

Before the  
Federal Communications Commission  
WASHINGTON, D.C. 20554

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In the Matter of )  
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Rural Call Completion )  
\_\_\_\_\_)

WC Docket No. 13-39

**COMMENTS OF THE  
PUBLIC UTILITY COMMISSION OF OREGON**

The Public Utility Commission of Oregon (“Oregon Commission”) submits the following Comments in response to the Federal Communications Commission (FCC) November 8, 2013 Report and Order and Further Notice of Proposed Rulemaking (*FNPRM*) in the above-captioned proceeding.

In the *FNPRM*, the FCC sought “comment on additional measures that may help the Commission ensure a reasonable and nondiscriminatory level of service to rural areas.” We offer comments in four areas: intermediate providers, modifications to the safe harbor, rural incumbent local exchange carriers, and additional rule changes.

In this proceeding, the FCC has adopted recording, retention, and reporting requirements to improve its ability to monitor and redress problems associated with completing calls to rural areas. We support these requirements for LECs, IXCs, CMRS providers, and interconnected VoIP service providers that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines. At the same time, we believe that originating providers are ultimately responsible to ensure the completion of end user calls.

## DISCUSSION

### A. Intermediate Providers

In the FNPRM, the FCC sought comments on whether it should extend its reporting rules to intermediate providers, or a subset thereof.

The reporting rules exclude call data from providers that make the initial long-distance call path choice for less than 100,000 domestic retail subscriber lines. Safe harbor providers need only report *sample* call data for one year. How many covered providers may certify for safe harbor is unknown. What effect these limitations on reporting may have on the efficacy of the reported data is also unknown.

We recommend the FCC impose no requirements on intermediate providers now but review the data collected under its current reporting rules for two quarters. After two quarters, if the FCC finds that data being collected is inadequate to monitor and redress problems with the delivery of long-distance calls to rural areas, then the FCC should determine what additional reporting is required and by whom. The FCC also seeks comment on imposing certifications or other obligations on intermediate providers. We believe that the FCC should only impose obligations on intermediate providers as a last resort. The responsibility for who controls the means of traffic delivery should remain with the LEC, IXC, CMRS provider, and interconnected VoIP service provider whose end user originates the call. The originating provider is responsible for how its traffic is routed, based on the terms and conditions in its agreements and contracts. It can impose as many restrictions and obligations, including prohibitions on blocking, choking, reducing, or restricting traffic, as necessary in its service contracts with covered providers and intermediate providers to minimize the number of incomplete calls.

If the FCC determines that additional deterrents are needed to ensure call completion, then those regulations should be placed on originating providers.<sup>1</sup>

We recommend the FCC establish a federal Intermediate Provider Registry for entities that are not otherwise registered or certified by a state commission. Entities not federally registered as an intermediate provider or otherwise registered/certified by a state commission may not contract to perform the functions of an intermediate provider. Each registrant should provide a point of contact who can respond to questions about call completion issues.

If the FCC establishes certification as the legal means by which intermediate providers can route traffic or be barred from doing so, the FCC should 1) set forth what corrective action would apply if an intermediate provider breaches its certification and 2) describe whether this corrective action is in addition to any breach of contract remedy inherent in tariffs and contracts for use by the affected non-breaching party.

#### B. Modifications to the Safe Harbor

We recommend the FCC not adopt additional safe harbor mechanisms or other limitations on reporting requirements now.

#### C. Rural Incumbent Local Exchange Carriers

We recommend the FCC adopt no further requirements on rural incumbent local exchange carriers (RLECs). We favor voluntary reporting by RLECs. The FCC notes that RLEC reporting could be an important benchmark against which to evaluate the number of call attempts that covered providers report as having reached a rural ILEC's terminating switch or tandem, and the number that covered providers report as having been answered. However, as

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<sup>1</sup> Oregon Administrative Rule 860-032-0007(17) (b) *The certificate holder is liable for the actions of an underlying carrier used to deliver traffic on behalf of the certificate holder, if that underlying carrier is an agent, contractor or subcontractor of or employed by the certificate holder and acting within the scope of the person's employment and the certificate holder knew or should have known of the underlying carrier's actions and engages in acts or omissions that effectively allow those actions to persist.*

noted above, the information collected from covered providers is incomplete and would be compared against 100% of the inbound call activity reported by the terminating RLEC.

Until terminating RLECs can measure inbound traffic by each covered provider or by the delivering intermediate provider, or 100% of all inbound traffic is reported by every provider without limitation, we find little value in requiring RLECs to report quarterly on the number of incoming long-distance call attempts received, the number answered on its network, and the resultant call answer rate calculation.

At the same time, we agree with the FCC that RLECs should be encouraged to report the information to the FCC to aid the FCC in its analyses.

#### D. Additional Rule Changes

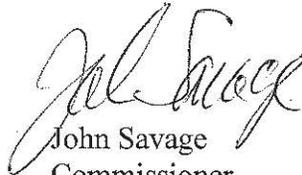
First, we recommend the FCC adopt a rule to prohibit the use of any message or tone by any provider in the call path that would mislead the calling party about the status of their call. Second, we recommend the FCC add the identification of the originating long-distance provider, when the covered provider is not the retail long-distance provider, to its recording and retention requirements in 64.2103(e). Further, the FCC should allow retail long-distance providers access to these retained records. Requiring inclusion of the retail long-distance provider in reports offers multiple benefits. When a call completion problem is reviewed, all parties involved will be known, and covered providers will be able to identify those calls in its retained records. Identifying the originating long-distance provider in the call record will correct gaps. In its February 7, 2013 Notice of Proposed Rulemaking in this docket, the FCC found “evidence indicates that the retail long-distance providers may not be adequately examining the resultant rural call completion performance”. In this FNPRM, the FCC agreed that “the first facilities-

based provider in a call path is not always the entity with the most direct access to call delivery data.”

We appreciate the opportunity to provide comments.



Susan Ackerman  
Chair



John Savage  
Commissioner



Steve Bloom  
Commissioner