

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

REPLY COMMENTS OF AT&T, INC.

AT&T Inc. (“AT&T”), on behalf of its affiliates, respectfully submits these reply comments on its request for a limited waiver¹ of the Commission’s call signaling rules² adopted in the above-captioned proceeding.³ AT&T seeks a waiver for the limited circumstances, as

¹ 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a regulation where the particular facts make strict compliance inconsistent with the public interest. *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)).

² 47 C.F.R. § 64.1601(a).

³ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (*USF/ICC Transformation Order*).

described in its petition,⁴ in which compliance with the new rules is technically infeasible using currently deployed equipment. The record of this proceeding confirms that the requested waiver is warranted for good cause and grant of the waiver to AT&T is consistent with the public interest.

Discussion

AT&T has long been supportive of call signaling rules to put a stop to phantom-traffic practices intended to allow certain carriers to evade their legal obligations to pay lawful charges for traffic they terminate on other carriers' networks.⁵ But, as discussed in our waiver petition, there is a long and persuasive record in this proceeding demonstrating that in some cases strict compliance with such rules, if they provide no exceptions for technical infeasibility, is simply impossible.⁶ The similar petitions filed by CenturyLink and Verizon, and comments in response to AT&T's petition, further underscore this point.⁷ Although the Commission declined to adopt general exceptions to the call signaling rules for circumstances in which it would not be technically feasible to comply, it nonetheless acknowledged that there could be legitimate circumstances in which carriers would not be technically capable of full compliance, with no intention to evade the letter or spirit of the rule.⁸ For this reason, the Commission encouraged

⁴ AT&T Petition for Limited Waiver, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208 (filed Dec. 29, 2011) (AT&T Petition); *see also Wireline Competition Bureau Seeks Comment on AT&T Petition for Limited Waiver of Call Signaling Rules*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Public Notice, DA 12-34 (rel. Jan. 10, 2012).

⁵ *See, e.g.*, AT&T Section XV Comments at 21-25 (filed Apr. 1, 2011).

⁶ *See, e.g.*, AT&T Section XV Comments at 24-25 (filed Apr. 1, 2011); Verizon Section XV Comments at 49 (filed Apr. 1, 2011).

⁷ *See* CenturyLink Inc. Petition for Limited Waiver, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208 (filed Jan. 23, 2012) (CenturyLink Petition); Petition for Limited Waiver of Verizon, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208 (filed Feb. 10, 2011) (Verizon Petition); USTelecom Comments at 3-4; Verizon Comments at 2.

⁸ *See USF/ICC Transformation Order*, FCC 11-161, at para. 723.

parties requiring limited exceptions to or relief from the new call signaling rules to avail themselves of the Commission's established waiver procedures.⁹ AT&T has made a good faith effort to narrowly craft its waiver request to capture only those cases in which compliance using currently deployed equipment is infeasible and for which expensive upgrades, even if possible, or equipment replacement would defeat the Commission's policy goals.¹⁰

The Commission should reject Frontier's call to deny AT&T's well-grounded request for a waiver on the basis of technical infeasibility.¹¹ As AT&T explained, compliance with this amended call signaling rule in certain narrow circumstances is not technically feasible with currently deployed equipment.¹² Frontier says that "AT&T merely stated that it doesn't believe it economically 'makes sense' for them to take steps to comply with the Commission's new rules."¹³ Frontier's characterization is incorrect and misleading. Rather, AT&T showed that strict compliance with the rules would be inconsistent with sound public policy.¹⁴ The order seeks to further two important policy goals (among others): (1) to ensure carriers' ability to determine the source of traffic they receive from other carriers and to properly bill and be compensated for terminating such calls;¹⁵ and (2) to create incentives for carriers to invest in

⁹ *See id.* Some commenters do not oppose AT&T's requested waiver but caution the Commission not to offer broad waivers that undermine the policy objectives of the rules. *See* Windstream Comments at 2; *NECA et al.* Comments at 5. AT&T agrees. AT&T, however, recognizes that there could be other circumstances for which carriers need a waiver on technical infeasibility grounds that are not within the scope of AT&T's petition. *See generally* CenturyLink Petition; Verizon Petition.

¹⁰ As described in its petition, AT&T seeks a limited waiver of the requirement to pass charge number ("CN") unaltered where it is different than calling party number ("CPN") for Signaling System 7 ("SS7") signaling in its legacy interexchange network. AT&T is fully compliant with the obligation to pass CPN. For MF signaling, AT&T seeks a limited waiver of the rule requiring service providers using multi-frequency ("MF") signaling to pass the number of the calling party (or CN, if different) in the MF Automatic Number Identification ("ANI") field. *See* AT&T Petition at 3-4, 6.

¹¹ *See* Frontier Comments at 2.

¹² *See* AT&T Petition at 3-8; *see also* AT&T Section XV Comments at 24-25 (filed Apr. 1, 2011).

¹³ Frontier Comments at 4.

¹⁴ *See* AT&T Petition at 3-8.

¹⁵ *See USF/ICC Transformation Order*, FCC 11-161, at para. 707.

next-generation IP networks.¹⁶ Contrary to Frontier’s assertions, grant of the requested waiver would support both of these public policy objectives.

As AT&T explained in its petition, in some cases, the services at issue are provided over switching platforms for which technical support is no longer available from the manufacturer; only full replacement could bring them into compliance.¹⁷ But even if it were feasible, retrofitting these switches to enable them to transmit meaningful CNs would be extremely costly, easily running into millions of dollars.¹⁸ And as Verizon notes, “it makes little sense for providers to make extensive new investments in old signaling technology and facilities when intercarrier compensation will transition to bill-and-keep over the new few years.”¹⁹ Particularly insofar as much of this equipment is already scheduled for retirement from the AT&T network in coming years, it would not be in the public interest to require AT&T to incur the costs necessary to modify this existing equipment to comply with the rules, and thus to divert scarce capital from developing and deploying next-generation broadband networks.²⁰

At the same time, granting this narrow waiver to AT&T will not undermine the policy goal of ensuring that service providers pass signaling information to allow for accurate billing for intercarrier compensation.²¹ The rules are expressly targeted at phantom-traffic schemes in which carriers intentionally disguise traffic to avoid higher compensation rates.²² First, granting AT&T’s waiver request would not permit it to disguise traffic to avoid higher compensation rates

¹⁶ See, e.g., *USF/ICC Transformation Order*, FCC 11-161, at paras. 9, 716, 1010, 1335.

¹⁷ See AT&T Petition at 5; see also Verizon Petition at 5. We note that in the case of MF signaling, AT&T continues to use that technology, in part, to accommodate the needs of local exchange carriers that have not transitioned to SS7 signaling. See AT&T Petition at 7.

¹⁸ See AT&T Petition at 5; see also Verizon Petition at 5.

¹⁹ Verizon Comments at 2; see also NECA *et al.* Comments at 5.

²⁰ See AT&T Petition at 5.

²¹ See AT&T Petition at 5-6 (citing *USF/ICC Transformation Order*, FCC 11-161, at para. 707).

²² See *USF/ICC Transformation Order*, FCC 11-161, at para. 709.

because AT&T is fully compliant with the Commission’s rules that require it to pass CPN—ensuring that terminating carriers can properly identify the source of and properly bill for termination of calls delivered by AT&T for termination on their networks. Second, as AT&T confirmed, it uses long-established and well-accepted industry practices (*e.g.*, auditable percent interstate use and other factors) to ensure proper settlements of intercarrier compensation with terminating carriers.²³ No commenter, including Frontier, even asserts that AT&T’s use of these practices is inadequate to allow proper billing. Given that fact, Frontier has made no case that tips the cost-benefit analysis of the public interest against grant of a narrowly tailored waiver to AT&T.

Similarly, the Commission should reject Frontier’s suggestion to require more information about the scope of its MF traffic.²⁴ In its petition, AT&T clearly defined the technical circumstances under which it needs a waiver of these rules:

Specifically, AT&T uses MF signaling in two ways: in the legacy interexchange network and for operator services/directory assistance (“OS/DA”). AT&T’s legacy interexchange network uses little MF signaling on termination—essentially only where a terminating local exchange carrier does not support SS7—and the network does not support the capability to pass CPN or CN in the ANI field. AT&T’s OS/DA continue to rely heavily on MF signaling. Under certain conditions, depending on the configuration of incoming and outgoing trunks to the OS/DA switches, AT&T will be partially compliant with the new call signaling rule. For many calls, however, it will be technically infeasible to transmit the required signaling information.²⁵

AT&T thus clearly delineated the limited bounds for the relief it seeks. Moreover, there is ample evidence in the record of this proceeding, and Frontier acknowledges, that MF signaling faces

²³ See AT&T Petition at 5-6.

²⁴ See Frontier Comments at 4.

²⁵ See AT&T Petition at 6-8. When the signaling is from an MF Trunk, no information will be passed on intraLATA traffic. When the signaling is from an MF trunk, the contents of the ANI field will be populated to the CN field on outgoing SS7 trunks for interLATA traffic. When the signaling is from an SS7 trunk, only CPN is passed on IntraLATA calls. When the signaling is from an SS7 trunk, CPN and CN if different are passed on interLATA calls.

technical limitations that prevent compliance with the call signaling rules.²⁶ Frontier merely seeks to introduce needless delay. The Commission should reject this approach and promptly grant AT&T's requested waiver.

Notably, the *NECA et al.* do not oppose AT&T's petition.²⁷ They do, however, propose a series of unnecessary conditions to the waiver. The proposed conditions would impose additional costs of compliance with no corresponding benefits that would warrant their adoption. First, the *NECA et al.* acknowledge that AT&T's use of industry practices, such as the use of factors, allows for proper settlement of intercarrier compensation with terminating carriers.²⁸ They, however, argue that the Commission should condition the waiver on audit requirements and publication of a list of the originating switches to which the petition applies.²⁹ Such conditions are needlessly burdensome and unnecessary to ensure the policy goals of these rules. Industry practices already provide rights to audit data, normally included in legally binding tariff provisions, that already protect the interests of carriers terminating this traffic.

NECA et al. similarly propose that AT&T's waiver be limited to two years, with an intermediate deadline for upgrading or replacing switches and reporting requirements.³⁰ As discussed above, while upgrading some currently deployed equipment may be technically infeasible, for other equipment, the costly investment in development, upgrades, and potentially replacement to comply with the new rules would not make public policy sense. And further investment in MF Signaling is even more prohibitive given the limited scope of its use in

²⁶ See Frontier Comments at 4.

²⁷ See *NECA et al.* Comments at 2.

²⁸ See *NECA et al.* Comments at 5.

²⁹ See *NECA et al.* Comments at 5-6.

³⁰ See *NECA et al.* Comments at 6. The Commission should reject *NECA et al.*'s request to require AT&T to transmit the Jurisdiction Information Parameter ("JIP"). See *NECA et al.* Comments at 6, 8. The Commission expressly declined to adopt that proposal in the proceeding and it is not required by the rules. See *USF/ICC Transformation Order*, FCC 11-161, at paras. 725-29.

AT&T's network.³¹ AT&T has committed to investigate options to come into compliance where possible and where doing so makes economic sense,³² but imposing arbitrary, artificial deadlines and paperwork burdens will not make compliance with these rules more technically feasible. Moreover, the Commission has sufficient authority to request status updates and further information as needed to monitor AT&T's compliance with the waiver, if granted. As such, the Commission should reject these proposed conditions.

Conclusion

For these reasons, AT&T respectfully encourages the Commission to grant AT&T a limited waiver of the Commission's call signaling rules for the circumstances described in AT&T's petition.

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Respectfully submitted,

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³¹ See AT&T Petition at 6-8.

³² See AT&T Petition at 8.