

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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

**OPPOSITION OF  
USTELECOM – THE BROADBAND ASSOCIATION  
TO PETITION FOR RECONSIDERATION OF NTCA**

By this filing, USTelecom-The Broadband Association (USTelecom)<sup>1</sup> opposes the Petition for Reconsideration (Petition) submitted by NTCA – The Rural Broadband Association (NTCA) in the above-captioned proceeding.<sup>2</sup> In its Petition, NTCA requests that the Commission reevaluate and reconsider its decision to not require covered providers (“Covered Providers”) to file their documented rural call completion monitoring procedures with the Federal Communications Commission (Commission). For the reasons set forth herein, the Petition should be denied.

**I. The Petition Should be Denied Because it Fails to Justify any Compelling Need for Covered Providers to File Their Documented Monitoring Procedures with the Commission.**

NTCA’s Petition should be denied because it provides no compelling evidence to demonstrate that the filing of such procedures would be effective in mitigating any remaining rural call completion problems. NTCA has failed to demonstrate how the administrative exercise of filing procedures with the Commission would positively impact rural call completion issues.

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<sup>1</sup> USTelecom is the premier trade association representing service providers and suppliers for the telecom industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications service to both urban and rural markets.

<sup>2</sup> Second Report and Order and Third Further Notice of Proposed Rulemaking, *Rural Call Completion*, FCC 18-45 (April 17, 2018) (*2<sup>nd</sup> RCC Order*).

The Petition cites to no benefits to the Commission, to rural providers, or to rural consumers. Given Congress’s clear intent, and the removal of reporting obligations for Covered Providers, there is simply no longer any need for Covered Providers to publicly file this information.

In passing the Improving Rural Call Quality and Reliability Act of 2017 (the “RCC Act”),<sup>3</sup> Congress directed the Commission to establish registration requirements, monitoring obligations and service quality standards for Intermediate Providers. After reviewing the Commission’s previous rural call completion actions, Congress wisely rejected a rural call completion framework based on data retention and filing obligations.

Despite Congress’ adoption of this framework, the Petition cites no compelling reason for the Commission to reconsider this portion of its rules. Rather, NTCA points to vague and undefined justifications for imposing an unnecessary obligation that would require Covered Providers to file their monitoring procedures with the Commission. For example, NTCA argues that absent the reporting requirements, it is “unclear what incentives covered providers will have to complete calls.”<sup>4</sup>

Contrary to NTCA’s assertions, however, Covered Providers have every incentive to complete calls – a fact acknowledged by multiple parties in this proceeding, including the Commission.<sup>5</sup> For example, the Commission stated in the 2<sup>nd</sup> RCC Order that retention of the “safe harbor provisions will maintain the incentive for covered providers’ to engage in call routing to rural areas that minimizes the use of multiple intermediate providers, a practice that contributes to rural call completion issues.”<sup>6</sup>

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<sup>3</sup> Improving Rural Call Quality and Reliability Act of 2017, Pub. L. No. 115-129 (2018) (the “RCC Act”).

<sup>4</sup> Petition for Reconsideration of NTCA – the Rural Broadband Association, WC Docket No. 13-39, p. 7 (filed August 2, 2018) (*Petition*).

<sup>5</sup> *Id.*, p. 7.

<sup>6</sup> 2<sup>nd</sup> RCC Order, ¶ 66.

NTCA similarly argues that absent a filing obligation, “there exists no way for any party, including the Commission, to know what any covered provider’s monitoring procedures are, whether they have been followed, or whether they are effective.”<sup>7</sup> Despite this assertion, it remains unclear what – if anything – access to monitoring procedures by various parties would achieve. Aside from merely confirming that such procedures are written down, the Petition offers no justification as to why such procedures should be filed with the Commission.

Indeed, the Commission acknowledged this very point in its 2<sup>nd</sup> RCC Order when it initially rejected NTCA’s proposal to submit these procedures. There, the Commission noted that given “the variance among covered providers’ networks and operations and the flexibility our monitoring rule provides, we see little value to covered providers ‘know[ing] what individual carriers’ procedures are and hav[ing] benchmarks against which subsequent performance can be measured.’”<sup>8</sup> The Petition offers no counter-argument to the Commission’s initial observation, other than an “incremental improvement” over the current framework.<sup>9</sup>

The Petition also incorrectly asserts that absent a filing requirement, there exists no way for any party, “including the Commission,” to know the substance of a Covered Provider’s monitoring procedures.<sup>10</sup> Contrary to NTCA’s claims,<sup>11</sup> if the Commission needs access to these procedures it can obtain them. Specifically, in its 2<sup>nd</sup> RCC Order, the Commission emphasized that it is “able to obtain information on covered providers’ monitoring practices in an investigation, so we do not need to impose a public disclosure requirement to effectively

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<sup>7</sup> *Petition*, p. 7.

<sup>8</sup> 2<sup>nd</sup> *RCC Order*, ¶ 46.

<sup>9</sup> *Petition*, p. 7.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

carry out our responsibilities.”<sup>12</sup> Given the availability of these procedures to the Commission, there is nothing to be gained from adopting the Petition’s proposed filing requirement.

## **II. The Petition Should be Denied Because the Filing of Monitoring Procedures Raises Competitive Concerns.**

As the Commission has previously concluded, a filing requirement would also unnecessarily expose Covered Providers’ competitively sensitive information. Given the absence of any discernible benefit to resolving rural call completion issues, and the Commission’s acknowledgement of the competitive burdens and harms that such an obligation would create, the Petition should be denied on these grounds alone.

The Commission was correct in noting that covered providers’ monitoring procedures include sensitive competitive information, including “important technical, personnel, and commercial details about the covered provider’s network and business operations.”<sup>13</sup> The sensitivity of such information is evident in the 2<sup>nd</sup> RCC Order itself. For example, the Commission notes that such procedures for prospective monitoring may include “regular observation of intermediate provider performance and call routing decision-making,” procedures for “periodic evaluation” regarding “changes to improve rural call completion performance,” and, finally, “actions to promote improved call completion performance where warranted.”<sup>14</sup>

Information relating to call routing decision-making, Intermediate Provider evaluation procedures, and performance improvement measures are competitively sensitive, and should not be subjected to a public filing obligation. Moreover, such procedures may very well provide insights to a Covered Provider’s internal procedures well beyond those related to rural call

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<sup>12</sup> 2<sup>nd</sup> RCC Order, ¶ 46.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*, ¶ 17.

completion issues.

These competitive concerns are exacerbated by the Commission’s conclusion in its 2<sup>nd</sup> RCC Order that “regardless of how a covered provider engages in monitoring, its approach must involve comparing rural and non-rural areas to ensure that Americans living in rural areas are receiving adequate service.”<sup>15</sup> Given that a Covered Provider’s monitoring procedures entail quality of service metrics outside of rural areas only heightens the sensitivity of submitting this data to the Commission.

Moreover, the publication of monitoring procedures is particularly problematic given the Commission’s discussion of retrospective monitoring and remedying of any deficiencies from Intermediate Providers.<sup>16</sup> Such procedures will be integral to ensuring that rural call completion issues are addressed, and their public availability would hinder – not improve – the ability of Covered Providers to effectively remedy such issues.

Specifically, the availability of individual procedures would effectively represent a ‘roadmap’ for how Covered Providers intend to monitor and remedy rural call completion issues. By making these procedures public, Intermediate Providers could effectively ‘game’ the system by enhancing their ability to avoid deficient practices that may draw the attention of a particular Covered Provider. As a result, the ability of Covered Providers to “identify persistent outliers and sources of repeated anomalies and problems,”<sup>17</sup> could be severely hindered.

### **III. Conclusion.**

USTelecom supports the Commission’s efforts to implement an effective and efficient framework to address rural call completion issues. The Petition does nothing to further this

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<sup>15</sup> 2<sup>nd</sup> RCC Order, ¶ 18.

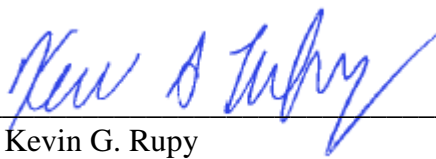
<sup>16</sup> *Id.*, ¶¶ 23 – 29.

<sup>17</sup> *Id.*, ¶ 29.

important Commission goal, and the proposed submission of monitoring procedures by Covered Providers raises significant competitive concerns. For the reasons discussed herein, the Commission should therefore deny the Petition.

Respectfully submitted,

USTelecom – the Broadband Association

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