

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

<sup>1</sup> *Rural Call Completion*, WC Docket No. 13-39, Second Further Notice of Proposed Rulemaking, FCC 17-92 (rel. July 14, 2017) (“*FNPRM*”).

**I. THE RECORD OVERWHELMINGLY SUPPORTS ELIMINATION OF EXISTING RECORDING, REPORTING, AND RETENTION REQUIREMENTS.**

Commenters in this proceeding overwhelmingly agree that the Commission should do away with the present recording, reporting, and retention requirements. A wide range of commenters support the Commission's conclusion that "given the data quality issues associated with the [existing] data collection, [it] cannot rely on the data to accurately identify rural areas with potential rural call completion problems," and the data quality issues thus hinder its ability to initiate enforcement actions.<sup>2</sup> For example, Comcast notes that "these deficiencies demonstrate that the Commission cannot consistently rely on the data to accurately identify areas with potential rural call completion problems, much less use the data to assess call completion rates across the industry or compare the call completion rates of different providers."<sup>3</sup> Commenters also emphasize the burdens that the requirements impose on carriers with no apparent corresponding benefit. CTIA notes that the existing rules "impose substantial compliance burdens without providing relevant information to assist with the Commission's analysis of potential rural call completion problems,"<sup>4</sup> and USTelecom states that the "costs of

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<sup>2</sup> *FNPRM* at ¶ 25.

<sup>3</sup> Comments of Comcast Corporation, WC Docket No. 13-39, at 3 (Aug. 28, 2017) (internal quotations omitted) (Comcast Comments). *See also* Comments of the California Public Utilities Commission, WC Docket No. 13-39, at 6 (Aug. 28, 2017) (CPUC Comments) (noting "the existing reporting rules appear to have been unable to provide conclusive data"); Comments of ITTA – The Voice of America's Broadband Providers, WC Docket No. 13-39, at 2-3 (Aug. 28, 2017) (ITTA Comments) (stating that "the requirements have been fraught with data quality issues, rendering the data unreliable to accurately identify problems or as a foundation upon which to initiate enforcement action"); Comments of Verizon, WC Docket No. 13-39, at 3-4 (Aug. 28, 2017) (Verizon Comments) ("noting that data . . . have not proven useful or effective"); Comments of NCTA – The Internet and Television Association, WC Docket No. 13-39, at 3 (Aug. 28, 2017) (NCTA Comments) ("As the Bureau and the Commission now recognize, this system was not able to adequately quantify or resolve rural call completion issues and therefore it should be eliminated.").

<sup>4</sup> Comments of CTIA, WC Docket No. 13-39, at 5 (Aug. 28, 2017) (CTIA Comments).

requiring carriers to prepare and file the reports outweighs the benefit that they provide.”<sup>5</sup>

Windstream agrees that the existing regime is burdensome while not providing the Commission with actionable information because of data quality issues, including differences in covered providers’ categorization of call attempts and in providers’ abilities to distinguish autodialer and wholesale traffic in their reports. Thus, the Commission should eliminate the current requirements.

## **II. THE COMMISSION SHOULD NOT IMPOSE NEW MONITORING OR REPORTING REQUIREMENTS AT THIS TIME.**

Windstream also agrees with numerous commenters in the proceeding that the Commission should not replace the existing, flawed regime with new monitoring or reporting requirements. Like many commenters, Windstream has observed that rural call completion complaints have decreased substantially over the past two years. Windstream agrees with other commenters that this is largely because of the ongoing transition of terminating access charges to bill-and-keep, which eliminates incentives for carriers to avoid high rural terminating access rates.<sup>6</sup> As terminating rates for rural incumbent local exchange carriers continue to transition to bill-and-keep over the next three years, Windstream expects that any disparities between call completion rates in rural and nonrural areas will shrink further. Thus, the Commission should

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<sup>5</sup> Comments of the USTelecom Association, WC Docket No. 13-39, at 7 (Aug. 28, 2017) (USTelecom Comments). *See also* Comments of AT&T, WC Docket No. 13-39, at 3 (Aug. 28, 2017) (AT&T Comments) (“It is time to eliminate these unnecessary and unjustifiable burdens on providers.”); ITTA Comments at 3 (noting “the burdens of the requirements inherently outweigh the benefits”). *See also* Comments of the Voice on the Net Coalition, WC Docket No. 13-39, at 1 (Aug. 28, 2017) (VON Comments); Comments of Sprint Corporation, WC Docket No. 13-39, at 3-4 (Aug. 28, 2017) (Sprint Comments).

<sup>6</sup> *See, e.g.*, ITTA Comments at 2; USTelecom Comments at 1; AT&T Comments at 6. *See also* Comments of CenturyLink, WC Docket No. 13-39, at 2 (Aug. 28, 2017) (CenturyLink Comments).

allow this transition to proceed and wait until it is complete to reevaluate whether any regulations are necessary to ensure call completion in rural areas.

Moreover, as ITTA notes,<sup>7</sup> Congress is close to enacting legislation to address rural call completion by imposing requirements on intermediate providers, who appear to be at the root of most rural call completion issues.<sup>8</sup> In January, the House of Representatives passed H.R. 460, the Improving Rural Call Quality and Reliability Act of 2017<sup>9</sup> (“the RCC Act”), and last month the Senate passed a companion bill, S.96.<sup>10</sup> With the enactment of the RCC Act likely imminent, the Commission soon will be called upon to develop rules implementing the Act, including service quality standards for intermediate providers. It would make sense for the Commission to focus its efforts there and then examine whether the Act achieves its goals, rather than imposing a parallel, likely unnecessary regime on covered providers.

### **III. ANY NEW RULES SHOULD AFFORD FLEXIBILITY TO PROVIDERS AND INCLUDE A SAFE HARBOR FOR PROVIDERS ACTING IN GOOD FAITH.**

If the Commission nevertheless deems it necessary to adopt the proposed 47 C.F.R. sec. 64.2103 or some variation thereof, Windstream agrees with a wide range of commenters that the Commission should give covered providers flexibility to develop their own tailored means of monitoring and addressing the performance of intermediate providers.<sup>11</sup> In particular,

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<sup>7</sup> See ITTA Comments at 4-6.

<sup>8</sup> See *FNPRM* at ¶ 2 (noting that a “key factor” in call completion issues is that a single call may be handled by multiple providers in the call path).

<sup>9</sup> Improving Rural Call Quality and Reliability Act of 2017, H.R. 460, 115th Cong. (2017)

<sup>10</sup> Improving Rural Call Quality and Reliability Act of 2017, S. 96, 115th Cong. (2017).

<sup>11</sup> See, e.g., Verizon Comments at 6 (noting that “there are many ways covered providers can accomplish this”); CTIA Comments at 8 (urging the Commission “to ensure that any new rules do not subject carriers to a one size-fits-all implementation”); USTelecom Comments at 5 (stating that “the Commission’s rules should allow carriers the flexibility to incorporate voluntary testing into those efforts if they choose”); CenturyLink Comments at 5 (“A more flexible approach carries the advantage of allowing the industry and the Commission to test

Windstream supports the comments of numerous providers that the Commission should not codify any existing best practices and doing so could deter carriers from future efforts to collaborate in the development of best practices. For example, AT&T notes that “[p]roviders need flexibility to adopt some or all of the ATIS Best Practices as appropriate for their businesses and individual network functions, and future technological changes; any other approach could have a chilling effect on future industry cooperation to develop solutions to industry problems.”<sup>12</sup> Moreover, as NCTA mentions, covered providers’ individual approaches to monitoring may be affected by their existing contractual arrangements.<sup>13</sup>

Windstream also agrees with numerous commenters that if the Commission adopts new rules, it should clarify that it will not impose liability on covered providers that make a good-faith effort to comply with the rules.<sup>14</sup> In addition, while the Commission should provide flexibility in how to comply with the new rules, it may wish to offer guidance on measures a covered provider may take to satisfy the good-faith-effort standard.<sup>15</sup>

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multiple approaches to the issue and thereby adopt the most effective measures to combat issues as they arise.”). *See also* VON Comments at 2; Sprint Comments at 7-8.

<sup>12</sup> AT&T Comments at 7. *See also* CTIA Comments at 8 (“The Commission thus should decline to impose any industry best practices as the only method to comply with any new RCC rule.”); Comments of the Alliance for Telecommunications Industry Solutions, WC Docket No. 13-39, at 3 (Aug. 28, 2017) (ATIS Comments) (“Mandating Best Practices in addition to eliminating the flexibility necessary for service providers to meet network-specific demands and customer expectations, would have a negative effect on future industry cooperation to develop solutions to industry problems.”);

<sup>13</sup> *See* NCTA Comments at 5.

<sup>14</sup> *See FNPRM* at ¶ 15; Verizon Comments at 5; USTelecom Comments at 5; AT&T Comments at 8-9; NCTA Comments at 6; Comcast Comments at 8.

<sup>15</sup> *See* Comcast Comments at 8.

Finally, to the extent the Commission decides to implement its proposed rule or some variation, it should not require carriers to measure “call attempts to rural incumbent LECs,”<sup>16</sup> but rather should use the terminology “call attempts to rural OCNs.” As NCTA notes in its comments, “there is no reliable method for covered providers to identify calls to rural incumbent LECs, other than by using the list of rural operating company numbers (OCNs) currently generated by NECA.”<sup>17</sup>

### **CONCLUSION**

For the reasons discussed above, the Commission should remove the existing rural call completion recording, reporting and retention requirements, and should not at this time impose any new requirements. If the Commission deems it necessary to adopt a requirement for covered providers to monitor and take action against intermediate providers, it should provide flexibility for covered providers to implement tailored approaches, and should make clear that covered providers will be shielded from liability if they make good-faith efforts to comply with the new regulation.

Respectfully submitted,

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<sup>16</sup> See Proposed 47 C.F.R. § 64.2103.

<sup>17</sup> NCTA Comments at 6. See also CPUC Comments at 4; CenturyLink Comments at 6.