

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Rural Call Completion

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WC Docket No. 13-39

COMMENTS OF HD TANDEM

HD Tandem hereby submits these comments in response to the Second Further Notice of Proposed Rulemaking in the above-captioned rulemaking proceeding.¹ For the reasons set forth below, HD Tandem respectfully urges the Federal Communications Commission ("FCC" or "Commission") to: (1) prohibit the use of more than two intermediate providers in rural call completion ("RCC") paths; (2) establish a waiver process for carriers that have a legitimate need to use more than two intermediate carriers in RCC paths and can ensure compliance with the FCC's RCC call completion requirements; (3) require carriers to follow industry best practices; and (4) require carriers to purchase additional trunking capacity when the average utilization of any trunk group used to complete rural calls exceeds 80%. These measures would lead to a dramatic reduction in rural call completion failures.

I. Introduction

HD Tandem is a nationwide intermediate provider with an emphasis on direct connectivity between originating carriers and terminating carriers. These services are provided on a commercial agreement basis utilizing next generation technologies and CODECs. To date, contracted carrier partners of HD Tandem receive approximately two-thirds of their terminating traffic through HD Tandem. HD Tandem has no end users and files no tariffs. As an intermediate provider, HD Tandem receives payment from the calling party carrier and sends the originated traffic to the receiving party at no cost to the terminating carrier.

¹ *Rural Call Completion, Second Further Notice of Proposed Rulemaking*, WC Docket No. 13-39, FCC 17-92 (rel. July 14, 2017) ("*Notice*").

II. The Commission Should Prohibit the Use of More Than Two Intermediate Providers in RCC Paths

HD Tandem agrees with the Commission that multiple hops in a call path create issues with call quality, as well as with enforcement of the FCC's existing rules. The Commission adopted the Managing Intermediate Provider Safe Harbor ("Safe Harbor") to encourage providers to reduce the number of intermediate providers in a call path before the call reaches the terminating provider or terminating tandem to no more than two.² However, the Safe Harbor has not created sufficient incentives to reduce hops in rural call completion paths, because the practice of using more than two intermediate carriers remains widespread. Therefore, HD Tandem agrees with NTCA and other parties that the FCC should require all covered providers to limit the number of intermediate providers in a call path before the call reaches the terminating provider or terminating tandem to no more than two.³

The effectiveness of a limit would go beyond the obvious advantage of reducing the opportunities for call failure: to comply with a two-carrier limit, originating carriers would have to know the identity of the one or two intermediate carriers in the call path, and prohibit them from introducing additional intermediate carriers into the call path. This alone would make it far easier to determine why certain calls fail and to enforce the FCC's RCC rules. Without a mandatory limit, carriers are free to hand calls off to an unlimited series of other intermediate carriers, including various unknown carriers, without explicitly violating any Commission rules. The possibility of unlimited and unknown intermediate carriers in the call path makes it nearly impossible, as a practical matter, to enforce the Commission's RCC rules.

To facilitate enforcement of the prohibition, the Commission should require carriers to maintain records of the intermediate carriers they use for RCC paths, and the relevant contractual or tariff provisions that prevent such intermediate carriers from handing the relevant calls off to unauthorized/unidentified carriers. The Commission could require production of these records as part of any investigation of RCC failures. The failure by any carrier to produce the required records, or the transfer by any carrier of calls to an unauthorized/unidentified carrier, would be a violation of the Commission's RCC rules.

² 47 CFR § 64.2107; *Rural Call Completion, Report and Order and Further Notice of Proposed Rulemaking*, 28 FCC Rcd 16154, 16191-92, ¶ 86 (2013) ("2013 RCC Order").

³ See *Notice*, ¶ 19; *id.*, n.64; NTCA July 6, 2017 *Ex Parte* at 3.

III. The Commission Should Establish an Expedited Waiver Process for Carriers with a Legitimate Need to Use More than Two Intermediate Carriers in RCC Paths

In addition to prohibiting the use of more than two intermediate carriers in RCC paths, the Commission should establish an expedited waiver process for carriers that: (1) have a legitimate need to use more than two intermediate carriers in RCC paths; and (2) can ensure compliance with the FCC's RCC call completion requirements. Waivers should be available only to carriers who identify, and take responsibility for, each of the intermediate carriers proposed in the waiver.

The waiver should become effective immediately upon the filing of a confidential waiver request with the FCC that: (1) specifically identifies the intermediate carriers to be covered by the waiver; (2) confirms that the intermediate carriers identified in the waiver request are prohibited by contract or tariff from handing calls off to any carriers that are not identified in the waiver request; and (3) contains a certification by each of the identified intermediate carriers that the information in the waiver request is true, and that the carriers will notify the Commission if they fail, for any reason, to meet the requirements of the FCC's RCC rules. The waiver would continue until the Commission notifies the intermediate carriers covered by the waiver request that the waiver will no longer be effective beginning fifteen (15) business days following the date of the waiver revocation notice.

The waiver process would provide a fast and efficient means for carriers with a legitimate need to use more than two intermediate carriers to obtain the authority to do so without undermining the Commission's RCC rules. The self-effectuating waiver process would minimize burdens on the FCC, requiring specific action by the agency only when necessary to end call arrangements that fail to meet the applicable waiver conditions. The proposed waiver process would also minimize burdens on carriers that need to request a waiver by requiring the filing only of the minimum information necessary to ensure that the Commission's RCC goals will continue to be met.

IV. The Commission Should Require Carriers to Follow Industry Best Practices

HD Tandem believes that certain fraudulent call routing practices also contribute to the rural call completion problem by resulting in degraded call quality and inaccurate call detail information. Specifically, fraudulently using subscriber identity module (SIM) boxes and other wireline-based fraud schemes such as a hacked PBX box are contributing factors that negatively impact call completion rates.⁴ HD Tandem believes that such practices should be prohibited as an industry best

⁴ See, e.g., ATIS, Intercarrier Call Completion/Call Termination Handbook § 5.4.3 (2015), <https://www.atis.org/docstore/product.aspx?id=26870>.

practice, and that carriers should contractually bind intermediate providers to follow such explicitly identified industry best practices.

V. The Commission Should Prohibit the Use of Trunks with a Utilization Level of 80% or More for RCC Paths

HD Tandem believes that busy or exhausted trunk capacity is another material contributing cause of rural call completion problems. Best practices and well-established industry standards call for the augmentation of trunks when they reach a utilization of eighty percent (80%) of the engineered capacity of the trunks. When trunk utilization exceeds 80%, the risk of dropped calls and poor quality calls dramatically increases. Unfortunately, utilization rates of 80% or more remain common for RCC paths.

Many tariffs require augmentation of trunks when they reach a utilization of 80% or more. However, certain tariffs allow for volume discounts only after trunks reach a utilization of 80% or more, which creates incentives for carriers to engage in practices that lead to more dropped calls and poor call quality. For example, the tariff of INS provides in relevant part as follows:

The volume discount plan establishes a switched transport rate of \$0.00649 per access minute per month for Customers with a minimum monthly usage volume of at least 25 million interstate interlata terminating minutes-of-use and 80% or greater utilization of each trunk group.⁵

The only reason for exceeding a utilization level of 80% for trunk groups is to secure cost savings at the expense of call quality, which is antithetical to goals of the FCC's RCC rules. Accordingly, HD Tandem respectfully urges the Commission to require carriers to augment trunks used for RCC paths when they reach a monthly utilization rate of 80% or more. The Commission should also require that any carrier with a tariff that, explicitly or implicitly, creates incentives for utilization levels that exceed 80% refile their tariffs to remove those incentives.

VI. Summary

For the reasons set forth in these comments, HD Tandem respectfully urges the FCC to: (1) prohibit the use of more than two intermediate providers in RCC paths; (2) establish a waiver process for carriers that have a legitimate need to use more than two intermediate carriers in RCC paths and can ensure compliance with the FCC's RCC call completion requirements; (3) require carriers to

⁵ Iowa Network Access Division Tariff F.C.C. No. 1, Special Permission No. 17-06, § 6.6.3.

follow industry best practices; and (4) require carriers to purchase additional trunking capacity when the average utilization of any trunk group used to complete rural calls exceeds 80%.

Respectfully submitted,

/s/ David Erickson

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President

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