

network.⁴ It is critical, however, that any requirements to ensure rural call completion are as narrowly tailored and minimally burdensome as possible to achieve the Commission's objectives, and that those rules subject carriers to new, additional information collection and record retention requirements only where warranted.⁵ The Commission came to the same conclusion in its Order. Recognizing providers' legitimate concerns about new regulatory burdens, the Commission adopted the "Managing Intermediate Provider Safe Harbor" ("Safe Harbor") and a waiver process to ensure that the regulatory burden is appropriately tailored based on the conduct of the provider and targeted to achieve the Commission's objectives.⁶ To grant such a waiver, the Wireline Competition Bureau must consider whether the provider satisfies the Safe Harbor, implements industry best practices, and monitors its own performance on an ILEC-by-ILEC basis.⁷ Consistent with the terms of the Order, AT&T's waiver request satisfies these considerations for a waiver and provides a comprehensive plan to address compliance with the rural call completion rules by all AT&T-affiliated "covered providers."

Only three comments were filed in response to AT&T's petition, and two of those supported that petition and the relief AT&T has requested.⁸ The sole set of comments opposing AT&T's petition was filed by the Rural Associations.⁹ Yet, their comments point to no specific concern directly related to AT&T or its waiver proposal. Rather, the comments make it clear that the Rural Associations' real concern is not with AT&T's petition but with the waiver

⁴ See, e.g., AT&T Comments, WC Docket No. 13-39 at 1 (filed May 13, 2013) ("AT&T RCC Comments"); AT&T Reply Comments, WC Docket No. 13-39 at 1 (filed June 11, 2013) ("AT&T RCC Reply").

⁵ See AT&T Petition at 2-3; AT&T RCC Comments at 2-3; AT&T RCC Reply at 1.

⁶ See *Rural Call Completion Order* at paras. 86-97.

⁷ See *id.* at para. 96.

⁸ See Comments of CenturyLink, WC Docket No. 13-39 (filed May 12, 2014); Comments of Inteliquent, WC Docket No. 13-39 (filed May 12, 2014).

⁹ See Comments of NTCA-The Rural Broadband Association, The National Exchange Carrier Association, The Eastern Rural Telecom Association, and WTA-Advocates for Rural Broadband ("The Rural Associations"), WC Docket No. 13-39 (filed May 12, 2014) ("Rural Association Comments").

process that the Commission established in the Order. Indeed, the Rural Associations go so far as to demand that the Commission adopt a new prerequisite for a waiver—specifically, a requirement that “each provider ... conclusively demonstrate a minimum four quarters of comparable call completion performance between rural and non-rural areas before the Commission considers any relaxation of the dat[a] retention and reporting requirements.”¹⁰ Thus, although styled as comments in opposition to AT&T’s petition, their pleading is more appropriately considered an untimely petition for reconsideration of the Commission’s Order.¹¹

The closest that the Rural Associations arguably come to any explicit challenge to the showing AT&T made in its petition is a general statement that “the mere argument that compliance is ‘too expensive’ is offensive and must be rejected.”¹² To the extent that the Rural Associations intended that comment to be directed at AT&T, it grossly mischaracterizes AT&T’s position. As AT&T explained at great length, a waiver is warranted here not just because it would cost AT&T money but because AT&T’s approach will be a less-burdensome, more narrowly tailored alternative that will still achieve the Commission’s objectives of ensuring that it can monitor call completion in rural areas.¹³ As AT&T demonstrated, its proposed methodology will provide a statistically valid sample that will allow the Commission and AT&T to monitor call completion and ensure that no systemic call completion concerns arise in rural areas.¹⁴ Moreover, the Commission should never simply ignore the cost consequences of its decisions. Cost is a critical part of any cost-benefit analysis that should be the basis of sound

¹⁰ Rural Association Comments at 3.

¹¹ See 47 C.F.R. § 1.429.

¹² Rural Association Comments at 3.

¹³ See AT&T Petition at 4-16.

¹⁴ See *id.* at 7, 9-10. Indeed, AT&T’s sample will be based on tens of millions of calls per day. See *id.* at 10 n.34.

policymaking. As AT&T explained in its petition, cost-benefit analysis clearly tips in favor of granting AT&T's waiver.¹⁵

In addition, AT&T's proposed waiver carefully follows the considerations set out by the Commission in the *Rural Call Completion Order*.¹⁶ And that procedure was established for good reason. Not only does it tailor regulatory burdens to the level of responsible behavior demonstrated by the provider, but it also addresses the fact that the most costly part of these rules is attributable to the initial implementation expenses. As AT&T explained in its petition, full compliance with the record retention and reporting requirements would cost AT&T alone \$3-5 million.¹⁷ And nearly all of that cost is associated with upfront costs of systems changes, including modifying outdated, legacy switching equipment already slated for replacement.¹⁸ Especially in view of AT&T's impeccable record on this issue, requiring AT&T to fully comply for one year before the Commission would even entertain any regulatory relief would defeat the purpose of a waiver and effectively deny AT&T the opportunity for any material relief at all.¹⁹ For these reasons, the Commission should reject the Rural Associations' request.²⁰

¹⁵ See *id.* at 4, 9.

¹⁶ See *Rural Call Completion Order* at para. 96.

¹⁷ See AT&T Petition at 9. We note that even under AT&T's proposed approach, it will be required to expend approximately \$1 million. See *id.* at 15.

¹⁸ See *id.* at 9.

¹⁹ Well before the Commission adopted rural call completion rules, AT&T adopted internal procedures, including rigorous oversight of vendors and compliance with industry best practices, to ensure proper, high-quality routing and signaling to all areas of the country. See AT&T RCC Comments at 3 (citing Presentation of Penn Pfautz, AT&T, FCC Rural Call Completion Workshop (Oct. 18, 2011), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-310507A1.pdf; Statements of Kim Meola, AT&T & Penn Pfautz, AT&T, Rural Call Completion Workshop video, available at <http://www.fcc.gov/events/rural-callcompletion-workshop> (describing AT&T's practice of limiting by contract the services provided by call termination suppliers to one additional intermediate provider)); AT&T RCC Reply at 3 n.11 (noting the very small number of informal rural call completion complaints received by AT&T).

²⁰ We note that while the Rural Associations are eager to impose costs on "covered providers" without considering the merits of any waiver petition, they objected strongly when the Commission proposed to collect data from their members to solve the rural call completion problem. See Rural Associations Comments, WC Docket No. 13-39, at 10-11 (filed Jan. 16, 2014); Rural Associations Reply, WC Docket No. 13-39, at 7-8 (filed Feb. 18, 2014).

In sum, AT&T has demonstrated that a waiver as proposed in its petition is warranted for good cause and is in the public interest. Accordingly, AT&T respectfully requests that the Commission expeditiously grant AT&T's limited waiver.

May 19, 2014

Respectfully submitted,

By: /s/ Christi Shewman

Christi Shewman

Gary L. Phillips

Lori A. Fink

AT&T Services Inc.

1120 20th Street, N.W., Suite 1000

Washington, D.C. 20036

(202) 457-3090 (phone)

(202) 457-3073 (fax)

Attorneys for AT&T