

specified information for each inter- or intrastate long-distance call attempt (excluding toll-free).⁵ Covered providers are required to retain the data for six months and to file quarterly reports with the Commission.⁶ Recognizing providers' legitimate concerns about new regulatory burdens, the Commission adopted the "Managing Intermediate Provider Safe Harbor" ("Safe Harbor") and a waiver process to ensure that the regulatory burden is appropriately tailored based on the conduct of the provider and targeted to achieve the Commission's objectives. To grant a waiver, the Bureau would consider whether the provider satisfies the Safe Harbor, implements industry best practices, and monitors its own performance on an ILEC-by-ILEC basis.⁷

On February 2, 2015, the Wireline Competition Bureau granted such a waiver to AT&T, subject to conditions.⁸ At the time of AT&T's waiver petition and still today, AT&T satisfies the Safe Harbor and complies with industry best practices.⁹ To monitor call completion on an ILEC-by-ILEC basis given the technical limitations of the AT&T Core Network, AT&T proposed a plan to retain and report data based on a statistically valid sample of inter- and intrastate calls to rural and nonrural areas.¹⁰ The waiver approved AT&T's sampling methodology and granted a six-month waiver for all recording, retention, and reporting requirements to allow for the

⁵ See *Rural Call Completion Order* at paras. 19-24; C.F.R. § 64.2101-64.2105.

⁶ See *Rural Call Completion Order* at paras. 61-64, 84; 47 C.F.R. § 64.2105.

⁷ See *Rural Call Completion Order* at para. 96.

⁸ See *Rural Call Completion*, WC Docket No. 13-39, Order, 30 FCC Rcd 996 (WCB 2015) (*AT&T Waiver Order*). The waiver required AT&T to fully comply with the recordkeeping, retention, and reporting rules for the traffic of AT&T's affiliate operating under the Cricket brand until that traffic was migrated onto AT&T's Core Network. See *id.* at para. 39. All Cricket traffic has been migrated as of third quarter 2015. As a result, Cricket will be filing its last report on November 2, 2015 and is not included within the scope of the waiver requested here.

⁹ See Letter to Marlene H. Dortch, Secretary, FCC, from Brian J. Benison, AT&T, WC Docket No. 13-39 (filed July 31, 2015) (filing AT&T's annual Safe Harbor certification).

¹⁰ See Petition for Limited Waiver of AT&T Services, Inc., WC Docket No. 13-39 (filed Apr. 10, 2014).

extensive system changes required to implement the sampling methodology.¹¹ Pursuant to the waiver, AT&T began recording and retaining data pursuant to the approved methodology on August 2, 2015 and its first quarterly report is due on November 2, 2015.

Discussion. AT&T now requests an additional three-month waiver of the November 2, 2015 filing deadline for the third quarter 2015 data. The Commission may waive its rules, in whole or in part, for good cause,¹² and it is well established that the Commission may exercise its discretion to waive a regulation where the particular facts make strict compliance inconsistent with the public interest.¹³ Such is the case here.

In the initial waiver, AT&T requested and the Bureau granted a six-month waiver to allow for extensive systems changes. This period was intended to allow time for AT&T to complete programming, testing and validation of the recording, retention and reporting using the approved sampling methodology. Due to unexpected difficulties, that timeframe has proven insufficient to test and validate AT&T's rural call completion data. As a result, AT&T is unable to submit rural call completion data certified as true and correct by a corporate officer, as required by the rules, by the November 2, 2015 deadline.

As intended, most of the six-month waiver period was needed for programming to be able to draw sample data from an existing flow, analyze that data on a ILEC-by-ILEC basis based on OCNs, and produce a report in the form required by the Commission. Although that programming was completed within the last month, AT&T has not had sufficient time to analyze test data and validate results. Preliminary analysis of test results has identified unexplained

¹¹ See *AT&T Waiver Order* at para. 9.

¹² 47 C.F.R. § 1.3.

¹³ See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

anomalies that prevent AT&T from certifying the accuracy of the data and results. Since the discovery of these anomalies, a team of IT professionals and network experts have been diligently working to understand and address issues with the methodology. Despite these efforts, AT&T has run out of time to resolve these issues before the first filing deadline.

As the record of this proceeding reflects, AT&T has consistently supported the Commission's efforts, manifested in the *Rural Call Completion Order*, to ensure the reliable and efficient operation of the nation's telephone network.¹⁴ AT&T has been in the forefront of promoting best practices and demonstrating that actively managing carrier relationships through contract and oversight to ensure reliable call completion is effective. Well before the Commission adopted rural call completion rules, AT&T was a leader in implementing aggressive practices and limitations on the use of intermediate providers in the call path to ensure high-quality call completion for all customers.¹⁵

AT&T's commitment has not wavered and there has been no change in these standards and practices since this proceeding began. Moreover, the ongoing efforts to identify the issues with the approved sampling methodology—including reexamining network routing; using other incomplete but useful data sets to verify call completion; test calling; and a review of the small number of recent complaints (and their resolutions)—give us confidence that AT&T's network continues to perform at the high level of quality for which AT&T is well known. As a result, providing data that AT&T is unable to validate and certify would be contrary to the public

¹⁴ See, e.g., AT&T Comments, WC Docket No. 13-39 at 1 (filed May 13, 2013) ("AT&T RCC Comments"); AT&T Reply Comments, WC Docket No. 13-39 at 1 (filed June 11, 2013) ("AT&T RCC Reply").

¹⁵ See AT&T RCC Comments at 3 (citing Presentation of Penn Pfautz, AT&T, FCC Rural Call Completion Workshop (Oct. 18, 2011); Statements of Kim Meola, AT&T & Penn Pfautz, AT&T, Rural Call Completion Workshop video (describing AT&T's practice of limiting by contract the services provided by call termination suppliers to one additional intermediate provider)); AT&T RCC Reply at 2.

interest. At the same time, this approach does not undermine the Commission's rural call completion policy objectives because the Commission will receive AT&T's accurate, certified call completion data for third quarter 2015, albeit after a reasonable delay.

In the meantime, AT&T is taking steps both to resolve the issues with the sampling methodology and reporting, and to ensure that there are no unidentified call completion problems in the AT&T Core Network until AT&T's ILEC-by-ILEC call completion monitoring, as approved in the *AT&T Waiver Order*, can be effectively implemented. First, AT&T's team of experts is drilling down into the sampling methodology and programming to try to identify root causes of the discrepancies in the reporting. To date, they have not been able to identify the causes or take corrective action. As the Commission is aware, even AT&T's sample under the approved methodology involves millions of individual call records. To resolve these issues with the methodology and reporting, AT&T will be required to examine individual call records and how they are processed in the methodology and the programming to identify the source of the problems with the reported results. This has been and will continue to be a resource-intensive, but more importantly, a time-consuming, process. At this time, AT&T believes that it can do the necessary investigation to identify and correct the problems before the fourth quarter 2015 reports are due, and AT&T experts will work diligently to meet that deadline.

Second, to ensure that there are no unidentified systemic call completion problems in the AT&T Core Network, AT&T is taking additional steps to verify network performance. Among other things, AT&T is analyzing other instructive (although not complete) data points available in AT&T's network and billing as well as recent complaints and their resolutions (although there

has been no spike in complaints that would suggest a problem);¹⁶ and conducting test calls to ensure that no technical issues exist in particular areas. All evidence to date confirms that there is no systemic rural call completion problem with the AT&T Core Network and that it continues to operate at or above AT&T's high standards.

In sum, AT&T is taking every possible step to come into full compliance with the Commission's rural call completion rules, subject to the terms of the *AT&T Waiver Order*. AT&T has encountered unexpected challenges with its approved rural call completion methodology and reporting. As a result, at this time, AT&T is unable to validate the data and no AT&T corporate officer can certify that it is true and correct. Indeed, it would be contrary to the public interest to file the sampling results at this time. AT&T is actively working to resolve these issues with its sampling methodology and reporting. In the meantime, it continues to address any concerns that may arise and to quickly resolve any isolated incidents in cooperation with the Commission and the relevant rural ILEC. Despite this setback with its sampling methodology, AT&T remains committed to high-quality call completion for all customers. Therefore, a three-month waiver of the filing deadline for AT&T's third quarter 2015 rural call completion report is warranted for good cause and these special circumstances demonstrate that strict compliance with the rules would be inconsistent with the public interest.

Conclusion. For these reasons, AT&T has demonstrated that the requested waiver is warranted for good cause and is in the public interest. Thus, AT&T respectfully requests a three-

¹⁶ AT&T takes all complaints about rural call completion seriously and actively investigates each one—regardless of whether the complaint comes from an AT&T customer, a rural ILEC, or a rural end user with no relationship with AT&T. Indeed, AT&T's internal tracking of call completion complaints and voluntary testing in cooperation with rural ILECs shows that the vast majority of rural call completion troubles reported to AT&T were not problems related to AT&T service. In the uncommon instances when that was not the case, AT&T has been able to quickly troubleshoot the problem and resolve any technical issues.

month extension of the filing deadline for AT&T's rural call completion report for third quarter 2015.

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Respectfully submitted,

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