April 2, 2014

Via ECFS

Marlene Dortch
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: WC Docket 13-39, *Rural Call Completion NPRM*

Dear Ms. Dortch:

When the FCC opened this docket over one year ago, we contributed the first remarks. The proceeding has progressed through the release of Rules and subsequent comments. We believe that the effort is on the wrong course and offer this follow-up to make four points:

- The service providers most liable for current RCC issues are NOT participating in this rulemaking; they are flying "under the radar" and are unlikely to engage in good-faith compliance with the new rules.
- Market forces don't work as well as we'd like in network scenarios.
- The data gathered and reports mandated by the rulemaking will, for the most part, not be actionable.
- The large industry expenditures incurred to comply with the rules would be much better spent on capabilities that would result directly in resolution of real RCC issues.

**At-fault Service Providers Are Not Participating**

Economics are the primary driver of today's RCC issues. Because rural calls carry an outsize access fee, intermediaries have entered the market using arbitrage, fraud, and technical shortcuts to enable lower-cost connections to these destinations.

As a general rule, reputable providers do not follow these tactics, although some may unwittingly be misled about the legitimacy of certain underlying providers (or be unaware of a lack of diligence on the part of an underlying provider's underlying provider) and thus be ensnared.

Comments in this docket come, for the most part, from reputable providers who are committed to successfully completing calls for their customers. We are not seeing comments such as the following:

- "We object to the signaling rules because they wreck our business model; no longer will we be able to present long-distance calls as local, cheating the terminating rural carrier out of their access fee while still charging the originating carrier a (smaller) premium price for the call."
- "Please don't make us provide proper answer supervision; we make extra money by signaling calls as answered and thus extending the billable time. And we don't care that it screws up proper route-advance in the event that we cannot, in fact, complete the call."
- "Yikes, if you make us report our actual completion ratios, we will be exposed as both incompetent and fraudulent. On these grounds, we ask that the rules be rescinded."

Instead, those perpetrators of RCC problems are thinking, but not saying:

- "It's business as usual for us. We'll just keep messing with the signaling (and perhaps come up with new ways to deceive our upstream customers). By the time any reports are published, we will have changed our modus operandi three times over, keeping everybody confused."
- "If somebody forces us to file reports, it will be trivial to game them. We'll simply submit numbers that are believable, but of course completely fabricated. We're already violating laws

and regulations, so who cares? Why would we actually submit a report that shows how bad we are?"

- "If our upstream customers ask us to certify something, we'll just sign the form. How is anybody going to find out whether or not we actually use multiple downstreams?"

Laws (and regulations) don't have a big impact on criminals and other bad actors, especially when enforcement is challenging or non-existent. We know that most robocalls are illegal, but millions of them are made every day.

**Market Forces Are Compromised**

Normally we would expect that suppliers of shoddy products or services would eventually be forced out by the market – consumers would move away from providers that don't complete calls.

But in the RCC situation, the biggest victims of the poor service are often not the ones making the choice of provider. If Junior in Cincinnati chooses Al's Discount Calling as his phone company, he may not be able to reliably reach Grandma in rural Nebraska. Since all his other calls work fine, he assumes the problem is at Grandma's end. All Grandma knows is that she doesn't hear from Junior any more. (There is payback; he gets written out of her will for not calling.)

Similarly, Ralph's Seed and Silo in rural Iowa isn't getting the repeat business it used to; that's because some of its business customers have moved to alternative phone companies which offer cheaper service and generally work great. Calls to Ralph don't go through; maybe he retired so they find another supplier. This isn't Ralph's fault and he can't fix the problem from his end.

If one shops the wholesale market for call termination, one finds providers that offer Platinum, Gold and Silver rate decks. The cheapest alternative, Silver, is positioned as lacking the best audio quality and may not deliver Calling Line Identification. These people are actually selling BAD PHONE SERVICE right out on Front Street. They are admitting that they don't do proper signaling. But end-users don't know any of this. These services get bundled into retail products (calling cards, over-the-top home phone, Business VoIP, etc.) and it's no wonder that rural consumers and businesses (often at the receiving end) complain.

**Mandated Reports Will Not Be Actionable**

Given these realities, it is difficult to see how the reports and data archiving mandated in the rulemaking will have a material impact on the problem.

The large majority of calls to rural destinations are completed successfully. In legacy phone networks, failure rates of just a few percent would be considered disastrous. What will we do with an aggregated report that says in the previous quarter, the failure percentage changed by so much, or that calls to a particular OCN suffered a higher failure rate than some other OCN?

Network routing is so dynamic that a report released today showing what went on three months ago is not particularly useful. LCR tables are sometimes updated daily or even more frequently. Today's preferred provider to a particular destination tomorrow is last-in-route. Network congestion can appear at certain times and cause calls to take an alternate (and perhaps failing) path, but that condition will be gone by the time we investigate four or six months later.

**Alternatives Exist With A Much Better Cost/Benefit Ratio**

We believe that a much more direct approach to addressing RCC issues would be to have a mechanism that worked across providers to allow tracing of calls in response to failure reports. When a rural customer complains that they did not receive a specific call that they know was placed, or when a call originator complains that they could not get through to a specific rural destination at a particular time, an automated system would quickly and confidentially query the involved providers to figure out what

happened to that call. This information would be reported to human analysts that would look for specific issues, and also do pattern analysis to identify root causes and associated bad actors.

This is what I suggested in my original comments in this docket. While implementing such a system would certainly incur some expense for the industry, it would be less costly and more useful than the data reporting and archiving that is mandated by the current rulemaking.

Most carriers already capture and retain, at least for a short period of time, detailed call signaling data. Being able to query this data as part of a cross-carrier tracing mechanism would involve some software development effort, but it would not require changes to real-time call processing systems (legacy switches) which are far more expensive to modify than the business data systems that we propose to access. Start with the low-hanging fruit; use the data that is already collected (even if that means, for example, that some local or intra-LATA calls aren't traceable – and some have suggested that there doesn't appear to be a significant problem with those calls).

Of course, it is likely that the nefarious providers that are causing RCC problems would likely choose not to participate in such a cooperative effort (just as they are laying low in this docket). However, with cooperation from others, the finger could be squarely pointed at these miscreants even if they don't participate, and enforcement action could be focused on the real problem-causers.

**Conclusion**

Before moving any further with this rulemaking, the FCC should do a serious analysis of the costs involved, and make an assessment of what real benefits will accrue from that investment. Under what scenarios will the proposed data collection effort bear fruit, and are those scenarios realistic?

Furthermore, an analysis of an alternative, such as what I have proposed or something different, should be undertaken, and a determination made if that would not, in fact, be more useful in addressing RCC issues (as well as other call completion issues which are sure to emerge moving forward).

I'm happy to discuss this further with FCC Staff and other interested parties.

Regards,

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