

**STATE OF MINNESOTA  
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
Dr. David C. Boyd	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

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

**REPLY COMMENTS OF MINNESOTA CABLE COMMUNICATIONS  
ASSOCIATION**

The Minnesota Cable Communications Association (the “MCCA”) submits these Reply Comments in the above-styled proceeding. The MCCA notes that no telecommunications service provider or organization of such providers has urged the Minnesota Public Utilities Commission (the “Commission”) to pursue industry-wide action and place additional regulatory requirements on all originating providers. The most reasonable course of action for the Commission to take at this time is to investigate rural call completion complaints on a case by case basis and take individual enforcement action as necessary. The Federal Communications Commission’s measures to collect data and investigate and resolve this problem should be given time to work.

The MCCA agrees with the majority of comments submitted by service providers. There are several issues, however, that MCCA believes merit a reply.

**1. Determining Whether the Commission Has Jurisdiction Over Intermediate Providers Requires a Case-by-Case Factual Investigation.**

The MCCA agrees with parties that have commented that the Commission has jurisdiction over entities that provide intrastate telecommunication services to the public. Several parties commented that intermediate providers do not offer intrastate telecommunications services *to the public* and consequently, the Commission does not have jurisdiction over intermediate providers.

Whether any given intermediate provider offers intrastate long distance telecommunication services to the public is a question of fact that cannot be answered on anything other than a case-by-case basis. Minnesota Statutes section 237.01, Subd. 6 defines a “telecommunications carrier” as 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 service; (2) local telephone service . . . .” “Interexchange service” is not defined under Minnesota Statute, but is defined by this Commission’s rules as “telecommunications service between exchanges as defined in a local exchange service provider’s tariff.” Minn. R. 7811/7812.0100, Subp. 26. To fulfill their tariffed obligations within their service areas, which may include offering to complete calls to exchanges served by rural local exchange carriers, originating providers may well employ intermediate providers to provide interexchange telecommunications services. Further, MPUC rules contemplate jurisdiction over “local niche services” defined as “point-to-point connections between end-user locations within a service area and *any telecommunications services under the commission’s jurisdiction that do not fall within the definition of local service or the definition of interexchange service.*” (emphasis added).

In addition to the language of statutes and rules, the Commission should give substantial consideration to its pertinent prior decisions addressing jurisdiction. In determining whether a given provider furnishes telephone services “to the public,” the Commission “looks to the nature of the activity rather than to the size or number of customers.” *In re Complaint Against Jones Intercable*. Order to Cease Unauthorized Provision of Telecommunications Service in Minnesota, MPUC Docket No. P5110/C-94-1139 p. 9, n. 4 (1996). That a service provider has only one customer does not change the analysis. *Id.* (citing, *Northwestern Bell Telco v. Minnesota Pub. Utils. Comm’n*, 420 N.W.2d 646, 649 (Minn. App. 1988)).

Thus, the Commission is not without statutory or administrative guidance with respect to the bounds of their jurisdiction. The Commission has the authority it needs to make specific determinations about whether it has jurisdiction over a given intermediate provider. Such determinations should not be made on a generic basis, but rather on the basis of case-by-case factual investigations. The Commission and the DOC have ample authority to investigate allegations of call completion problems. However, the Commission and/or DOC should not make a blanket declaration that every intermediate provider is subject to their jurisdiction.

## **2. The Record in this Proceeding Lacks Substantial Evidence of Rural Call Completion Problems with Respect to Intrastate Long Distance Calls in Minnesota.**

The record in this docket as to an *intrastate* call completion problem is sparse and largely anecdotal. Therefore, industry-wide actions by the Commission are unwarranted. The absence of substantial record evidence of call completion problems with respect to intrastate long distance calls is a compelling reason for the Commission to refrain from taking any industry-wide regulatory action at this time. As recited by many parties in

their comments, the FCC will shortly begin collecting data related to rural call completion problems. The Commission will be able to obtain aggregate rural call completion data for Minnesota from the FCC. If the Commission agrees to maintain the confidentiality of the data, the Commission will be able to obtain disaggregated data.<sup>1</sup>

### **3. The Commission Should Not Impose Requirements for Specific Terms and Performance Measures in Contracts Between Originating Carriers and Intermediate Providers.**

Given the paucity of record evidence before the Commission on intrastate rural call completion problems in Minnesota and the significant amount of relevant information the Commission may obtain from the FCC in the near future, it is premature and unwarranted for the Commission to impose terms in contracts between originating and intermediate providers, or to require redundant performance metrics in addition to or beyond those imposed by the FCC.

### **Conclusion**

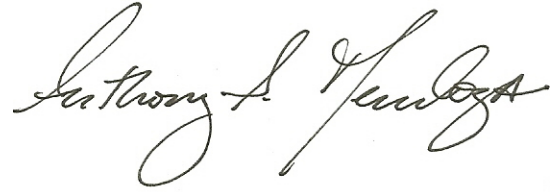
The MCCA respectfully recommends that the Commission abstain from taking any industry-wide regulatory action with respect to rural call completion problems at this time. The Commission should instead investigate rural call completion complaints on a case-by-case basis, and take individual enforcement action if necessary.

---

<sup>1</sup> 47 C.F.R. § 64.2109.

MINNESOTA CABLE  
COMMUNICATIONS ASSOCIATION

Dated: March 19, 2014

A handwritten signature in black ink, reading "Anthony S. Mendoza". The signature is written in a cursive style with a large, looping initial "A" and a long, sweeping tail.

Anthony S. Mendoza, Esq.  
J. Jeffrey Oxley, Esq.  
Mendoza Law Office, LLC  
790 S. Cleveland Ave., Ste. 206  
St. Paul, MN 55116  
(651) 340-8884  
tony@mendozalawoffice.com