

December 13, 2012

VIA ELECTRONIC MAIL AND ECFS

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Developing a Unified Intercarrier Compensation Regime, CC Docket 01-92; Rules and Regulations Implementing the Truth in Caller ID Act of 2009, WC Docket No. 11-39*

Dear Chairman Genachowski:

This letter is sent to request swift and conclusive action by the Federal Communications Commission (the “Commission”) to complete its multi-year investigation and resolve the problem of calls failing to complete to rural areas. Noting indications of an alarming increase in such problems recently and the economic and public safety threats that these continuing failures present, the National Telecommunications Cooperative Association (“NTCA”) requests that the Commission take action as soon as possible – if not by year-end, then in January – to enforce its *Declaratory Ruling* and to finally hold accountable those firms that fail to route and complete calls. The time to put this epidemic of call failures to rest once and for all is past due.

We respect and deeply appreciate the efforts of Commission staff in attempting to understand and examine these call failures over the past few years. These individuals have appeared sincerely interested in and concerned by the effects that these problems are having on rural consumers and business. Unfortunately, even the best efforts to date of staff have yielded little more than temporary Band-Aids on what is in reality a deep and lingering wound. By this letter, NTCA therefore urges the Commission to take formal and decisive action in very short order to resolve these call failures.

To provide context for this drastic characterization of the problem, for the level of frustration felt by rural telcos and their consumers, and for why NTCA has felt compelled to send this correspondence, a partial chronology of the events leading up to this letter is provided below:

2010

- November 2010 NTCA members Great Plains Communications and Consolidated Communications meet with Wireline Competition Bureau (“WCB”) staff to discuss long-distance call blocking concerns
- December 2010- January 2011 NTCA conducts a preliminary survey of members to assess level of concern regarding call failure issues

2011

- January 2011 NTCA and rural allies discuss the “emerging issue” of call failures in rural areas with WCB staff
- March 2011 NTCA and rural allies meet with WCB and Enforcement Bureau (“EB”) staff to discuss call failure issues in more detail
- April-May 2011 NTCA and rural allies conduct a survey of members regarding call failure issues
- June 2011 NTCA and rural allies transmit survey results and legal justifications for enforcement action relating to call failures to EB staff
- July 2011 NTCA and members meet with WCB, EB, Public Safety and Homeland Security Bureau (“PSHSB”), and Wireless Telecommunications Bureau (“WTB”) staff to discuss call failure issues
- July 2011 National Association of Regulatory Utility Commissioners (“NARUC”) adopts a resolution calling upon the Commission to address call failures
- August 2011 National Exchange Carrier Association (“NECA”) conducts a test call project
- September 2011 NTCA CEO Shirley Bloomfield transmits a letter to Chairman Genachowski seeking Call Failure Workshop and Policy Statement
- September 2011 Commission announces the creation of a Rural Call Completion Task Force composed of WCB, EB, and PSHSB staff, as well as a related workshop

- October 2011 NTCA and rural allies meet with WCB, EB, and PSHSB staff to discuss call failure issues and present results of the NECA test call project
- October 2011 Commission holds Rural Call Completion Workshop
- November 2011 NTCA and rural allies meet with WCB and EB staff to discuss call failure issues

2012

- January 2012 NTCA and rural allies meet with WCB and EB staff to discuss call failure issues
- January 2012 24 Senators sign a letter led by Senator Tim Johnson urging the Commission to resolve call failure problems
- February 2012 Commission issues its *Declaratory Ruling*
- March 2012 NTCA and a member meet with WCB and EB staff to discuss call failure issues and need for enforcement of the *Declaratory Ruling*
- March-April 2012 NTCA and rural allies conduct an additional test call project
- April 2012 NTCA meets with Commissioners' legal advisors to discuss call failure concerns and the need for prompt enforcement
- May 2012 NTCA and rural allies present results of the latest test call project
- June 2012 Congressman Latta sends a letter to Chairman Genachowski regarding the increasing call failure problem in Ohio
- July 2012 NARUC adopts a second resolution calling for the Commission to enforce its *Declaratory Ruling*
- September 2012 NTCA discusses a spike in call failure issues with WCB staff
- October 2012 NTCA and rural allies conduct a further survey of call failure issues
- November 2012 NTCA and rural allies meet with WCB, EB, and PSHSB staff to discuss call failure issues and present results of the latest survey
- November 2012 NTCA and rural allies participate in a briefing organized by Senator Tim Johnson's office to update Congressional staff on call failure issues

December 2012 36 Senators sign a letter led by Senator Tim Johnson urging the Commission to resolve call failure problems

As this chronology demonstrates, the Commission and other policymakers have been aware of concerns over calls failing to complete to rural areas for more than two years, and NTCA and many others have been relentless in providing data to facilitate understanding and investigation of the problem. Notably, however, the list of visits and contacts provided above does *not* include the many additional attempts of rural carriers and their consumers to communicate directly to the Commission regarding call failures. Such individual efforts are merely a sad gloss on the ineffectiveness of attempts thus far to resolve the problem.

In fact, despite all of these efforts, call failures persist and appear to be increasing in recent weeks. If anything, any resolution of such concerns over the past few years has been at best temporary in nature – more of a reprieve than a resolution, in reality – as carriers apparently change routing tables for fear of regulatory sanction only to then reprogram them days or weeks later and thereby recreate the problem once again. This tactic might be likened to “regulatory whack-a-mole,” and in legal terms, it might be considered a classic case of “capable of repetition yet evading review.” It is abundantly clear that a more permanent, comprehensive, and definitive solution is needed in short order.

NTCA’s plea here for swift action by the Commission is made neither lightly nor in haste. As the chronology above demonstrates, NTCA and its allies have made good faith efforts over the past several years to seek help, provide data, and work collaboratively to seek resolution. But this problem has had and is having a real impact on consumers. The onset of the holiday season has only amplified, if not sharpened, the problem. As noted earlier, NTCA is receiving reports from its members of an alarming increase of calls in recent weeks that are failing to complete to rural consumers. This of course not only frustrates the ability to complete personal calls during the holidays, but it also threatens to derail commerce during a busy season upon which many retailers rely and moreover creates serious risk of injury or even death as calls fail to reach their intended destinations. Indeed, as we have shared with the Commission in the past, the consequences of call failures include a rural Minnesota supplier claiming to lose tens of thousands of dollars in business when calls to place orders could not get through, school alerts regarding an emergency weather situation in South Dakota failing to be delivered to parents, and even calls failing to complete in connection with an avalanche rescue situation in Colorado.

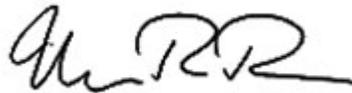
It is therefore far past time for demonstrative and decisive action to avoid catastrophic consequences and further economic injury resulting from call failures. As a point of comparison, we note that when AT&T, Google, and Apple had disputes over voice communication connectivity on the iPhone in the summer of 2009, the Commission sent public letters of inquiry within weeks to the relevant parties. Similarly, it took only weeks in 2005 for the Commission to leap into action and resolve a dispute over alleged blocking of VoIP calls. Urgency of a nature that the Commission has thus previously invoked is warranted here too, and it is essential to move quickly now beyond the continuing “triage” of call failures on a one-off basis.

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We look forward to continuing to work with the Commission on this burgeoning problem. As the chronology above demonstrates, NTCA and its members are eager to assist in such efforts. In the end, however, only the Commission holds the authority and capability to bring this sorry chapter in communications (or lack thereof) to a fitting close in short order. We truly thank you and your staff for your efforts thus far in this regard, but by this letter, NTCA implores the Commission to take the final and decisive steps necessary within the next several weeks to see that rural consumers and businesses do not face continuing disconnection from the rest of America.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Romano". The signature is fluid and cursive, with the first letter "M" being particularly large and stylized.

Michael Romano
Senior Vice President-Policy

cc: Commissioner Robert McDowell
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Julie Veach
Michelle Ellison
David Turetsky
Rebekah Goodheart
Theresa Cavanaugh
Margaret Dailey
Bill Dever