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

In the Matter of	)	
	)	
	)	
Rural Call Completion	)	WC Docket No. 13-39
	)	
	)	

COMMENTS OF XO COMMUNICATIONS, LLC
IN SUPPORT OF PETITIONS FOR RECONSIDERATION

XO Communications, LLC ("XO") hereby files these comments in support of COMPTEL's and Sprint Corporation's ("Sprint's") Petitions for Reconsideration of the *Order* released by the Commission on November 8, 2013 in the above captioned proceeding.[1] Specifically, XO supports COMPTEL's request for reconsideration of the small carrier exemption adopted[2] and Sprint's request for the Commission to reconsider industry compliance costs and not to use call completion data collected to initiate enforcement actions.[3] The Commission has not affirmatively evaluated the compliance costs of its new rules, particularly for smaller providers, or balanced those against the potential gains from collecting the required call completion data; however, it should do so before putting the adopted rules into effect.

As COMPTEL notes in its Petition, "[t]he record keeping, reporting and data retention rules adopted by the Commission impose significant new information collection requirements on long distance service providers and will be expensive and burdensome for providers, most

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1 *In the Matter of Rural Call Completion*, WC Docket No. 13-39, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-135 (rel. Nov. 8, 2013) ("*Order*").

2 Petition for Reconsideration of COMPTEL, WC Docket No. 13-39, (filed Jan. 16, 2014) ("COMPTEL Petition").

3 Petition for Reconsideration of Sprint Corporation, WC Docket No. 13-39, (filed Jan. 16, 2014) ("Sprint Petition").

especially small providers, to implement."[4] The small carrier exemption adopted by the Commission, defining a small carrier as a provider serving 100,000 or fewer *subscriber lines*, is significantly narrower than the exemption proposed in the *NPRM*, defining a small carrier as a provider serving 100,000 or fewer *subscribers*.[5] Without notice, the Commission modified this definition, knowingly impacting an estimated additional 135 carriers, including XO, from the initial estimate of 90 to the final estimate of 225 impacted carriers.[6] This is no minor modification, especially given that the Commission has not given full attention to the costs of compliance, either for the initial 90 carriers or for the additional 135.

The implementation costs for individual carriers and the industry at large will be significant. Though the Commission summarily dismissed Sprint's estimate that the rural call completion rules may cost the industry billions to implement,[7] the Commission has not itself attempted to quantify or consider the actual costs that will be incurred by carriers to comply with the reporting requirements. Instead, the Commission determined to impose those costs on additional small providers without justification or discussion of the change. While the Commission may choose to quickly dismiss estimates provided by various carriers, these costs cannot be dismissed by the carriers that will incur them. Simply because the Commission may consider Sprint's industry-wide estimate to be overstated does not minimize the individual carrier costs, particularly when at least135 of those carriers did not know they would be subjected to those costs based on the small carrier exemption proposed in the *NPRM*.

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4 COMPTEL Petition at 2-3.

5 *Id.* at 4.

6 *Id.* at 4, n.8.

7 *Order* ¶ 64.

In justifying adoption of the reporting rules, the Commission cited three carriers that it claims already collect the required data, while ignoring the fact that numerous carriers do not currently collect and retain this data.[8] Moreover, since the *NPRM* did not propose to require carriers to collect or report release cause codes,[9] the Commission cannot be certain that the statements by the three carriers cited mean those carriers collect and maintain all the newly required data. On the other hand, Sprint cites three carriers other than itself as well as two industry associations that do not collect at least some of the information required under the new rules.[10] In addition, USTelecom and ITTA have filed a petition in this proceeding stating that "none of the largest LECs currently has the capability to capture and report all required data for intraLATA interexchange/toll traffic."[11] Similarly, as stated in XO's Reply Comments, "XO does not easily maintain cause code data in a manner that could be compiled for reporting without significant time and effort."[12] Specifically, XO has not historically pulled release cause codes from its switches and/or maintained such data throughout its network. Moreover, the required data that XO does collect resides in various call record databases based on the underlying network platform and business uses for the data, rather than in a single database from which the required reports may be easily pulled. For example, XO's network typically generates multiple call records for each individual call, one for each leg of the call routed through its various switches. Compiling the required reports, particularly to segregate by cause code, will

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8 *Order* ¶ 64, n.177.

9 *In the Matter of Rural Call Completion*, WC Docket No. 13-39, Notice of Proposed Rulemaking, 28 FCC Rcd 1569, at Appendix A (2013) ("*NPRM*") (proposed text of § 64.2103 includes an indication whether the call was answered or not but does not include release cause codes).

10 Sprint Petition at 7, n. 8.

11 Petition of USTelecom and ITTA for Reconsideration or, in the Alternative, for Waiver or Extension of Time to Comply, WC Docket No. 13-39, at 2 (filed Jan. 16, 2014) ("USTelecom/ITTA Petition").

12 Reply Comments of XO Communications, LLC, WC Docket No. 13-39, at 14 (filed June 11, 2013) ("XO Reply Comments").

necessitate XO implementing a system to match all of the call records generated from its various switches into a single record for each call. Given the complexity of the data manipulation required, XO is still in the process of evaluating the costs and time necessary to collect the required data and implement the reporting requirements.

From just the brief review of industry responses above, it is clear that not all of the required data is readily available for a significant portion of the industry, but rather collecting and maintaining all of the required data would be a complex and expensive endeavor for even the largest carriers, let alone the smaller carriers now subject to the reporting requirements. For this reason, XO supports COMPTEL's request to reconsider the small carrier exemption and Sprint's request that the Commission undertake an affirmative estimate and consideration of the aggregate compliance costs for covered carriers and to make the RLEC surveys available in their entirety for independent review.[13] Without these pieces of valuable information, the Commission cannot adequately evaluate the magnitude of the rural call completion issues or ensure that the value of the reporting rules in addressing those issues outweighs the enormous costs to the industry.

Finally, XO strongly agrees with Sprint's statement that "[t]he mandated call completion reports are not an appropriate basis for enforcement actions" and supports Sprint's request for consideration of the Commission's decision to use reported data to evaluate provider performance and to inform enforcement actions.[14] While the Commission has designated specific cause codes for required reporting, XO is aware that carriers in the industry do not uniformly use those cause codes as described by the Commission, particularly for SIP signaling. In other words, some carriers may use a cause code for one purpose whereas other carriers may

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[13] Sprint Petition at 5.

[14] *Id.* at 2 (citing *Order* ¶ 19).

use a different cause code for that purpose or the initial cause code for a different purpose. Because of this, XO is wary of the accuracy and consistency of data that will be reported to the Commission.

As a result, XO has strongly opposed the Commission automatically imposing fines or initiating enforcement action on carriers based on call completion rates, reported raw data, or the existence of complaints without any finding of improper behavior by a provider.[15] XO has highlighted, as raised by commenters, legitimate reasons that may exist for differing call completion rates between rural and non-rural areas unrelated to any behavior of the IXC, such as regional events (*i.e.*, storms, elections), rural ILEC trunk capacity, behavior of subscribers in the marketplace (i.e., higher prevalence of voicemail and faxes in non-rural areas), and malfunctions in customer owned/controlled equipment.[16] Thus, XO agrees with Sprint that "[i]f the Commission wants to deter certain call routing or completion practices which it considers unreasonable, it must inform carriers what those practices are, so that carriers can take appropriate steps to avoid or address such practices on a going-forward basis."[17] Until such time, the Commission should not use these reports of raw data to initiate enforcement actions.

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15 XO Reply Comments at 6.

16 *Id.* at 8-9.

17 Sprint Petition at 4.

CONCLUSION

For the forgoing reasons, XO supports the petitions for reconsideration filed by COMPTEL and Sprint as discussed above and urges the Commission to reconsider the call completion reporting requirements to affirmatively determine whether the benefits of such requirements will outweigh the enormous industry costs.

Respectfully Submitted,

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March 4, 2014