

compliance costs will far exceed any likely benefit, in violation of the PRA's stated goals of minimizing the paperwork burden on businesses⁴ and ensuring the "greatest possible public benefit" from the collected information.⁵ Moreover, the reports will be ineffective at achieving the stated goals and thus are of little or no practical utility to the federal government.⁶

1. The New Rules Fail the Cost/Benefit Analysis and Thus Violate the PRA

The industry cost of complying with the new rules, if approved, will be substantial. Sprint had estimated that the cost of tracking, retaining and reporting data associated with billions of call attempts over its network could be approximately \$6.8 million per year.⁷ AT&T estimated its compliance costs at \$3 to \$5 million;⁸ CenturyLink estimated it would incur one-time costs of \$7.5 to \$10 million, as well as \$2.8 to \$4.3 million in recurring annual costs;⁹ Frontier has stated that AT&T's and CenturyLink's cost estimates "provide reasonable proxies of compliance costs if proportionately scaled to the size of each carrier;"¹⁰ and Midcontinent Communications estimated that partial compliance with the new rules would cost "at least \$150,000 in equipment cost and the addition of at least one additional full-time employee."¹¹

⁴ 44 C.F.R. Section 3501(1).

⁵ 44 C.F.R. Section 3501(2).

⁶ 44 C.F.R. Section 3508.

⁷ See Sprint's comments in FCC WC Docket No. 13-39, filed May 13, 2013, p. 18. This estimate was based on the cost of deploying and maintaining a platform capable of collecting the requisite data and generating the requisite reports, as well as the cost of additional employees.

⁸ See *ex parte* letter from Brian Benison, AT&T, to Marlene Dortch, FCC, WC Docket No. 13-39, dated October 23, 2013, footnote 1. This estimate appears to be AT&T's cost of complying with the originally proposed rules under the safe harbor provision.

⁹ See *ex parte* letter from John E. Benedict, CenturyLink, to Marlene Dortch, FCC, WC Docket No. 13-39, dated October 23, 2013, p. 1. Again, these estimates were the costs of complying with the originally proposed rules.

¹⁰ Frontier further stated that "[t]he initial set-up costs of compliance with the Commission's proposed rules would likely be consistent regardless of the carrier's scale." See *ex parte* letter from Michael Saperstein, Frontier, to Marlene Dortch, FCC, WC Docket No. 13-39, dated October 23, 2013.

¹¹ See *Petition for Waiver of the RCC Order* filed by Midcontinent Communications on January 23, 2014, p. ii.

Thus, the recurring compliance costs of only a few of the hundreds of covered providers could exceed \$15 million per year; total industry costs could easily amount to hundreds of millions of dollars per year. And because the FCC refused to adopt a sunset date for its proposed data collection, retention and reporting rules, covered providers will incur the annual compliance costs indefinitely.

Covered providers – the entities with the best access to the most realistic cost information – have submitted their best estimates of the costs they would incur to comply with the FCC’s rural call completion data collection, retention and reporting rules. Yet the FCC has estimated annual industry compliance costs at only \$793,750.¹² The FCC’s estimate is unrealistically low and the OMB should give it little weight.

The compliance costs estimated by Sprint and other carriers are real cash expenses – funds that covered providers could otherwise use to deploy broadband service, improve network quality, or offer richer service plans. In contrast, the likely benefits of the rules at issue here are speculative at best. As discussed below, the mandated reports will not identify the cause of an uncompleted call to a rural telephone number. Even if the reports could identify cause, the record simply does not support a conclusion that the claimed rural call completion problem is “epidemic,”¹³ nor does the record justify imposition of broad-brush, industry-wide data retention and reporting rules involving the expenditure of tens or hundreds of millions of dollars by hundreds of carriers. More targeted, less burdensome approaches such as those suggested by

¹² Dec. 30, 2013 Federal Register.

¹³ Sprint does not dispute that some rural customers have experienced call completion problems. However, Sprint’s own experience, and tests performed by neutral entities, fail to substantiate claims of an “epidemic” (*see, e.g.*, Sprint’s May 13, 2013 Comments in WC Docket No. 13-39, pp. 3-13).

Sprint and other parties¹⁴ would be far more effective at addressing claimed rural call completion problems than the industry-wide data collection, retention and reporting rules at issue here.

2. The Mandated Reports Will Not Achieve the FCC's Stated Objectives and Are of Limited Practical Utility to the Federal Government

The FCC has asserted that its rural call completion rules “will combat extensive problems with successfully completing calls to rural areas, and create[] a framework to improve the ability to monitor call problems and take appropriate enforcement action.”¹⁵ In fact, the data collection, retention and reporting rules will not accomplish their stated objectives because they will not identify the causes of incomplete calls to rural exchanges. The record in the FCC’s rural call completion docket demonstrates that there are many factors affecting call terminations,¹⁶ including those entirely beyond the knowledge and control of the covered carrier and thus outside its ability to redress.

The FCC’s proposed reporting template does distinguish between the percentage of calls that are completed vs. the percentage of calls that are answered (calls that receive a busy signal, that terminate to an unassigned number, or are ring-no-answer, are completed, but not answered; thus, the completion rate will always be higher than the answer rate). However, the reports do not identify the reasons why a call does not complete (the difference between completed calls and call attempts). The reports will not prove that any differences between rural and non-rural call completion rates are unreasonable, unwarranted, or even unexpected.¹⁷ The reports will not

¹⁴ See, e.g., comments filed in FCC WC Docket No. 13-39 by Sprint on February 28, 2014, pp. 9-10; by Verizon on May 13, 2013, pp. 6-7; by Comcast on May 13, 2013, pp. 13-14; by Hypercube on January 16, 2014, pp. 20-24.

¹⁵ *RCC Reconsideration Order*, para. 1.

¹⁶ The FCC has stated that “[t]here appear to be multiple factors that cause rural call completion problems” (*RCC Order*, para. 16), although its focus has remained on the effect of use of intermediate providers.

¹⁷ It would be incorrect to assume that any difference in call termination rates between rural exchanges and non-rural exchanges is the result of unjust or unreasonable practices. There is no

enable the FCC to determine whether failure to complete a call to a rural exchange is due to an unreasonable practice, and if so, by whom. The reports will not enable the FCC to determine whether enforcement action is warranted or against whom an enforcement action should be directed.

The FCC relied heavily on claims from rural LEC associations that “call completion problems may arise from the manner in which originating providers set up the signal and routing of their calls, and that many of these call routing and termination problems can be attributed to intermediate providers.”¹⁸ However, there are multiple factors affecting call completion which are unrelated to the use of an intermediate carrier, are beyond the control of a long distance carrier, or are not unique to rural exchanges. For example, a call may not complete for any of the following reasons (this list is far from exhaustive):

- a “long distance” wireless call experiences radio frequency or other coverage issues (*e.g.*, a call is attempted outside the wireless carrier’s footprint, or roaming service is not available), is dropped when the end user(s) moves from one location to another, or is routed to a cell tower that is experiencing congestion due to high demand;
- the terminating LEC has incorrect information in its routing tables;
- routing through an access tandem or remote host arrangement increases post-dial delay, which causes the caller to hang up prematurely;
- the LEC has insufficient SIP trunks, or an end user has old equipment incapable of handling IP calls, both of which can cause problems terminating IP calls;
- an intermediate carrier uses outdated routing tables, causing calls to “loop.”

Sprint’s investigation of “rural call completion” complaints it has received confirms that many such cases are not in fact call completion issues. For example, some of these cases involved complaints about wireless calls that dropped or were of allegedly poor quality – in other

reason to expect that call completion rates to every exchange will be identical. In fact, there may be entirely rational reasons why completion rates to rural exchanges differ significantly from the completion rates to non-rural exchanges (*e.g.*, lack of SIP trunks or IP-compatible fax machines in rural areas, older LEC switches that are more susceptible to fraud, disproportionate impact of telemarketing campaigns in rural exchanges).

¹⁸ *RCC Order*, para. 16.

words, complaints about calls that did in fact complete, but which happened to experience problems which are not unique to calls to rural numbers.

Even if the mandated reports did enable the Commission to determine the cause of some percentage of incomplete calls, the “solution” (in particular, a solution which is feasible, appropriate, and cost-effective) will not always be apparent. For example, assuming *arguendo* that use of intermediate carriers by the originating IXC is a significant factor behind rural call completion problems, the mandated reports still do not present an “immediate solution.”¹⁹ It is true that the Commission could limit or discourage the use of intermediate carriers. However, this “solution” ignores the very real benefits gained by using intermediate carriers. Facilities-based carriers have relied upon intermediate carriers for decades to supplement coverage in areas where they do not have their own facilities or do not provide a requested service in a given region; to handle overflow traffic; for traffic routing redundancy; or where an intermediate carrier can complete a call more efficiently than the originating carrier can do itself. In each of these cases, use of intermediate carriers improves the quality, reliability and cost of services provided to the end user, and thus is patently in the public interest. Limiting the use of intermediate carriers in an attempt to address a rural call completion issue could well have the unintended consequence of degrading service in these other major respects.

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The costs of complying with the FCC’s proposed data collection, retention and reporting rules will far exceed any likely benefit. Moreover, these rules will be ineffective at achieving the FCC’s stated goals and thus are of little or no practical utility to the federal government. The

¹⁹ *FCC Takes Major Steps to Combat Call Completion Problems and Ensure Reliable Long Distance Service to Rural America*, News Release dated October 28, 2013, p. 1.

proposed rules violate the PRA and the Office of Management and Budget should accordingly deny the FCC's request for approval of these rules.

Respectfully submitted,

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