Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
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Rural Call Completion	)	WC Docket 13-39
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COMMENTS OF VERIZON ON THE THIRD FURTHER NOTICE OF PROPOSED RULEMAKING

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Verizon supports the Commission's continued efforts to improve rural call completion, including the reforms it adopted in the *Second R&O*.[2] The newly adopted rules will help the Commission more effectively address rural call completion issues, without burdensome and ineffective data reporting. In the *Third FNPRM*, the Commission proposes to promote transparency; implement service quality standards; require intermediate providers to engage in self-monitoring; and eliminate the covered provider record keeping and retention rules. Consistent with those objectives and to implement the Improving Rural Call Quality and Reliability Act of 2017 ("RCC Act"),[3] the Commission should take the following steps:

- actively review the intermediate provider registry;
- avoid mandating industry best practices as the service quality standards;
- model the intermediate provider self-monitoring requirement after the covered provider monitoring requirement;
- reduce the recordkeeping and retention requirements; and
- clarify that the RCC Act applies only to rural areas.

[1] The Verizon companies participating in this filing ("Verizon") are the regulated, wholly-owned subsidiaries of Verizon Communications Inc.
[2] *Rural Call Completion*, Second Report and Order and Third Notice of Proposed Rulemaking, WC Docket 13-39, FCC 18-45 (Apr. 17, 2018) ("*Second R&O*" or "*Third FNPRM*").
[3] 47 U.S.C. § 262 (June 19, 1934, ch. 652, title II, §262, *as added* Pub. L. 115–129, §2, Feb. 26, 2018, 132 Stat. 329). *See also Third FNPRM* at Appendix A.

I. The Commission Should Implement and Actively Review a Broad and Robust Intermediate Provider Registry

A. The Commission Should Interpret Broadly the RCC Act Definition of "Intermediate Provider"

The Commission's proposed interpretation of who has to register and who is subject to the service quality standards is consistent with the RCC Act, and the Commission should adopt it.[4] An intermediate provider is subject to the requirements in Section 262(a) if it: (a) offers or holds itself out as offering the capability to transmit covered communications from one destination to another; (b) charges any rate to any other entity for the transmission; and (c) seeks to be used by a covered provider.[5] The Commission should interpret Section 262(a) broadly, consistent with the spirit of the RCC Act and the legislative history.[6] The Commission should not create an unintended loophole by interpreting Section 262(a) more narrowly.

By its terms, Section 262(a) requires an intermediate provider "that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission"[7] to register with the Commission. Although the Commission asks whether this statutory language somehow narrows the scope of intermediate providers subject to the registration and service quality standard requirements, it does not.[8] The legislative history makes clear Congress's intent to apply the RCC Act to all intermediate providers as defined by Section

[4] *Third FNPRM* ¶¶ 69-78.
[5] *See Third FNPRM* ¶ 78.
[6] *See* Senate Committee on Commerce, Science, and Transportation, "Improving Rural Call Quality and Reliability Act of 2017," S. Rep. No. 115-6 on S. 96 at 2-3 (Mar. 21, 2017), https://www.gpo.gov/fdsys/pkg/CRPT-115srpt6/pdf/CRPT-115srpt6.pdf ("Committee Report").
[7] 47 U.S.C. § 262(a).
[8] *See Third FNPRM* ¶¶ 76-78.

262(i)(3),[9] which does not turn on whether the intermediate provider charges a fee, but instead focuses on the intermediate provider's function.[10] The Commission should exempt from the registration requirement only those intermediate providers Congress identified as exempt: those that only incidentally carry voice traffic.[11]

The Committee Report on the RCC Act demonstrates that Congress intended to "require intermediate providers to register with the Commission and maintain compliance with service quality standards," and that intermediate providers include "entit[ies] [that] have a business relationship for the specific purpose of carrying, routing, or transmitting traffic."[12] The Committee Report does not mention whether the intermediate provider charges a fee; the only requirement is that the intermediate provider entered a business arrangement with a covered provider. Logically, then, only intermediate providers that merely incidentally transmit voice traffic should be exempt from the registration requirement and service quality standards.

B. The Registry Should Include the Information the Commission Proposed and Additional Information to Avoid Fraud

To achieve its transparency goals, the RCC Act requires the Commission to create a publicly available registry of certain intermediate providers.[13] The Commission proposes that

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[9] *See* Committee Report.
[10] 47 U.S.C § 262(i).
[11] *See* Committee Report at 4-5, 6. An example of a provider that only incidentally carries voice traffic might be one that is not involved in, or interacting with, the application-layer message exchange. For example, a provider of Internet-protocol transport services that is not interacting with the traffic at the application layer—i.e., not involved in the session initiation protocol or real-time protocol messaging—might reasonably be considered to not be an "intermediate provider." Similarly, for calls to a ported number, the losing carrier (the carrier from which the number was ported), may find itself inadvertently in a call flow for which it is functionally serving as an intermediate provider due to an error in routing further upstream—this, too, may be another example of only incidentally carrying voice traffic for purposes of the new rules.
[12] *Id*. at 6.
[13] 47 U.S.C § 262(a)(1).

intermediate providers register by submitting: (1) business name and primary address; (2) name(s), phone number(s), business address(es), email address(es) of the regulatory contact and/or designated agent for service of process; (3) all business names that the intermediate provider has used in the past; (4) state(s) in which the intermediate provider provides service; and (5) the name, title, business address, phone number, and email address of at least one person as well as the department within the company responsible for addressing rural call completion issues.[14] And while we agree with this proposal, the Commission should require intermediate providers to submit additional information.

The Commission can deter "individuals from circumventing registration prohibitions by forming and registering new intermediate provider entities"[15] by requiring individuals behind each entity to identify themselves. Specifically, in addition to the information listed above, each intermediate provider should be required to provide the name(s), business address, and business telephone number(s) for the appropriate executive leadership contact, such as the chief executive officer, chief operating officer, and owner(s) of the intermediate provider, or persons performing an equivalent function. Requiring companies to identify their corporate officers (or equivalent personnel for non-corporate entities) is a common requirement across state and foreign corporation registrations, business licensing, and trade licensing.[16] This will provide the Commission, the public, and other providers additional visibility into the individuals that direct and manage the entity.

[14] *Third FNPRM* ¶ 71.
[15] *Id.* ¶ 100.
[16] For example, to register a new business in Washington, D.C., companies are required to provide "[t]he names, titles, home address, and Social Security number of the proprietor, partners, or principal officers (mandatory)." *See* D.C. Office of Tax and Revenue New Business Registration, https://otr.cfo.dc.gov/page/new-business-registration.

The Commission proposed that intermediate providers should be required to update their registration information within one week of any changes.[17] Given our proposal to require more information for the registry, we propose that intermediate providers update their registration information within thirty days. The required information should be readily available, can be provided to the Commission at minimal cost, and the additional time should alleviate administrative burdens. In addition, the cost or burden is outweighed by the benefit of obtaining this information—transparency of intermediate providers in the call path is essential for enforcement of the RCC Act and the Commission's rules.[18]

C. The Commission Should Actively Review Intermediate Provider Registrations and Activity in the Registry

Accurate registrations are key to the RCC Act and the Commission's new rules, which together require covered providers to use registered intermediate providers[19] and monitor their performance.[20] To fulfill their responsibilities, both under the rules and the RCC Act, covered providers need assurance that the intermediate provider registry is accurate and frequently updated. Covered providers should be able to validate at any time the registration status of intermediate providers in the call chain to ensure compliance with Section 262(b).

Because of the critical nature of the accuracy of the registry, and to deter bad actors from engaging in fraudulent activity, the Commission should actively review the registration process

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[17] *Third FNPRM* ¶ 72.
[18] *See*, *e.g.*, HD Tandem Reply Comments, *Rural Call Completion*, WC Docket No. 13-39, at 3 (Sept. 25, 2017) ("Transparency in the call path is a key ingredient necessary to enforce RCC rules.") *citing* NTCA-The Rural Broadband Ass'n, WTA-Advocates for Rural Broadband ("NTCA/WTA") Joint Comments, *Rural Call Completion*, WC Docket No. 13-39, at 12 (Aug. 28, 2017); NASUCA Comments, *Rural Call Completion*, WC Docket No. 13-39, at 7 (Aug. 28, 2017) ("Bringing visibility to the intermediate carriers would have a curative and prophylactic effect. It would tend to enhance the likelihood that companies with unsound practices or inadequate facilities stayed or were kept out of the market.").
[19] 47 U.S.C. § 262(b).
[20] *See Second R&O* ¶ 12.

and remove an intermediate provider from the registry for willfully failing to provide accurate information in connection with their registration.

The Commission should also actively review activity in the registry. For example, if the Commission sees that a particular corporate officer is frequently associated with intermediate providers that are registered for relatively short periods of time, the Commission should contact that individual to better understand his or her business plan, operating model, and customer base. The Commission could then contact that intermediate provider's customers to evaluate what the customers' monitoring of that intermediate provider has shown in terms of performance. Similarly, if the Commission sees a single individual associated with several different intermediate providers, it should contact that individual to learn more about the role he or she plays and how he or she came to have such a meaningful position with respect to so many different intermediate providers. And here too, the Commission could contact the intermediate providers' customers to learn more about performance.

In its report on Rural Call Completion being filed in this docket,[21] Verizon describes a number of call re-origination schemes that it investigated and provides examples of call re-origination schemes identified by other carriers. The cost of modern telecommunications technology is such that new intermediate providers can be created with relatively low capital investment and business expense. Verizon believes this enables individuals to profit meaningfully from relatively low levels of arbitrage activity through a particular legal entity, and then to easily discard that legal entity and create a new one, or multiple new ones, through which

[21] *See* Verizon Report, "Rural Call Completion: Investigations, Lessons Learned, and Other Information Regarding Avoidance, Investigation, and Resolution of Rural Call Completion Problems," WC Docket No. 13-39 (June 4, 2018) ("Verizon RCC Report").

to continue operations utilizing effectively the same capital equipment, technology, and personnel for the new and affiliated legal entities as was utilized in the first instance.

Registration alone, without active Commission supervision, may not be enough to achieve the desired goals of transparency and optimal performance. For example, one of the customers that Verizon investigated for improperly re-originating calls was registered with the Commission, filed a FCC Form 499, and during the investigation, asked to be put in touch with the Commission.[22] Verizon has also seen evidence in prior years of suspect entities complying with Commission requirements such as annual CPNI certifications. In order to gain customers, intermediate providers must present a minimum set of *bona fides*, and registered status will become the ultimate Commission "seal of approval." Vigilance by the Commission in understanding who is behind the registered intermediate providers will be essential if the registry is to deter undesirable conduct. In this respect, there should be no exemptions from the registration requirements for small or medium-size businesses—those are precisely the type of businesses, operating in the intermediate provider market, that potentially raise concerns because of the ease with which they can come and go or "fly under the radar."

D. The Registration Requirements Should be Enforced Equally for all Intermediate Providers

There should also be no distinction in enforcement for small or medium intermediate providers or those that are not common carriers. The Commission's authority under Section 503(b) to issue fines does not turn on whether an entity is a common carrier.[23] Although, as the Commission notes, the maximum fine for common carriers is considerably higher than for others,[24] nothing in the Communications Act or the Commission's rules prevents the

[22] *See* Verizon RCC Report at 9.
[23] 47 U.S.C. § 503(b)
[24] *Third FNPRM* ¶ 99.

Commission from adopting the same penalties for common carriers and non-common carriers, provided that those penalties do not exceed the statutory maximums. When determining the amount of a forfeiture, the Commission considers "the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."[25] None of the factors is whether the violator is a common carrier. And adopting an equal approach to penalizing violations related to the registry will discourage intermediate carriers from gaming the system by choosing to operate as non-common carriers solely to avoid larger fines.[26]

II. The Commission Should not Mandate Best Practices and Should Refrain From Adopting a Rigid Enforcement Regime for the Service Quality Standards.

A. The Commission Should not Adopt Specific Industry Best Practices as the Service Quality Standards

The Commission correctly declined to mandate that covered providers comply with all of the standards and best practices contained in the ATIS RCC Handbook.[27] ATIS has developed recommended industry best practices that providers may *choose* to incorporate to monitor and mitigate call completion issues.[28] But, as the Commission determined for covered providers, compliance with the ATIS best practices should be voluntary, not mandatory.[29] Some providers may find certain best practices useful, while others may prefer different best practices based on their particular networks, technologies, and call patterns.[30] Requiring intermediate providers to

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[25] 47 U.S.C. § 503(b)(2)(E).

[26] The Commission should strictly enforce the registration requirement, but should not interpret the act of registration itself as a grant of authorization to exercise its forfeiture authority without first issuing a citation. *See Third FNPRM* ¶ 98.

[27] *See Second R&O* ¶ 20.

[28] ATIS, *ATIS-0300106 – Intercarrier Call Completion/Call Termination Handbook*, § 6 (2015), https://www.atis.org/docstore/product.aspx?id=26780 ("Handbook").

[29] *See Second R&O* ¶¶ 19-20.

[30] *See* Verizon Comments, *Rural Call Completion*, WC Docket No. 13-39, at 6 (Aug. 28, 2017).

implement the best practices outlined in the *Third FNPRM* would reduce the flexibility providers need to manage their networks. In addition, converting voluntarily developed best practices into mandatory standards "could have a chilling effect on future industry cooperation to develop solutions to industry problems."[31]

The Handbook itself references and incorporates dozens of other industry standards, requirements, specifications, and industry material. Compiling a comprehensive list of true "best practices" referenced in the handbook would be a monumental task. Further, best practices are not rules—they are not phrased as rules and literally cannot be "complied" with. For example, Section 6 of the Handbook addresses best practices for management of intermediate providers.[32] Section 6.2, which addresses managing the number and identity of intermediate provider, states, in relevant part, "[s]ome carriers have found it useful to limit intermediate providers to include no more than one additional intermediate provider…[and] [s]ome carriers have also found it useful to insist on transparency with respect to who is handling their traffic."[33] That is not a rule nor a requirement; it is an observation. And it is not the only such example in the Handbook.[34]

The Commission should not deviate from these principles when developing the service quality standards for intermediate providers. Industry efforts can play an important role in addressing rural call delivery issues and they should continue to be collaborative, voluntary endeavors. ATIS "urge[d] the Commission not to transform this guidance [the Handbook] into

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[31] *Second R&O* ¶ 19.
[32] *See* Handbook § 6.
[33] Handbook § 6.2.
[34] *See*, *e.g.*, Handbook § 6.3 (describing activities that "may result in looping.").

regulatory mandates" for covered providers.[35] The Commission should not treat intermediate providers differently.

Instead, the Commission should allow intermediate providers the same flexibility as covered providers, namely the ability to choose appropriate methods to evaluate service quality based on their individual networks, business needs, and contractual relationships.[36] Notably, the RCC Act does not require the Commission to set specific benchmarks, best practices, metrics, or performance targets as service quality standards. As the Committee Report notes, "[s]teps taken by the Commission to promote service quality standards with its rulemaking could include . . . the more general adoption of duties to complete calls analogous to those that already apply to covered providers under prior Commission rules and orders."[37]

B. Because the Commission has not yet Determined the Service Quality Standards, Adopting a Rigid Enforcement Regime Would be Premature

Because the Commission has not established the parameters of the service quality standards, it would be premature to prescribe a specific enforcement regime. The Commission should establish the service quality standards first, then determine appropriate measures for enforcement. This will allow providers and the Commission to gain experience with the service quality standards and determine whether they are effective. Thereafter, the Commission may consider specific enforcement mechanisms.

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[35] ATIS Comments, *Rural Call Completion*, WC Docket No. 13-39, at 3 (Aug. 28, 2017) ("ATIS Comments").

[36] *See*, *e.g.*, *Second R&O* ¶ 20 (Encouraging covered providers to adhere to the Handbook best practices and finding "that this approach will encourage adherence to the best practices while giving covered providers flexibility to tailor their practices to their particular networks and business arrangements.")

[37] Committee Report at 6.

III. The Commission Should Model the Intermediate Provider Self-Monitoring Requirement After the Covered Provider Monitoring Requirements and Provide Additional Time for Compliance for Both

A. The Intermediate Provider Self-Monitoring Requirement Should be Modeled After the Covered Provider Monitoring Requirement

The Commission adopted a flexible approach to allow covered providers to determine the appropriate steps for prospective and retrospective monitoring, reasoning that "[c]overed providers have unique 'network-specific demands and customer expectations'"[38] and "'a one-size-fits-all implementation' could unduly limit their ability to meet those demands and expectations."[39] Because these concerns also hold true for intermediate providers, the Commission should model the self-monitoring requirement for intermediate providers after the monitoring requirement for covered providers. Additionally, many companies act both as a covered provider and intermediate provider. It is reasonable to expect those companies to deploy the same systems to fulfill the monitoring requirements. Adhering to different monitoring standards as a covered provider and intermediate provider would be burdensome, costly, and unnecessarily difficult to implement.

The Commission should give intermediate providers the flexibility to determine how to comply with the self-monitoring requirement. The Commission should also allow covered and intermediate providers flexibility to work collaboratively to ensure that their monitoring efforts are comprehensive but do not unnecessarily overlap. Thus, the self-monitoring requirement should require intermediate providers to: (a) prospectively monitor their own performance based on the service quality standards adopted by the Commission and any additional appropriate

[38] *Second R&O* ¶ 18 (*quoting* ATIS Comments at 3).
[39] *Id.* ¶ 18 (*quoting* CTIA Comments, *Rural Call Completion*, WC Docket No. 13-39, at 8 (Aug. 28, 2017)).

standards of the carrier's choice;[40] and (b) based on the results of such monitoring, retrospectively investigate call completion issues that arise.[41] Intermediate providers should also be prohibited from passing calls off to other intermediate providers that are not performing satisfactorily.

The way to ensure that combined monitoring requirements work harmoniously to best promote rural call completion while avoiding wasteful duplicative effort is to allow carriers who operate as both covered providers and intermediate providers to implement a common monitoring platform with respect to their use of downstream intermediate providers. Ultimately, covered providers and intermediate providers are monitoring the same standards—performance against the service quality of their downstream carriers, and the relative performance of downstream carriers to ensure those carriers are providing an appropriate level of service.

In addition, the Commission should expressly acknowledge that affiliate entities may engage in monitoring more efficiently if they combine resources or consolidate such efforts with other affiliates. For example, as covered providers, several of Verizon's wireless and wireline entities have monitoring obligations under the new rules. In addition, the wireline entities also operate as intermediate providers. Each of them may be required to separately register as an intermediate provider under the RCC Act. Verizon does not intend to implement multiple monitoring programs and platforms, but rather will seek to consolidate this activity. The Commission should expressly authorize and encourage this type of consolidation (which it has done in the data recording and retention context),[42] so long as the affiliated companies can

[40] *Second R&O* ¶ 17.
[41] *Id.* ¶ 23.
[42] The Commission allows affiliated covered and intermediate providers to record and retain data in the aggregate. *See* 47 C.F.R. §§ 64.2103(b), 64.2105(d), 64.2107.

adequately explain, if ever asked, how the combined program monitors each entity's performance and use of downstream carriers in accordance with the Commission's rules.[43]

B. Compliance With the Covered Provider Monitoring Requirement Should be Delayed Until the Intermediate Provider Self-Monitoring Requirement is Effective

Under the *Second R&O*, the monitoring requirement for covered providers will go into effect on October 17, 2018. While the Commission acknowledged that "covered providers will need some time to evaluate and renegotiate contracts with intermediate providers in order to comply with the monitoring requirement," it did not address other logistical concerns associated with this transition.[44] The October 17, 2018 effective date creates several problems, and the Commission should extend it.

First, as the Commission recognized, covered providers will need to renegotiate their contracts with intermediate providers in order to comply with the monitoring requirement.[45] But the universe of registered intermediate providers that are in compliance with the service quality standards will remain unknown until the Commission promulgates the service quality standards, which may be as late as February 26, 2019. Intermediate providers who cannot then meet the service quality standards may drop out of the market. Until then, covered providers could waste time and effort renegotiating contracts and monitoring these intermediate providers.

Second, the Commission should not expect covered providers to implement network changes to monitor intermediate providers by the October 2018 deadline, only to have different

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[43] It also should be stated that affiliated entities should not be required to monitor each other. For example, if Verizon Wireless, as a covered provider, uses its affiliate—Verizon Business—as an intermediate provider, and Verizon Business is in turn monitoring itself and its downstream intermediate providers, Verizon Wireless should not be required to go through the exercise of implementing a program to monitor the performance of Verizon Business.

[44] *Second R&O* ¶ 50.

[45] *See id*.

standards imposed a few months later when the Commission promulgates the service quality standards. In addition, key information like the list of rural CLECs is not yet known and may not be known until much closer to the compliance deadline, further complicating the process of implementing a monitoring program.

Third, the Commission proposed a safe harbor that could eliminate the covered provider monitoring requirement altogether.[46] But opting into this safe harbor will not be possible until (a) the relevant universe of intermediate providers have registered, and (b) the service quality standards are set. Covered providers should not spend the time, expense, and effort of building network systems to monitor intermediate providers when a safe harbor may later become available. Instead, covered providers and intermediate providers could spend that time and effort working collaboratively to resolve rural call completion issues.

Fourth, many entities operate as both covered providers and intermediate providers, and it is inefficient and wasteful for them to build monitoring systems in their role as a covered provider for an October 2018 deadline only to have to potentially modify those systems later once the service quality standards and final rules for intermediate provider self-monitoring become known.

IV. The Commission Should Reduce the Amount of Time Covered Providers are Required to Record and Retain Data

The Commission's decision to eliminate the reporting requirement is a big step in the right direction,[47] and—especially in light of the RCC Act—the Commission should eliminate the corresponding data recording and retention requirements.[48] The covered provider monitoring requirement, intermediate provider self-monitoring requirement, and the RCC Act, with its

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[46] *See Third FNPRM* ¶ 90.
[47] *Id.* ¶ 57.
[48] *See* 47 C.F.R. §§ 64.2103, 64.2105; *see also Third FNPRM* ¶ 109.

registration requirements and service quality standards, are "realistic, effective substitute[s]" for the recordkeeping requirement.[49] An appropriate time to remove the recording and retention requirements is when the new rules resulting from the RCC Act become effective.

Although the data required to be kept by the recording and retention requirements may be useful to carriers seeking to implement a monitoring program under the Commission's new rules, there is no reason to require carriers to keep that specific set of records, for that specific time frame, in a readily-retrievable format.[50] It is possible that in implementing monitoring programs, providers may end up utilizing some of the data elements required to be retained under the Commission's rules, but providers may just as easily rely upon different data sets. In allowing providers flexibility in monitoring, the Commission should also allow flexibility in data recording and retention.

The original data elements required to be kept were developed in light of the Commission's reporting requirements.[51] For example, the reporting requirements were based on answer rate, and so the records required to be retained included an indication of whether the call was answered.[52] The rules also required retention of call information such as busy or ring-no-answer, to report a completion rate to the Commission.[53] Now that the reporting rules have gone away, the requirement to keep the data needed to generate those reports can also be retired.

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[49] *See* NTCA/WTA Reply Comments, *Rural Call Completion*, WC Docket No. 13-39, at 2 (Sept. 25, 2017).
[50] *See* 47 C.F.R. § 64.2103.
[51] *Rural Call Completion*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 16,154, ¶¶ 109-10 (2013) ("*2013 RCC Order*").
[52] *Id*. ¶ 43.
[53] *Id*.

With respect to duration, the current rules require retention for the current period plus the prior six full months.[54] Again, this was, in part, calibrated to the reporting cycle, which contemplated reports every calendar quarter. The retention period would have permitted the Commission to investigate up to two full reports' worth of performance. Providers will certainly need to retain data as part of their monitoring programs for various reasons, including to compare current performance to past periods and for audit and compliance purposes. But it is not clear that providers would need to keep raw call records for six months, as compared to results of monitoring or other such information.

Finally, the Commission required the retention of call records in a readily retrievable form, such that it could be produced within two weeks of a request.[55] Retaining records in such a readily-accessible format (as compared to in back-up systems or archives) is more costly. And since the underlying reporting of these data is no longer required, it is not clear what the basis would be for requiring providers to retain data in readily retrievable form.

The volume of call records the current rules require providers to retain is significant, and the burdens of recording and retaining data far outweigh whatever benefit they might provide. Providers should not be required to continue to waste resources recording and retaining these data.

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[54] 47 C.F.R. § 64.2103(a).

[55] 47 CFR 64.2103(a); *Rural Call Completion*, Notice of Proposed Rulemaking, 28 FCC Rcd 1569, ¶ 22 n.47 (2013) (""Readily retrievable form" means the information on individual attempted calls shall be retained in such a manner that it can be separated out from other records and retrieved in electronic form within a period not to exceed two weeks.").

V. The Commission Should Clarify That RCC Act Requirements Only Apply to Rural Areas

A. The Commission Should Make Clear That "Intermediate Provider" and "Covered Voice Communications" Only Refers to Rural Areas

This proceeding has always been about *rural* call completion. The docket is captioned "In the Matter of Rural Call Completion," and the rules the Commission has adopted have focused on call completion in rural areas.

The Commission should interpret the scope of the RCC Act consistent with that approach. To do so, it should modify its proposed definitions for "intermediate provider" and "covered voice communications"[56] to include language to clarify that the RCC Act's requirements apply only to intermediate providers that handle covered voice communications that are destined for rural areas. Congress has delegated authority to the Commission to establish the intermediate provider registry and to develop the service quality standards as required by the RCC Act,[57] and the Commission should use its authority to interpret the statute as intended: to address call completion issues in rural areas.

Nothing in the RCC Act limits the Commission from exercising its authority as the expert agency and interpreting the Act this way. The RCC Act on its face does not include a limitation to rural areas. While the RCC Act directs the Commission "to ensure the integrity of the transmission of covered voice communications to all customers in the United States,"[58] the Commission can achieve that goal without subjecting non-rural traffic to its implementing rules. And that would be consistent with the RCC Act's text, spirit, and intent. After all, the name of the statute is the "Improving *Rural* Call Quality and Reliability Act of 2017."

[56] *See Third FNPRM* ¶¶ 103-106.
[57] *See* 47 U.S.C. §§ 262(c)(1)(A)-(B).
[58] 47 U.S.C. § 262 (c)(2)(A).

The RCC Act's text supports construing the statute to ensure application only to rural areas. Section 262(h) creates a safe harbor that exempts from the service quality standards covered providers that are already in the safe harbor for data reporting and retention.[59] The existing safe harbor only applies to rural areas, and Section 262(h) does not expand its application—Section 262(h) is only applicable to covered providers that opt in to the existing safe harbor. Section 262(h), read along with Rule 64.2107(a), supports limiting the RCC Act's application to rural areas.

The legislative intent also supports applying the RCC Act only to rural areas. The intent underpinning the RCC Act was to ensure that calls reach rural areas and improve call quality for these calls, not to impose obligations on intermediate providers nationwide.[60] Establishing new registration and monitoring requirements for both rural and non-rural areas would needlessly expand the implementation efforts.

The Commission's application of the RCC Act only to rural areas would also be consistent with the covered provider rules adopted in the *Second R&O*. For example, the Commission made clear that covered providers are required to "monitor the intermediate provider's performance in the completion of call attempts to *rural telephone companies*[.]"[61]

Finally, the Commission should not underestimate the substantial burden in application of the rules to all "covered voice communications." Without the clarifications requested below, the burden imposed by the new rules would vastly increase. For example, the current definition of

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[59] 47 U.S.C. § 262(h) (referencing 47 C.F.R. § 64.2107(a) ("I certify that any nondisclosure agreement with an intermediate provider permits ___ (entity) to reveal the identity of the intermediate provider and any additional intermediate provider to the Commission and to the *rural incumbent local exchange carrier(s)* whose incoming long-distance calls are affected by the intermediate provider's performance." (emphasis added)); *see also Second R&O* ¶ 66.

[60] *See* Committee Report, at 2-3.

[61] *Second R&O* ¶ 15.

"covered voice communication," which includes all calls placed to a resource in the North American Numbering Plan (NANP), includes not only all non-rural wireline locations in the United States, but all wireless, all VoIP, and almost two dozen non-U.S. locations that are part of NANP, such as areas in Canada and the Caribbean. The number of OCNs required to be monitored would more than triple, from the over 1,300 OCNs required for monitoring rural destinations, to more than 4,700 rural and non-rural OCNs. And to give a sense of additional traffic volume, Verizon terminated roughly 58 million minutes of use to rural ILECs through intermediate providers in April 2018, but during that same time period carried over 7 billion minutes of use on its long distance network destined to OCNs associated with phone numbers in NANP. There is no basis in fact or in the record for such a drastic and dramatic expansion of call completion monitoring requirements.

For these reasons, the Commission should clarify the intermediate provider requirements under the RCC Act by adding the following italicized text to the definitions:

Intermediate Provider[62]	The term "intermediate provider" means any entity that— (A) Enters into a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic that is generated from the placement of a call placed—

[62] The Commission seeks comment on two potential definitions of "intermediate provider." *See Third FNPRM* ¶¶ 104-105. In addition to adding language making clear that the definition applies to rural areas, the Commission should also add language making clear that delivery of a call to a carrier designated in the Local Exchange Routing Guide as the serving tandem for an end office is *not* use of an intermediate provider. The Commission stated in the *2013 RCC Order* that "if a provider merely operates a terminating tandem that delivers traffic to a rural ILEC, delivering traffic to the terminating tandem operated by that provider does not count as using an additional intermediate provider[.]" *2013 RCC Order* ¶ 91; *see also id.* n.241 ("'Many rural ILECs can only be reached through tandems owned by other carriers, such as a larger regional ILEC or a state access network.'") (internal citation omitted).

	(i) From an end user connection using a North American Numbering Plan resource *to a rural OCN*; or (ii) To an end user connection *terminating at a rural OCN* using such a numbering resource; and (B) Does not itself, either directly or in conjunction with an affiliate, serve as a covered provider in the context of originating or terminating a given call [63] *and* (C) *Is not a tandem provider to which the terminating carrier subtends or a carrier to which the terminating carrier requires an indirectly interconnecting carrier to deliver traffic*. OR The term Intermediate Provider means any entity that carries or processes traffic that traverses or will traverse the PSTN *to a rural OCN* at any point insofar as that entity neither originates nor terminates that traffic,[64] *and excludes a tandem provider to which the terminating carrier subtends or a carrier to which the terminating carrier requires an indirectly interconnecting carrier to deliver traffic*.
Covered Voice Communication	[A] voice communication (including any related signaling information) that is generated— (A) From the placement of a call from a connection using a North American Numbering Plan resource *to ta rural OCN* or a call placed to a connection *to a rural OCN* using such a numbering resource; and (B) Through any service provided by a covered provider.

CONCLUSION

The Commission should take the above actions to continue to encourage industry collaboration to address rural call completion issues.

[63] 47 C.F.R. § 64.2101.
[64] 47 C.F.R. § 64.1600(f).

Respectfully submitted,

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