

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

² *Petition for Reconsideration of NTCA – The Rural Broadband Association*, Public Notice, WC Docket No. 13-39 (filed June 11, 2018) (“Petition”).

filings are made in accordance with a protective order to preserve confidentiality of information contained within. By contrast, given the real and measurable harms associated with businesses, consumers and public safety entities not receiving calls over the last several years (and needing then to complain about it), there should be little weight afforded a claim of the burden associated with the submission of procedures already developed and documented.

Likely for these very reasons, rather than devote much effort to arguing the perceived burden, opponents of NTCA's Petition tend to focus more upon claims that the benefits of such a filing do not outweigh this rather minimal burden. For example, CTIA opposed NTCA's Petition based on the Commission's statement in the 2018 Rural Call Completion Second Report and Order ("2018 RCC Order")³ that requiring providers to file their monitoring procedures with the Commission would yield "an uncertain benefit."⁴ US Telecom likewise asserts that there is no "compelling evidence" to demonstrate that filing the procedures would be effective in mitigating rural call completion.⁵ To the contrary, the benefit is certain and clear; even as the Commission may have found that "data quality issues"⁶ limited the utility of the reports required previously, the incentives those reports created had an unmistakable effect on call completion itself.⁷ Furthermore, NTCA is not requesting that the same data be filed as was previously required by

³ *Rural Call Completion*, Second Report and Order, WC Docket No. 13-39, FCC 18-45 (rel. April 17, 2018).

⁴ *Opposition of CTIA to Petition for Reconsideration of NTCA – The Rural Broadband Association*, WC Docket No. 13-39 (filed Aug. 2, 2018) at p. 5.

⁵ *Opposition of USTelecom*, WC Docket No. 13-39 (filed Aug. 2, 2018) at p. 1.

⁶ 2018 RCC Order at ¶ 59.

⁷ *See, Joint Comments of NTCA – The Rural Broadband Association and WTA – Advocates for Rural Broadband*, WC Docket No. 13-39 (filed Aug. 28, 2017).

Commission rules but rather, solely the monitoring procedures that providers must already create pursuant to the 2018 RCC Order.⁸ The “benefit” to be gained in doing so first and foremost is to provide covered providers with at least some better incentives both to develop effective procedures and then to hold fast to those procedures in the knowledge that they are on file at the Commission. Sprint’s assertion that there is no reason to suspect that covered carriers will so “flagrantly disregard” the Commission’s rules as to necessitate an industry-wide mandatory filing requirement is contradicted by the years’ long record in this proceeding.⁹ Repeated warnings and reminders of carriers’ obligations to complete calls to rural areas most certainly did not result in calls completing. It was not until carriers faced the prospect of having to file records with the Commission under threat of enforcement action that the situation in fact started to improve.¹⁰ Without Commission reporting and oversight, covered providers will have significantly reduced incentives to adopt and implement effective call completion monitoring procedures, and the problems will persist.

Requiring covered providers to file their monitoring procedures with the Commission would also prevent the Commission from having to engage in potentially time consuming recordkeeping requests in the event of future investigations to determine (1) what monitoring procedures the provider had in place at the time of the alleged violation of the Commission’s rules; and (2) were those procedures reasonable under the circumstances and likely to be reasonably

⁸ See Petition at p. 1. *Rural Call Completion*, Second Report and Order, WC Docket No. 13-39, FCC 18-45 (rel. April 17, 2018)).

⁹ *Opposition of Sprint to Petition for Reconsideration*, WC Docket No. 13-39 (filed Aug. 2, 2018) at, p. 4.

¹⁰ See, *Joint Comments of NTCA – The Rural Broadband Association and WTA – Advocates for Rural Broadband*, WC Docket No. 13-39 (filed Aug, 28, 2017).

effective in monitoring intermediate provider performance? Providers themselves will also benefit from filing these procedures as it would allow them to demonstrate whether they qualify for the safe harbor established by the 2018 RCC Order.¹¹ Safe harbors provide valuable protection from liability but cannot be applied after the alleged violation has occurred.¹²

Finally, those who oppose NTCA's Petition also argue that requiring covered providers to file their monitoring procedures with the Commission would expose confidential carrier information.¹³ Assuming *arguendo* that the documented monitoring procedures would reveal confidential or proprietary information, as WTA noted in its Comments in response to NTCA's Petition, the Commission has repeatedly required carriers to file confidential and proprietary information in a number of areas.¹⁴ As with the other proceedings in which the Commission has required carriers to file confidential and proprietary information, the purpose for doing so was not to permit other carriers or consumers to assess carriers' operations – the Commission in fact does not make the information available to the public – but rather, to allow the Commission to more readily determine whether carriers have complied with the Commission's rules if and when

¹¹ 2018 RCC Order at ¶ 20 (“[W]e will treat covered provider adherence to all the ATIS RCC Handbook best practices as a safe harbor that establishes compliance with the monitoring rule.”).

¹² See, e.g., *Oppenheimer v. Allvoices*, No. C 14-00499 LB (N.D. Cal. June 10, 2014) (Allvoices deemed ineligible for safe harbor because it did not fulfill one of the safe harbor requirements until after the alleged violation took place).

¹³ See *Opposition of The Voice on the Net Coalition* (“VON”), WC Docket No. 13-39 (filed Aug. 2, 2018) at p.3.

¹⁴ See *Comments of WTA – Advocates for Rural Broadband* (“WTA”), WC Docket No. 13-39 (filed Aug. 2, 2018) at p. 4. See also, *Special Access for Price Cap Local Exchange Carriers*, Report and Order, WC Docket No. 05-25 (rel. Sep. 18, 2013) at ¶ 57 (requiring carriers to file data with the Commission that contains “information on facilities, billing, revenue, and expenditure that is considered confidential by businesses”).

questions arise. NTCA has requested that covered providers be required to file their monitoring procedures with the Commission for that very same reason and observes that protective order processes are relatively standard and effective before the Commission.

CONCLUSION

NTCA is supportive of the Commission's efforts to eliminate "regulatory underbrush,"¹⁵ but rural call completion has a long and storied history. Hundreds of rural telecommunications providers have fought for years to ensure that originating providers fulfill their obligation to route calls to hundreds of thousands of rural consumers and businesses. There is little basis for the prediction that these same providers will now meet their call completion monitoring obligations, which some providers assert are unreasonable in the first instance,¹⁶ absent any sense that the Commission is itself monitoring in some way their efforts. Based on the foregoing reasons, the Commission should attempt to sustain the progress it has made in rural call competition, and to ensure continued incentives for best practices in call completion, by granting NTCA's

¹⁵ See, *Comments of NCTA – The Internet and Television Association*, WC Docket No. 13-39 (filed Aug. 2, 2018) at p.4.

¹⁶ See, e.g., *Comments, Opposition and Reply of ITTA – The Voice of America's Broadband Providers* (filed Aug. 2, 2018); and *Reply Comments of Verizon* (filed June 19, 2018).

Petition and requiring covered providers to file their already-documented monitoring procedures with the Commission.

Respectfully submitted,

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Certificate of Service

I, Jill Canfield, hereby certify that on this 13th day of August 2018, I have caused a copy of the foregoing Reply to Oppositions to Petitions for Reconsideration to be served by electronic mail upon:

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