

Such a program is considerably more likely to benefit rural carriers and their customers than onerous recordkeeping and reporting requirements. And the industry has already begun work to develop such a program.

Nonetheless, if the Commission decides to move forward with new rules at this time, the proposals in the *Notice*⁴ should be scaled back and modified to make them more manageable, as numerous commenters propose.⁵ Specifically, the Commission should modify its proposals by: (i) permitting the use of sampling rather than full data reporting; (ii) authorizing affiliated providers to retain and report aggregated data; (iii) broadening the proposed safe harbors to make them consistent with market realities; and (iv) directing that any reporting or recordkeeping obligations sunset after one year. Finally, the Commission should provide confidential treatment to any call completion reports required under the Commission's rules because the information is commercially sensitive.

⁴ *Rural Call Completion*, Notice of Proposed Rulemaking, 28 FCC Rcd 1569 (2013) (“*Notice*”).

⁵ *See, e.g.*, CTIA Comments at 7-9; Verizon Comments at 9-15; Level 3 Comments at 11-12, 17; ATIS Comments at 4-5, 8.

DISCUSSION

I. Commenters Support More Productive Alternative Solutions Than Extensive Data Reporting and Retention To Address Rural Call Completion Problems.

As various commenters correctly observe, utilizing collaborative industry processes would better address any rural call completion problems than imposing costly and burdensome recordkeeping and reporting requirements.⁶ For example, ATIS's Next Generation Interconnection Interoperability Forum (NGIIF), which is open to all stakeholders, represents a well-established process to resolve "industry-wide issues associated with telecommunications network interconnection and interoperability," including call completion issues.⁷ Indeed, since 2010, the NGIIF has been actively engaged in "understanding the scope and root cause(s) of reported call-completion problems, as well as on ways to mitigate these causes."⁸ The NGIIF is actively involved in a collaborative effort with associations representing rural telephone companies to conduct call-completion testing.⁹

Collaborative industry testing has occurred in other venues as well. For example, Sprint and CenturyLink describe the testing process recently conducted under the auspices of the Nebraska Public Service Commission.¹⁰ As part of this process, Sprint and CenturyLink participated in call completion tests in March 2013 with various LECs in rural exchanges in Nebraska pursuant to a testing plan developed by the staff of the

⁶ See, e.g., CenturyLink Comments at 8; VON Coalition Comments at 8; Verizon Comments at 6-8; Sprint Comments at 13-23.

⁷ ATIS Comments at 2.

⁸ *Id.* at 3.

⁹ See *id.* at 4.

¹⁰ See Sprint Comments at 10-11; CenturyLink Comments at 7-8.

Nebraska Commission with input from rural LECs and long-distance carriers. These tests resulted in a call completion rate of 99.79% for Sprint¹¹ and a rate of 98.3% for CenturyLink.¹² Verizon agrees with CenturyLink that “testing that is voluntary, inclusive of all stakeholders, transparent and open in its planning and execution, and overseen by a neutral third party” is a reasonable approach to addressing rural call completion issues.¹³

A well-established industry forum like the NGIIF or a well-designed collaborative industry testing program represents an ideal mechanism to identify and resolve the myriad technical issues that can affect call completion rates. These issues include, for example, the use of IP-enabled platforms and routing arrangements; the manner of interconnection with rural carriers; and the level of network capacity in a particular wire center.¹⁴ Industry collaboration is more likely to successfully isolate and resolve these technical issues – and thereby benefit consumers – than extensive new data retention and reporting requirements.

II. The Record Demonstrates That the Costs and Burdens of the Proposed Rules Would Be Significant.

Various commenters addressed the significant burdens associated with the Commission’s proposed recordkeeping and reporting requirements.¹⁵ For example,

¹¹ Sprint Comments at 11.

¹² CenturyLink Comments at 8.

¹³ *Id.*

¹⁴ *See, e.g.,* Associated Network Partners, Inc./Zone Telecom Inc. Comments at 5-6; Bandwidth.com Comments at 4-8; HyperCube Comments at 6-7; Level 3 Comments at 2-3; Sprint Comments at 11-12.

¹⁵ *See, e.g.,* CenturyLink Comments at 9-10 (“imposing FCC reporting, record keeping and data retention requirements on providers of intrastate long distance calls creates the potential for those providers to be subjected to duplicative or conflicting requirements imposed by states,” where there is “ongoing regulatory activity concerning

according to CTIA, requiring that wireless carriers track call completion rates (and other information) for all long distance calls that their customers originate would impose substantial burdens on the industry, which delivers more than 2.3 trillion minutes of voice traffic every year and generates “hundreds of billions of calls each year” that potentially would be subject to the Commission’s proposed rules.¹⁶ In addition, because wireless carriers currently do not track much of the information that the Commission proposes to collect or differentiate calls in the manner required under the proposed rules, wireless carriers would be required to devote substantial resources to developing, testing, and implementing new systems to collect, report, and retain the required data.¹⁷

Even for carriers that may maintain certain call completion data contemplated under the Commission’s proposed rules, the rules would impose significant burdens as well. For example, as COMPTTEL notes and as the Commission has acknowledged, “originating providers often do not retain call completion records in the format or for the length of time proposed by the Commission.”¹⁸ Frontier points out that the Commission’s proposed rule would require significant resources to develop new systems to collect non-standard industry information – specifically, information on intermediate providers and on whether the called party was assigned to a rural telephone company.¹⁹ According to Frontier, the implementation of these requirements “is made much more

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rural call completion”); Time Warner Cable Comments at 3-5; Sprint Comments at 17-19.

¹⁶ CTIA Comments at 4.

¹⁷ *See id.* at 5.

¹⁸ COMPTTEL Comments at 7, *citing Notice* ¶ 13.

¹⁹ *See Frontier Comments* at 8.

onerous by the Commission’s proposal to require carriers to retain this information for six months,” given the “tremendous volume of long distance calls daily” and the significant number of rural carriers (1,351) on the Commission’s proposed rural operating carrier number (OCN) list for which such information must be recorded and stored.²⁰

Some commenters propose even more onerous recordkeeping and reporting requirements. The Commission should reject those proposals. For example, some commenters urge the Commission to expand the scope of the rules to “require originating providers to measure and record rural call completion data on a weekly basis”²¹ (rather than monthly as proposed by the Commission) and mandate reporting for calls to rural carriers to which as few as five or ten calls may be placed in a given month (as opposed to the 100-call threshold proposed by the Commission).²² Other commenters recommend that the Commission require the creation of an “electronic data exchange” that would track “all call attempts by terminating exchange, uncompleted calls by terminating exchange,” as well as other detailed network information.²³ The data storage and other burdens associated with such proposals are enormous. While ensuring the delivery of calls to rural areas of the United States is a laudable goal, that goal will not be achieved by imposing onerous and costly recordkeeping and reporting requirements.

²⁰ *Id.*

²¹ Rural Association Comments at 11.

²² *See id.* at 18-19; *see also* Colorado Telecommunications Association, *et al.* Comments at 6-7 (“State Association Comments”).

²³ Bay Springs Telephone Company, *et al.* Comments at 8-10.

III. At a Minimum, the Record Reflects a Need To Modify the Proposed Rules To Reduce Unnecessary Burdens.

To the extent the Commission moves forward with data retention and reporting requirements at this time, numerous commenters support Verizon’s proposals to modify these requirements. Such modifications would reduce the burdens associated with the Commission’s proposed rules and would more closely align new recordkeeping and reporting with the Commission’s rulemaking obligations.

First, as proposed by several commenters, the Commission should allow providers to retain (and subsequently report based on) a meaningful sample of data.²⁴ According to CTIA, a sampling approach would “allow carriers to gather the data through a process akin to a traffic study, potentially minimizing the need to develop expensive new systems to track every single call” and “would reduce the amount of data that has to be reported and retained.”²⁵ It also would significantly reduce the storage and retrieval burdens on providers.

Claims that the Commission “rejected” a proposal to “reduce the burden of its special access data collection by collecting all of its data from a sample” are misleading and irrelevant.²⁶ In fact, the Commission permitted “competitive providers to submit the history of their facilities deployment in a sample of locations served by a competitive provider.”²⁷ The Commission reasoned that such a sample would facilitate its

²⁴ See, e.g., Windstream Comments at 2-3; CTIA Comments at 8; Verizon Comments at 9.

²⁵ CTIA Comments at 8.

²⁶ Rural Association Comments at 13-14.

²⁷ *Special Access for Price Cap Local Exchange Carriers*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 16318, ¶ 34 (2012).

understanding of “the evolution of competitive provider buildout of a connection to a specific end user’s location.”²⁸

Moreover, the two data collections are distinguishable. The Commission concluded that a sample for all special access services “would be unlikely to substantially reduce provider burdens” because: (i) analysis on a nationwide basis would require a representative sample that would “com[e] close to covering the entire country”; and (ii) competition in the special access market “appears to occur at a very granular level – perhaps as low as the building/tower,” which, according to the Commission, would require a “very large” random sample from all locations – “perhaps approaching a census – to obtain sufficient data on competitive providers.”²⁹ By contrast, here, requiring data for calls to all rural locations, but only for a limited number of days could significantly reduce data storage and reporting burdens.

Second, the Commission should allow affiliated providers to aggregate and consolidate their data retention and reporting obligations.³⁰ Verizon alone has more than a dozen different facilities-based providers of long distance service. Because most of Verizon’s long distance traffic is delivered to a common set of long distance networks, it would make no sense to require that each affiliated long-distance entity maintain separate call records and produce separate call completion reports.

Third, the Commission should modify its Managing Intermediate Provider Safe Harbor to recognize the realities of the marketplace, as proposed by various

²⁸ *Id.* ¶ 26.

²⁹ *Id.* ¶¶ 22-25.

³⁰ *See* IntelePeer Comments at 5-6.

commenters.³¹ For example, as both CTIA and Level 3 point out, neither originating long distance carriers nor their intermediate carriers have any involvement in the selection of or control over the performance of providers of tandems through which many rural LECs can only be reached.³² Thus, at the very least, the Commission should clarify that the definition of an intermediate provider in proposed Rule 64.1600(f) excludes tandem providers.

Fourth, the Commission should modify its Monitoring Performance Safe Harbor, which requires a provider's certification that, for each of the past 12 months, the difference between its rural and non-rural average call answer rates was no more than 2% and that the call answer rates for 95% of the rural OCNs were no more than 3% below the average rural call answer rate.³³ The basis for these thresholds is never explained, and the proposed 2% differential "may be so narrow as to be of no practical utility."³⁴ At a minimum, the Commission should permit providers to exclude calls to unallocated numbers and call attempts showing a "User" category release cause code.

Fifth, any recordkeeping and reporting obligations should sunset as proposed in the *Notice* and as endorsed by numerous commenters.³⁵ This sunset period should be one year, which should provide more than sufficient time to determine whether a call

³¹ See, e.g., CTIA Comments at 8-9; Level 3 Comments at 16; Public Service Commission of Wisconsin Comments at 4-5.

³² See CTIA Comments at 8-9; Level 3 Comments at 14-15.

³³ *Notice* ¶ 35.

³⁴ CTIA Comments at 9; see also Level 3 Comments at 16.

³⁵ See *Notice* ¶ 38; see also, e.g., ATIS Comments at 8; Time Warner Cable Comments at 10-11; Level 3 Comments at 17; Comcast Comments at 6.

completion issue exists in particular rural destinations or with particular intermediate carriers.³⁶

Finally, Verizon agrees with commenters who recommend that any call completion reports required under the Commission's rules should be confidential.³⁷ Information regarding the number of call attempts and completed calls to particular rural carriers is commercially sensitive information that long-distance carriers would not otherwise publicly disclose.³⁸

CONCLUSION

Calls to all consumers, no matter where they live, should complete. Verizon is committed to working with the various stakeholders to begin appropriate testing and make improvements where necessary. Prescriptive, mandatory new requirements would detract from more productive efforts at this time. Nonetheless, if the Commission does move forward with new rules, the Commission should modify its proposed requirements as discussed herein.

³⁶ See Vonage Holdings Comments at 7-8 (“to the extent many rural call completion issues are driven by economic incentives to avoid high rural terminating intrastate and interstate access charges through the use of least cost routers, these rates will be substantially reduced within two years of the effective date of any rural call completion rules adopted in this proceeding thereby reducing the incentive to use a least cost router and many intermediate providers”).

³⁷ See, e.g., CenturyLink Comments at 12; Comcast Comments at 5; COMPTTEL Comments at 10.

³⁸ As Comcast observes, call completion data are similar from a commercial sensitivity standpoint to outage reports, Emergency Alert System test results, and Disaster Information Reporting System filings, which the Commission treats as presumptively confidential. See Comcast Comments at 5, n.8.

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