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April 10, 2018

Ex Parte

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

Re: Rural Call Completion, WC Docket No. 13-39

Dear Ms. Dortch:

On April 9, 2018, Michele Cober, Curtis Groves, and I of Verizon met with Daniel Kahn, Alex Espinoza, Matthew Collins, Melissa Kinkel (by phone), Zach Ross, and D’Wana Terry of the Wireline Competition Bureau to discuss the Commission’s draft Second Report and Order and Third Further Notice of Proposed Rulemaking (“*Draft Order*”) in this proceeding. Also on April 6, Curtis Groves spoke separately with Daniel Kahn and with Jay Schwarz of Commissioner Pai’s office about the same matter.

Verizon supports the *Draft Order* and the Commission’s efforts to address many of the pending issues related to the completion of calls in rural areas. Consistent with our comments,¹ we explained that the Commission should adopt in the Second Report and Order Verizon’s proposed clarifications to the safe harbor exempting covered providers from data recording, retention, and reporting requirements. Specifically, the Commission should clarify that: (1) incidental or *de minimis* use of a third intermediate provider during network congestion or outages does not conflict with the required safe harbor certification; and (2) the certification applies only to traffic destined for rural LECs. The Commission sought comment on these two issues last year,² and we are unaware of any opposition to these proposed modifications to the safe harbor.

Clarifying the safe harbor to exclude *de minimis* volumes of traffic for overflow purposes would be good public policy because it would help calls complete during emergency situations or network congestion by eliminating disincentives to establish arrangements for overflow traffic. As we stated in our comments,³ the Commission could establish a presumption that a

¹ See Comments of Verizon, WC Docket No. 13-39 (January 16, 2014) (“Verizon Comments”).

² See *Rural Call Completion*, Second Further Notice of Proposed Rulemaking, 32 FCC Rcd 6047 (2017).

³ See Verizon Comments.

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small percentage of calls (for example, up to 3%) rerouted by a downstream carrier to a third intermediate provider as part of a bona fide network overflow arrangement would not violate a covered provider's safe-harbor status. To develop an estimate of the volume of overflow traffic, Verizon, as a covered provider and an intermediate provider, reviewed data from its long distance networks on December 12, 2013. On that day, Verizon observed approximately 230 million long distance calls on its networks, of which approximately 230,000 calls were routed to the third-party network service that Verizon utilizes for overflow routing. Based on this study, and acknowledging that other parties may have different overflow arrangements, a 3% presumptive threshold is reasonable. Verizon is not aware of other overflow studies in the record.

We requested that the Commission modify the language of the *Draft Order* to incorporate these proposed clarifications in the Second Report and Order. This is consistent with Section 262(h) of the Improving Rural Call Quality and Reliability Act of 2017, which leaves the Commission discretion to modify the existing safe harbor.⁴ Verizon's proposed clarifications are consistent with Congress' intent, would make the safe harbor less onerous and thus encourage more providers to participate in it, and would remove disincentives to establishing overflow arrangements.

We welcome the Commission's proposed action and look forward to continued participation in the proceeding.

Very truly yours,



cc: Daniel Kahn
E. Alex Espinoza
Matthew Collins
Melissa Kinkel
Zach Ross
D'Wana R. Terry

⁴ The safe harbor provision included in Section 262(h) applies to an entity that "has certified as a Safe Harbor provider under Section 64.2107(a) of title 47, Code of Federal Regulations, "or any successor regulation[.]" 47 U.S.C. § 262(h)(1) (emphasis added).