or operate any line, plant, or system, or any extension of it, or acquire ownership or control of it, either directly or indirectly, without first obtaining from the commission a determination that the present or future public convenience and necessity require or will require the construction, operation, or acquisition, and a new certificate of territorial authority.

Intermediate transport providers that carry interexchange calls on behalf of interexchange carriers for any portion of the path, between originating interexchange carrier and the carrier serving the customer on the terminating side of the call, are operating a “line, plant, or system or any extension of it” for the provision of a telecommunications service.

While an intermediate provider is only providing service to other carriers, Minn. Stat. 237 makes no distinction between retail and wholesale telecommunications service. Other wholesale services are clearly within the Commission’s jurisdiction, such as switched access service, the provision of unbundled network elements, and the resale of telecommunications services. Since it is clear that intermediate providers have been responsible, at least in part, for the failure of calls to terminate in rural areas, asserting jurisdiction over these intermediate providers would enable the Commission to establish regulatory parameters to better ensure appropriate behavior.

If intermediate providers are found to be subject to the Commission’s jurisdiction, only those terms of regulation that are applicable would require compliance. The Commission may choose to limit regulatory requirements just as it did when it found that inmate service providers are to be regulated as telecommunications carriers. In that matter, the Commission decided that some regulatory requirements, such as a 911 plan, are not required of inmate service providers as they are simply not applicable.³⁶ Similar action to limit regulatory requirements could occur with intermediate providers if found to be subject to the Commission’s jurisdiction.

³⁶ *In the Matter of the Petition of the Minnesota Department of Commerce Regarding Regulation of Inmate Telephone Service*, Docket No. P999/DI-07-204, *Order Affirming and Modifying Regulatory Treatment of Inmate Telephone Service Providers*, July 26, 2007.

VII. COMMISSION ALTERNATIVES

1. Open a Commission Investigation and seek comments from interested parties in an effort to develop a record on rural call completion issues. The Commission may ask parties to respond to the following questions:
 - 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?
 - 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?
 - 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?
 - 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?
 - 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?
 - 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?
 - 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?
 - Should there be "point of contact" information for any intermediate carrier so that any call failures identified can more readily be addressed?
 - 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?
 - What processes are in place to monitor call completion problems?
 - What data has been collected to demonstrate that calls through the originating interexchange carrier are completing?
 - If an originating interexchange carrier, do the contracts you have with intermediate providers:
 - 1) ensure that all calls will be completed?
 - 2) require that if the intermediate carrier cannot complete the call, it must be handed back for completion?
 - 3) ensure that the intermediate carrier is not providing a false ring back?
 - 4) require that the intermediate carrier is not changing the originating number?

- 5) establish how quickly a call must be completed to the terminating end-user?
 - 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.
 - 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?
2. Find that no action by the Commission on rural call completion problems is appropriate at this time.
3. Take other action the Commission deems appropriate.

VI. RECOMMENDATION

The Department recommends Alternative 1.

The Department recommends that a Commission Investigation be opened and comments be sought from interested parties on rural call completion issues.

/lt

Attachment 1



REDACTED – FOR PUBLIC INSPECTION

Ex Parte Notice

April 12, 2013

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

Ex Parte Notice

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

Dear Ms. Dortch:

On Wednesday, April 10, 2013, the undersigned and Stephen Pastorkovich from NTCA – The Rural Broadband Association (“NTCA”), Fritz Hendricks from Onvoy Voice Services, and Brent Christensen from the Minnesota Telecom Alliance (collectively, “the Rural Representatives”) met with the following representatives of the Federal Communications Commission (“Commission”) to discuss continuing concerns with respect to call routing and termination: Lynne Engledow, Christopher Koves, John Hunter, Chris Killion, Margaret Dailey, Theo Marcus, John Healy, Jessica Long, William Devers and Richard Hovey (via telephone).

The NTCA representatives described a recent dramatic increase in consumer complaints regarding the failure of calls to complete. Specific harmful scenarios were described including the following:

- A nursing home reported that it could not receive doctor’s orders.
- A veteran’s medical clinic complained that it cannot receive calls from a hospital.
- A trucking company in Nebraska in one morning received complaints from six drivers and 20 customers who could not call the company.
- In addition to complaints from individual consumers, complaints to one rural local exchange carrier were received from a funeral home, a law office, and a realty company.
- NTCA members report that they have received calls from their business customers apologizing about changing service providers because they have no choice in order to continue operations.

The attached presentation was provided to describe efforts to trace the problem. Fritz Hendricks walked FCC staff through the process used and explain his theory about what is happening. The

NTCA-The Rural Broadband Association
4121 Wilson Boulevard, Suite 1000, Arlington, Virginia 20003
(703) 351-2000 (Tel) • (703) 351-2001 (Fax)

Ms. Marlene H. Dortch

April 12, 2013

Page 2

Rural Representatives encouraged the Commission to take immediate action to address continuing call completion problems and assess forfeitures against responsible carriers.

Mr. Hendricks also explained that his analysis is being hampered because carriers cite contractual confidentiality clauses, as well as Customer Proprietary Network Information rules, as not permitting them to share pertinent information. It is requested that the FCC require carriers to provide call detail records to support investigations. Mr. Hendricks offered to serve as a third party and investigate complaints with the information to be shared confidentially with the Commission.

The Rural Representatives also explained that carrier resolution of problems may be hampered because there is currently no obligation for carriers to designate a person as a call completion contact. It was suggested that the Commission, as part of any order, require carriers to file and update contact lists and that the Commission make a call termination carrier contact list publicly available.

Confidential treatment is expressly requested of the exhibit included with this Notice of Ex Parte. Each page of the confidential, non-redacted submission is marked "Proprietary and Confidential." A redacted copy is filed herewith and a confidential version is provided under seal. Confidential treatment is requested as disclosure could cause substantial competitive harm because other competitive entities could assess aspects of the companies' operations and could in turn use that information to undermine their business plans. Providing others with insight into the companies' operations would cause substantial harm as the data and information provided could be used to undermine their competitive positions. There is also a concern that public disclosure might encourage other parties to circumvent Commission rules or hamper an investigation.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office. If you have any questions, please do not hesitate to contact me at (703) 351-2020 or jcanfield@ntca.org

Respectfully submitted,

/s/ Jill Canfield
Jill Canfield

Director, Legal & Industry and Assistant General
Counsel

Attachment

Ms. Marlene H. Dortch

April 12, 2013

Page 3

cc: Margaret Dailey
Chris Killion
Lynne Engledow
Christopher Koves
John Hunter
Theo Marcus
John Healy
Jessica Long
Bill Dever
Richard Hovey

FCC 04/10/2013
Long Distance Call Termination Issues



Agenda

- Consumer Expectations
- Call Termination Issues - Consumer Impacts ¹
- Call Flow Examples – originating call number change
- Originating Call Number Change – Trends
- Call Examples – originating call suspension in the network
- Industry Request for Collaboration with FCC

¹ Failure of carriers to terminate calls in rural areas has a consumer economic and safety impact, this discussion is not intended to quantify or qualify the impacts

Consumer Expectations

Consumers on both ends of a call expect the telecom infrastructure to work as it has for decades regardless of the regulatory or technology changes – in fact they demand it

- The economic, social, and public safety implications of an unreliable communication infrastructure are well documented in this instance – Rural Call Termination Issues
- Business consumers expects a quality communications infrastructure – more importantly – the business viability demands performance
- Consumers expect a telephone device to perform in a universal way: (regardless of device type)
 - When a telephone number is dialed, and the originating device signals that the call is in progress, the consumers (both ends) expect the far end device or dialed number (within milliseconds) to be offered the call (e.g., ring, buzz, vibrate...remain silent at the far end consumer choice)
 - Consumers expect the Caller Name and Number Service purchased will present the actual originating caller information for call screening and other safety options
 - When 911 or the Sheriffs Office the next town over is dialed, the consumer and the public safety office expect the call to complete
- Regulation support the consumers expectations

Call Termination Issues – Consumer Impacts

The originating consumers is not receiving the service purchased which is negatively impacting the terminating consumer – both consumers suffer

■ Originating Consumer Issues:

- Ring No Answer - Originating carrier signals, to their consumer, a call is in progress when in fact the call has not been offered to the far end carrier, consumer, or end user device ^{2,3}

Two typical scenarios:

- Call is never offered to the far end consumer because it was terminated or sent to an announcement by the originating carrier or an intermediate carrier; or the originating consumer hung up (ring no answer)
 - Call is delivered to the far end user after the originating consumer has heard 9 to 10 rings – far end consumer only heard one or two rings (call terminated before far end consumer could not get to the phone and before voice mail (again, ring no answer)
- Originating caller number changed from Intra to Inter State – far end consumer does not accept call because the originating number is not recognized
 - Poor call quality

■ Terminating Consumer Issues:

- Unable to receive calls from outside the local calling area (impacts both residential and business consumers)
- Caller Id and Name on displayed on the device is not accurate – which can impact call screening and personal safety
- Poor call quality

² Originating carriers should not signal to the originating consumer that a call is in progress until the far end device has been offered the call

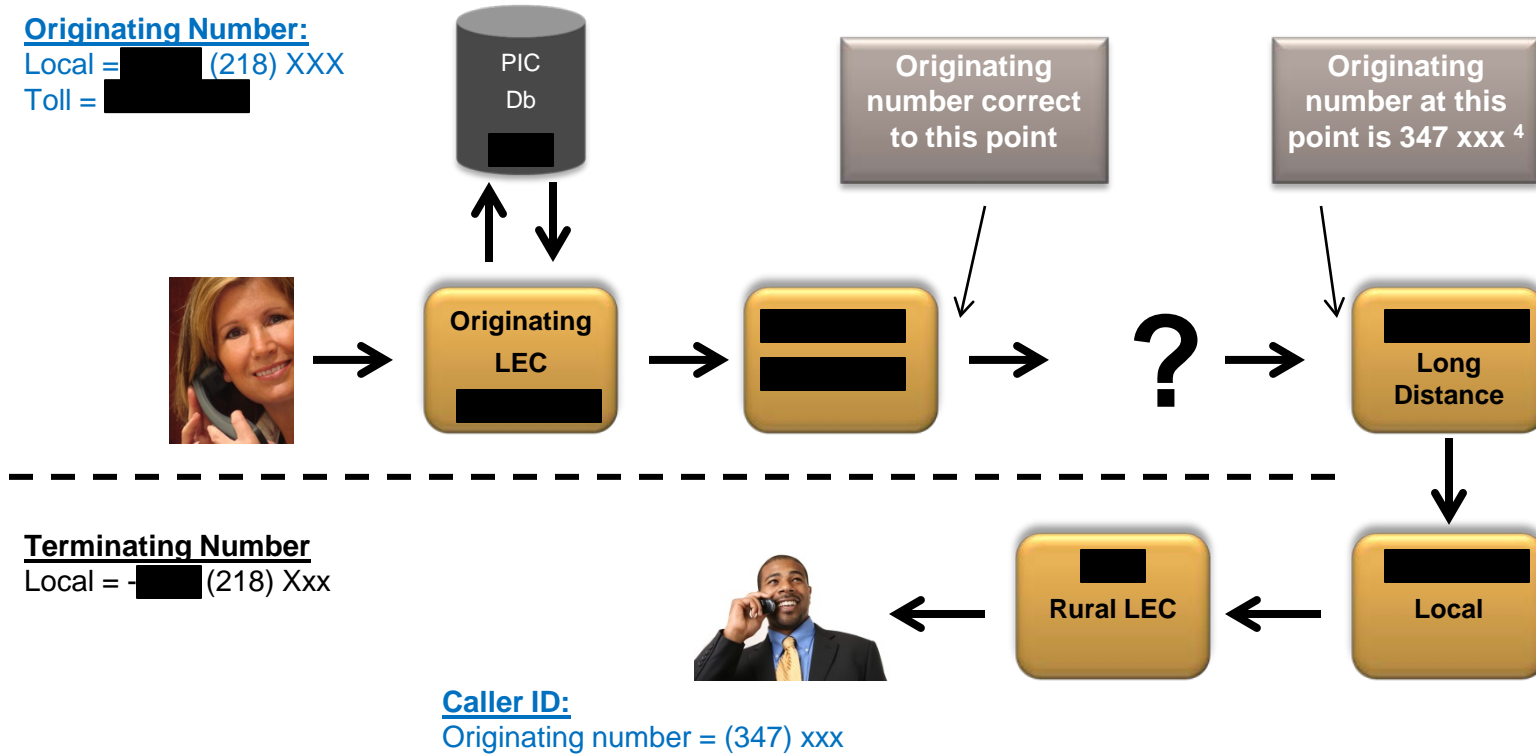
³ Some intermediate carriers are signaling that the far end device has been offered the call therefore the originating carrier may not know the far end has not been offered the call

Call Flow Example – Originating Number Change

Originating caller information is being changed, in the middle of the call flow, from Intra to Inter State; terminating carriers has no regulatory authority to trace the call

Originating Number:

Local = [redacted] (218) XXX
Toll = [redacted]



Terminating Number

Local = [redacted] (218) Xxx

Caller ID:

Originating number = (347) xxx

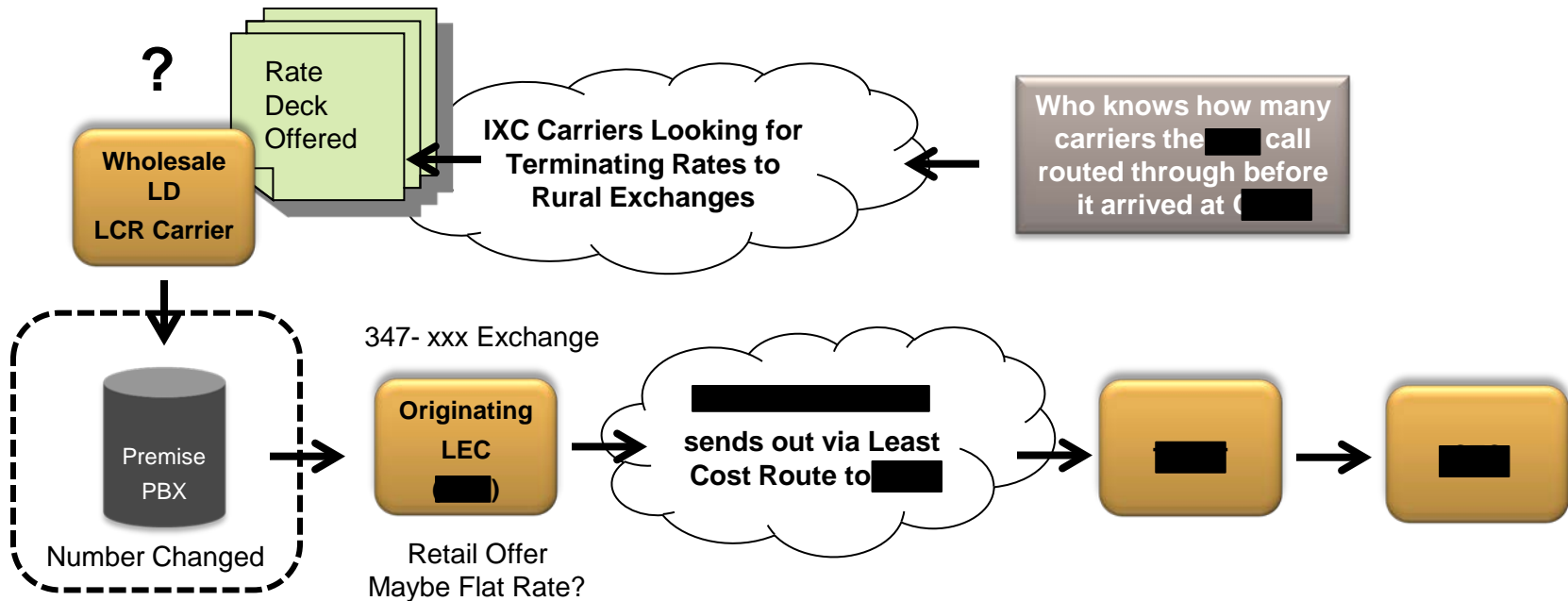
[redacted] or its delegate have no regulatory authority to compel carriers in the call flow to disclose the call routing information required to isolate the carrier converting the call – this trouble is likely correlated to the failed call attempts issue

⁴ [redacted] validated that the number arrived to them as a 347 xxx number – subsequent testing with [redacted] indicated that [redacted] was in the call flow and that the call was handed to them by [redacted] with the 347 xxx number (347 xxx is a [redacted] number) Please note: [redacted] likely picked this up from their consumer.

Originating Number Change - Trends

Calls terminating into the State of Minnesota with a 347 XXX⁵ New York originating number are increasing at an alarming rate - nearly double since January

	Mar-12	Jul-12	Oct-12	Jan-13	Mar-13
MOU from 347 area code to MN companies via Onvoy Tandem	84,000	248,000	426,000	471,000	709,000
MOU from 347 area code to [REDACTED] via Onvoy Tandem	1,200	11,000		14,000	29,000
Count of different telephone numbers with 347 area code calling [REDACTED]				3,712	6,247

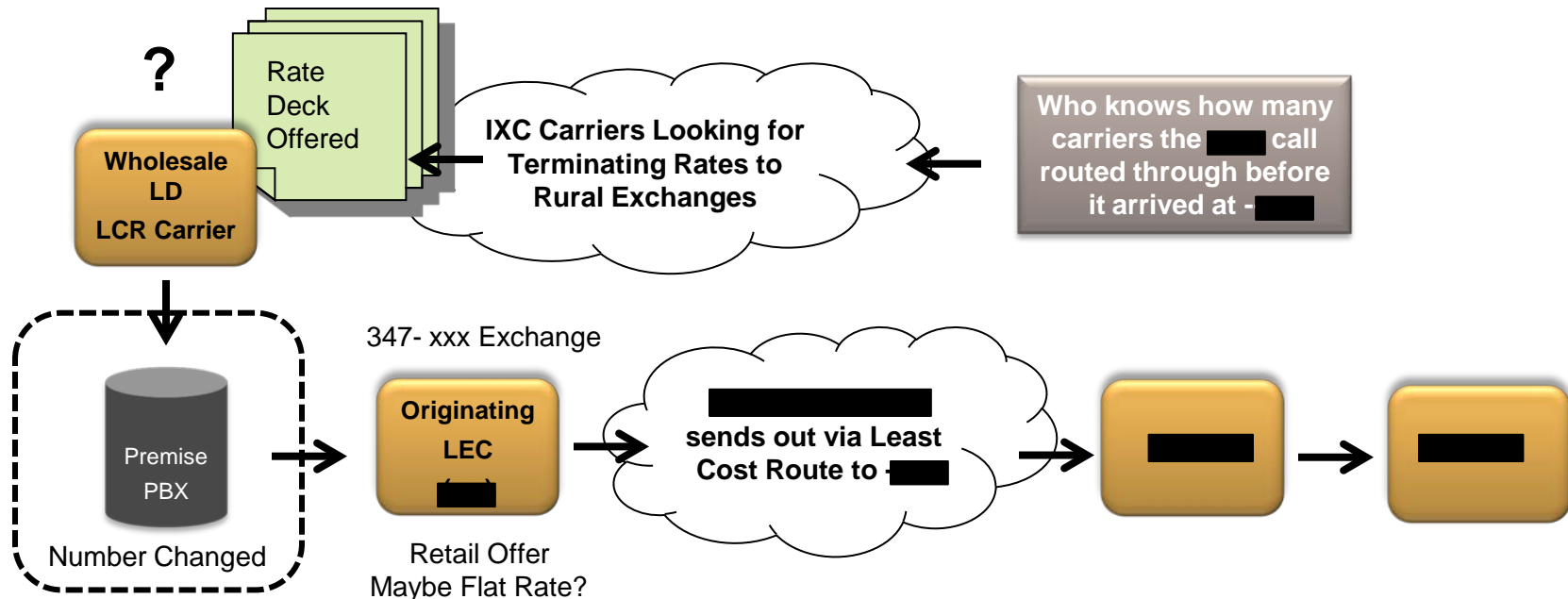


⁵ All numbers tracked to date are [REDACTED] numbers – however this is no indication that [REDACTED] has anything to do with the number change from an Intra to Inter State call. (Could be a consumer PBX is hacked or a consumer of [REDACTED] that is changing the numbers)

Call Example – Originating call suspended in the Network

Originating calls never offered to the rural LEC are considered “Suspended in the Network” – These calls must be isolated from the originating carrier

- Using the call flow from the previous page – the Wholesale LD LCR application is capable of suspending a call while awaiting a route – in this case from [REDACTED]
- The application plays or signals ring back tone to the originating end user office while it looks for an available route to terminate the call
- Originating consumer will hear ringing and think the call is completed to the far end when in reality the call is held up at the Wholesale LD Carrier Application



Industry Request for Collaboration with FCC

Obviously a difficult situation to control, below are conceptual thoughts that can be pursued to help further resolve the issues

- Originating carriers should be held liable for call completion – which may include fines
 - Order - Originating carrier must trouble isolate with the terminating carriers upon request (today originating carrier will not open a ticket with the terminating carrier because the terminating carrier is not a customer of record for the originating carrier)
 - Order – Originating carrier must pursue call termination issues to resolution and provide supporting documentation to the FCC upon request
 - Order that all carriers must maintain call records for a set period time (this may be done)
- FCC designate a third party analysis
 - FCC – assign an independent third party company to isolate call examples from the originating source
 - Order – carriers required to provide call detail records to support designated third party investigation
 - Order – Information shared with FCC assigned independent third party will remain confidential
- Carriers in the terminating call flow Ordered to provide call detail records to downstream carriers
 - Order – (same FCC independent third party) carriers in the termination call flow must provide call detail records and contact information required to trace a call back through the network (determine where number changed)
 - Order – information collected in the call trace to remain confidential

Attachment 2



June 19, 2013

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Ex Parte Notice

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

Dear Ms. Dortch:

On June 17, the undersigned and Jill Canfield from NTCA–The Rural Broadband Association, together with Colin Sandy and Robert Gnapp of the National Exchange Carrier Association (NECA) and Derrick Owens of the Western Telecommunications Alliance (WTA) (collectively, the Rural Associations), met with Gregory Kwan, Steven Rowings, Richard Hovey, Carol Simpson, Jean Ann Collins (via telephone), and William Dever of the Wireline Competition Bureau, and Theodore Marcus, Terry Cavanaugh, Chris Killion, and Margaret Dailey of the Enforcement Bureau.

The Rural Associations discussed points raised in comments and reply comments filed in the above-captioned proceeding. Specifically, the Rural Association stressed that the scope and severity of the current crisis remain significant, and that claims that there is only anecdotal evidence of the problem are specious. This was illustrated in part by the reply comments of the Nebraska Public Service Commission, which is involved in an ongoing study of the problem. The Nebraska Commission correctly took issue with certain self-interested statements that attempted to use a limited portion of that testing effort to minimize the extent of the crisis.¹

The Rural Associations emphasized that there is no evidence in the record indicating that any reporting threshold, safe harbor, or certification exemptions are appropriate at this time. The Rural Associations are not opposed to safe harbors or similar measures where such measures are warranted and earned, but they must be predicated upon relevant data and demonstrative showings that certain steps definitively lead to abatement of the call completion crisis. Until such data are collected and examined and the potential parameters of a safe harbor can be studied, safe harbors are unjustified. Much of the data the NPRM proposes to collect are already obtained by originating carriers during their normal course of business and storage costs are minimal, so the extra step of reporting represents a very

¹ Reply Comments of the Nebraska Public Service Commission, p. 2.

minimal burden. In addition, since no confidential financial or competitively sensitive information will be collected, reported data should be available to the public.

The Rural Associations also stressed that evidence indicates that changes to the intercarrier compensation regime will not eliminate the call completion problem. Areas that have reduced, or in the case of intra-MTA CMRS traffic eliminated, access charges are still severely afflicted. Furthermore, transport costs will still be a factor even if the planned move to bill-and-keep is completed as scheduled. Therefore, to the extent financial incentives are at the root of the crisis, bill-and-keep is no panacea. Even if financial incentives could be completely eliminated, there is no guarantee that sub-par management of networks or databases will not continue to result in call termination problems. It was stressed that the Rural Associations would not oppose a sunset of the reporting requirements when calls to rural areas complete consistently and if it can be demonstrated that reporting is no longer necessary to monitor and ensure compliance with the Commission's rules.

The Rural Associations suggested that the rules clarify that the originating service providers responsible for reporting the data in question are those that "control" the call; *i.e.*, the parties (including IP-based providers) that have, or should have, reasonable access to the data regarding how a call was routed in the first instance should be the responsible parties. The Rural Associations also noted the widespread support in the record for a call signaling rule that would prevent calling parties from hearing false or misleading ring tones or other signals of any kind that may indicate that the terminating line is ringing when it is not.

The Rural Associations reiterated their request for the establishment of complete, updated, and reliable carrier contact lists, as they are necessary to reduce the time it takes to resolve issues. They also discussed potential improvements to the consumer call completion reporting form to enhance clarity. While recognizing that obtaining approval for these measures may involve long processes, the Rural Associations asserted that this is all the more reason to engage in these processes without further delay. The Rural Associations also discussed the status of the proposed Joint National Test Call project which is designed to identify potential problem areas and streamline resolution procedures.

Respectfully submitted,

/s/ Stephen Pastorkovich

Stephen Pastorkovich
Associate Director,
Technology & Business Development

cc: Gregory Kwan
Steven Rowings
Richard Hovey
Carol Simpson
Jean Ann Collins
William Dever

Theodore Marcus
Terry Cavanaugh
Chris Killion
Margaret Dailey

Attachment 3

Calendar No. 276

113TH CONGRESS
1ST SESSION

S. RES. 157

[Report No. 113-130]

Expressing the sense of the Senate that telephone service must be improved in rural areas of the United States and that no entity may unreasonably discriminate against telephone users in those areas.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2013

Ms. KLOBUCHAR (for herself, Mr. JOHNSON of South Dakota, Mrs. FISCHER, Mr. SANDERS, Mr. LEAHY, Mr. MERKLEY, Mrs. BOXER, Mr. PRYOR, Mr. GRASSLEY, Mr. BOOZMAN, Mr. ENZI, Ms. BALDWIN, Mr. THUNE, Mr. HARKIN, Mr. FRANKEN, Mr. ROBERTS, Ms. CANTWELL, Mr. HOEVEN, and Mr. TESTER) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation

DECEMBER 19, 2013

Reported by Mr. ROCKEFELLER, with an amendment

[Strike out all after the resolving clause and insert the part printed in italic]

RESOLUTION

Expressing the sense of the Senate that telephone service must be improved in rural areas of the United States and that no entity may unreasonably discriminate against telephone users in those areas.

Whereas all people in the United States rely on quality, efficient, and dependable telephone service in many aspects

of life, including conducting business, securing the safety of the public, and connecting families;

Whereas multiple surveys conducted by the National Exchange Carrier Association revealed that complaints of uncompleted telephone calls persist, with the most recent survey in October 2012 indicating a 41 percent increase in uncompleted calls between March and September of the same year;

Whereas the National Exchange Carrier Association and rural telecommunications carriers in April 2012 supplied information that—

(1) 6.4 percent of calls to rural areas failed, but only 0.5 percent of calls to urban areas failed; and

(2) 11 percent of calls to rural areas were either poor quality or were delayed, compared to only 5 percent in urban areas;

Whereas the Federal Communications Commission was made aware of an issue regarding telephone service connection in rural areas in November 2010 and has since issued a declaratory ruling and a notice of proposed rulemaking with respect to the issue and has reached a settlement with one telecommunications carrier;

Whereas, in a declaratory ruling in February 2012, the Federal Communications Commission made it clear that blocking or otherwise restricting telephone service is a violation of section 201(b) of the Communications Act of 1934 (47 U.S.C. 201(b)), which prohibits unjust or unreasonable practices, and section 202(a) of that Act (47 U.S.C. 202(a)), which outlines the duty of a telecommunications carrier to refrain from discrimination;

Whereas actions by the Federal Communications Commission have not significantly decreased the prevalence of telephone calls being rerouted by telecommunications carriers and some States are seeing an increase in complaints as of April 2013;

Whereas telephone communications are vital to keeping rural areas of the United States competitive in the economy, and a low rate of telephone call completion results in economic injury to rural businesses, including farmers, trucking companies, and suppliers who have seen thousands of dollars in business lost when telephone calls are not completed;

Whereas the safety of the public is at risk from a lack of quality telephone communications, including 911 services;

Whereas schools depend on telephone calls to notify students and parents of emergencies, and health care centers depend on telecommunications services to save lives and to communicate with rural patients;

Whereas small, local telecommunications carriers are losing valuable, multi-line business subscribers because of a lack of quality telecommunications services, which is financially detrimental to those carriers and adversely affects the rural communities served by those carriers; and

Whereas it may cost a telecommunications carrier serving a rural area hundreds of dollars to investigate each complaint of an uncompleted telephone call: Now, therefore, be it

1 *Resolved*, ~~That it is the sense of the Senate that—~~

1 ~~(1) all providers must appropriately complete~~
2 ~~calls to all areas of the United States regardless of~~
3 ~~the technology used by the providers;~~

4 ~~(2) no entity may unreasonably discriminate~~
5 ~~against telephone users in rural areas of the United~~
6 ~~States; and~~

7 ~~(3) the Federal Communications Commission~~
8 ~~should—~~

9 ~~(A) aggressively pursue those that violate~~
10 ~~the rules of the Federal Communications Com-~~
11 ~~mission and create these problems, and impose~~
12 ~~swift and meaningful enforcement actions to~~
13 ~~discourage—~~

14 ~~(i) practices leading to telephone calls~~
15 ~~not being completed in rural areas of the~~
16 ~~United States; and~~

17 ~~(ii) unreasonable discrimination~~
18 ~~against telephone users in rural areas of~~
19 ~~the United States; and~~

20 ~~(B) move forward with clear, comprehen-~~
21 ~~sive, and enforceable actions in order to estab-~~
22 ~~lish a robust and definitive solution to discrimi-~~
23 ~~nation against telephone users in rural areas of~~
24 ~~the United States.~~

25

1 *That it is the sense of the Senate that –*

2 (1) *all providers must appropriately complete*
3 *calls to all areas of the United States regardless of the*
4 *technology used by the providers;*

5 (2) *no entity may unreasonably discriminate*
6 *against communications service in rural areas of the*
7 *United States; and*

8 (3) *the Federal Communications Commission*
9 *should –*

10 (A) *aggressively pursue those that violate*
11 *the rules of the Federal Communications Com-*
12 *mission and create these problems, and impose*
13 *swift and meaningful enforcement actions to dis-*
14 *courage –*

15 (i) *practices leading to telephone calls*
16 *not being completed in rural areas of the*
17 *United States; and*

18 (ii) *unreasonable discrimination*
19 *against communications service in rural*
20 *areas of the United States; and*

21 (B) *move forward with clear, comprehen-*
22 *sive, and enforceable actions in order to establish*
23 *a robust and definitive solution to discrimina-*
24 *tion against communications service in rural*
25 *areas of the United States.*

Calendar No. 276

113TH CONGRESS
1ST SESSION

S. RES. 157

[Report No. 113-130]

RESOLUTION

Expressing the sense of the Senate that telephone service must be improved in rural areas of the United States and that no entity may unreasonably discriminate against telephone users in those areas.

DECEMBER 19, 2013

Reported with an amendment

Attachment 4



August 19, 2013

Ex Parte Notice

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

Re:

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

Dear Ms. Dortch:

On Thursday, August 15, the undersigned, on behalf of NTCA–The Rural Broadband Association (“NTCA”), Gerry Duffy representing the Western Telecommunications Alliance (“WTA”) and Robert Gnapp and Colin Sandy from the National Exchange Carrier Association (“NECA”) (collectively, the “Rural Representatives”) met with Priscilla Delgado Argeris, Legal Advisor to Commissioner Jessica Rosenworcel. Commissioner Rosenworcel was present for a portion of the meeting.

The Rural Representatives discussed persistent rural call completion problems and urged swift Federal Communications Commission (“Commission”) action on the above referenced pending rulemaking proceeding. The group also urged enforcement action against carriers who fail to complete calls to rural consumers. The Rural Representatives provided troubling, life-threatening examples of call failure, including a situation where an on-call surgeon was unable to receive a call from a hospital for emergency surgery and a 911 call center unable to do emergency call backs. They also discussed the on-going economic harm to local businesses and the damage to rural telecommunications providers.

The Rural Representatives explained that record retention rules are essential to ensure that carriers track their progress in order to internally resolve issues and to enable enforcement action against bad actors. Warnings from the Commission have been ineffective in addressing the problem. The group addressed claims by other parties that “Safe Harbors” to avoid record retention or reporting are appropriate. The Rural Representatives are not opposed to safe harbors, provided they are earned and the procedure or process which is the basis for a safe harbor is shown to ensure that calls complete. The safe harbors that were proposed by the Commission and advocated by certain industry participants create loopholes that would allow parties to evade detection and continue call blocking. Those parties who advocate safe harbors have a demonstrable history of not completing calls.

Marlene H. Dortch

August 19, 2013

Page 2 of 2

The Rural Representatives also discussed false ring-back, explaining the confusion that customers experience when they hear ringing, but the call did not set up. They also addressed claims that the need for retention and reporting will be eliminated because of changes to the intercarrier compensation regime. The Rural Representatives explained that there are many costs involved and it will always be more expensive to terminate calls to rural areas. A sunset of rules based on an arbitrary deadline is inappropriate. Rural call completion problems must be eliminated and any safe harbor provision must be based on actual reported data before relaxing any data retention and reporting requirements.

Finally, the Rural Representatives addressed the burden associated with the data retention and reporting requirements. They explained that most of the proposed records are currently readily available to carriers since they must be kept for billing purposes. The cost of storing the records is minimal and the proposed Commission reports require very little additional time or effort by any carrier. The minimal burden associated with the proposed rules is far outweighed by the harm caused by rural call failure. Rural communities, businesses and individuals' well-being and safety are being compromised on a daily basis. The Commission must act to ensure that calls complete.

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

cc: Commissioner Jessica Rosenworcel
Priscilla Delgado Argeris

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/DI-12-1329

Dated this 13th day of **January 2014**

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_12-1329_DI-12-1329
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_12-1329_DI-12-1329
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_12-1329_DI-12-1329
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_12-1329_DI-12-1329