

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Rural Call Completion

WC Docket No. 13-39

NASUCA REPLY COMMENTS

The National Association of State Utility Consumer Advocates (“NASUCA”)¹ submits these brief reply comments² to the Federal Communications Commission (“FCC” or “Commission”) on the vital issue of consumers being able to complete and other consumers being able to receive their calls.³ The Report and Order discusses the magnitude of the problem

1

NASUCA is a voluntary national association of consumer advocates in more than forty states and the District of Columbia, organized in 1979. NASUCA’s members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions, as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General’s office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

2

NASUCA did not file initial comments in response to the *Rural Call Completion*, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-135, WC Docket No. 13-39 (Released Nov. 8, 2013) (“Report and Order” or “FNPRM”). NASUCA filed comments earlier in this proceeding.

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The Report and Order and the FNPRM focused albeit not explicitly on call completion for small rural carriers. Cite. NASUCA submits that the jury is still out on whether there are call completion problems for customers of larger companies that operate in rural areas, or indeed for customers living in urban areas.

1

at length.⁴ Commenters reiterate the concerns that led to the Report and Order, and argue that the problem is continuing.⁵

NASUCA very strongly supports the NARUC Comments. As NARUC states,

The FCC needs to assure that:

- *Intermediate providers register and certify they will follow industry standards and State/FCC rules*⁶;
- *No additional limitations or safe harbors regarding collection and retention of data are created*;
- *Rural Incumbent Local Exchange Carrier data reporting remains voluntary*;
- *Existing prohibitions on blocking, choking, or restricting traffic are codified into an FCC rule (one that recognizes concurrent State authority to investigate and resolve problems involving intrastate traffic - regardless of the outcome in the 10th Circuit appeal of the FCC's November 2011 Transformational Order); and*
- *There are no barriers to either State acquisition of data needed to investigate call completion issues or State coordination of investigations with other States.*⁷

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Report and Order, ¶¶ 1, 11-12.

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See Comments of the National Association of Regulatory Utility Commissioners (“NARUC”); Joint Comments of USTelecom and Independent Telephone and Telecommunications Association (“ITTA”); Comments of National Exchange Carrier Association (“NECA”), et al. at 2-3; Comments of Bay Springs Telephone Company, Inc., et al. (“Bay Springs, et al.”) at 2. Even Verizon “takes seriously concerns relating to delivery of calls to their intended destination in rural as well as non-rural areas...” Verizon Comments at 1.

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See Bay Springs, et al. Comments at 8; Windstream Comments at 2-3.

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NARUC Comments at 4 (emphasis in original).

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NASUCA especially supports the view that the FCC must recognize the joint federal and state jurisdiction over the call completion issue.

While Verizon does not argue for the creation of additional safe harbors, it does support “adjusting the reporting safe harbor to allow more carriers to use it....”⁸ Verizon states,

Such certifications are not always possible – or desirable – for a variety of reasons, including measures designed to promote the completion of calls during periods of congestion or network outages. Minor modifications to the safe harbor to allow an exception for de minimis volumes of traffic for overflow purposes and to limit it to the use of no more than two intermediate providers for calls to rural destinations are consistent with the intent behind the safe harbor and should be adopted.⁹

NASUCA disagrees that weakening reporting in this fashion is consistent with the Commission’s intent.

Hypercube Telecom, LLC (“Hypercube”) focuses on the adoption of a new “pragmatic, pro-competitive” safe harbor.¹⁰ But, as so often found in regulatory pleadings, Hypercube’s pragmatism and pro-competition sentiments result mostly in supporting its business model.

Verizon also asserts that “the Commission should avoid placing further requirements on covered providers as they work diligently to implement the Order.”¹¹ Even assuming such

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Verizon Comments at 1; see also CenturyLink Comments at 3-5.

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Verizon Comments at 2.

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Hypercube Comments at ii.

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Verizon Comments at 2. .

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diligence, Verizon’s complaints about “the already high burdens of complying with the *Order*”¹² overlook the tremendous burdens placed on consumers by call completion failures.

Requirements that ease consumers’ burdens by preventing call completion failures are reasonable solutions to this industry-created problem.

For example, as NARUC states, “The FCC should require each intermediate provider to certify that its business practices conform to the same standards and (State and federal) rules for call routing as covered providers.”¹³ NASUCA supports NARUC’s other suggestions in this regard.¹⁴

NASUCA also supports Level 3’s suggestion for “the Commission to consider publishing valuable information already in the Commission’s possession: aggregate data about call completion complaints the Commission has received, which will help focus industry’s attention on areas where problems are being reported.”¹⁵ Publishing such information among other information on the problem will lead to a quicker and better solution to the problem.

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Id.

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NARUC Comments at 6; see also Windstream Comments at 2-3.

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Id. at 6-7.

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Level 3 Comments at 1.

In contrast to NARUC, NECA, et al. oppose rulemaking, saying that “rather than seek to codify existing prohibitions against call blocking, choking and other unreasonable call completion practices, ... the Commission [should] focus its full attention on targeted enforcement actions against providers who unreasonably interfere with the ability of rural consumers to make and receive calls.”¹⁶ NASUCA disagrees. The Commission should set standards for rural call completion that all carriers will have to meet. A piecemeal determination of what is “unreasonable interference” with call completion will not adequately protect consumers.

Finally, NASUCA would again reiterate its position that VoIP telephony should be classified as a telecommunications service.¹⁷ Even if not, the Commission has adequate authority to make VoIP providers subject to the rural call completion rules.¹⁸

Respectfully submitted,

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NECA, et al. Comments at 4; but see Bay Springs, et al. Comments at 3-5.

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See, e.g., in this docket, [NASUCA reply comments, filed June 11, 2013 \(http://apps.fcc.gov/ecfs/document/view?id=7022424119\)](#) at 11-15. Indeed, broadband Internet access service should be recognized as having a telecommunications component rather than being exclusively an information service.

18

Bay Springs, et al. Comments at 6-8.

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