

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

**Accepted/Filed
MAY 19 2014**

FCC Office of the Secretary

In the Matter of:)	
)	
Midcontinent Communications)	WC Docket No. 13-39
)	
Request for Waiver of)	
Rural Call Completion Reporting Rules)	

REPLY COMMENTS OF MIDCONTINENT COMMUNICATIONS

Midcontinent Communications (“Midcontinent”), by its attorneys, hereby submits its reply comments on Midcontinent’s request for a limited waiver of the Commission’s rural call completion reporting requirements (the “Request”).¹ For the reasons described below, the Commission should grant the Request promptly.

The Commission adopted the rural call completion reporting rules in late 2013, but they have not yet gone into effect.² The Request demonstrated that compliance with the rules would impose a substantial burden on Midcontinent, and that compliance was not necessary to ensure that Midcontinent would complete calls to customers of rural local exchange carriers. Midcontinent showed that complying with the call completion rules would require significant up-front expenditures, including hiring a new employee in a very small regulatory department, and would require Midcontinent to develop time consuming and expensive new reporting and data

¹ See “Wireline Competition Bureau Seeks Comment on Petitions for Waiver Filed in the Rural Call Completion Proceeding,” *Public Notice*, WC Docket No. 13-39, DA 14-577 (rel. May 1, 2014).

² Rural Call Completion, *Report and Order and Further Notice of Proposed Rulemaking*, 28 FCC Rcd 16154 (2013) (the “*Rural Call Completion Order*”).

capture capabilities.³ Further, Midcontinent showed that it already has an active and effective program to ensure that calls to rural areas are completed, including actively monitoring call completion, dynamically modifying routing when issues are detected, and expeditiously reviewing customer complaints. This process resulted in changed routing for calls to 55 rural carriers in 2013 alone.⁴ Midcontinent also complies with the ATIS handbook. In light of the burdens of compliance and Midcontinent's energetic efforts to complete calls to rural customers, Midcontinent requested a waiver of the call completion rules until it has 250,000 access lines or for three years, whichever comes first. Grant of the Request would be conditioned on (1) continued compliance with the ATIS handbook; (2) continuation of Midcontinent's current review and routing revision practices; and (3) reporting of aggregated call completion data and a summary of actions taken to address identified call completion issues.⁵

Only two parties commented on the Request – COMPTTEL and a group of rural carrier associations. COMPTTEL supported the Request, while the rural carrier associations sought to impose a series of conditions on the grant of any waiver, but did not comment specifically on the merits of Midcontinent's request.⁶ In light of these comments, it is apparent that the Commission should grant the Request.

First, as COMPTTEL explains, Midcontinent's request for a waiver is necessary only because the Commission changed the threshold for an exemption from the call completion

³ Request at 5-7.

⁴ *Id.* at 8-10.

⁵ *Id.* at 10-11.

⁶ COMPTTEL's Comments on Midcontinent's Request for Waiver ("COMPTTEL Comments") at 3; Comments of NTCA-The Rural Broadband Association, the National Exchange Carrier Association, the Eastern Rural Telecom Association, and WTA-Advocates for Rural Broadband ("Rural Association Comments").

reporting rules from 100,000 customers to 100,000 access lines.⁷ The Commission did not provide any notice of this change, so smaller carriers like Midcontinent did not have the opportunity to demonstrate the significant burdens such a change would impose.⁸ Unless the Commission grants COMPTTEL's pending petition for reconsideration requesting that the reporting threshold be reset to 100,000 customers rather than 100,000 lines, grant of Midcontinent's petition is necessary to avoid the hardship that the reporting rules would create.⁹

At the same time, the Rural Association Comments do not provide any basis for denying the Request. As noted above, the Rural Association Comments do not respond directly to the Midcontinent Request, but instead argue that the Commission should adopt a particular approach to considering requests for waiver of the call completion reporting rules.

The gist of the Rural Association Comments is that waivers should be granted only if petitioners can show "demonstrable, successful implementation of processes and procedures to ensure the calls to rural consumers do not fail."¹⁰ Midcontinent meets that test. The Request describes Midcontinent's existing processes and how Midcontinent acts to ensure that calls to rural customers are completed. With daily and weekly reviews of call completion, processes to shift routing from unreliable carriers to carriers who reliably complete calls, Midcontinent has proven that it has the kinds of procedures the rural associations want.¹¹ The proof that these procedures work is the very small number of complaints Midcontinent has received, even though Midcontinent's business is focused on serving smaller town and rural areas. As the Request

⁷ COMPTTEL Comments at 1-2, *citing Rural Call Completion Order*, 28 FCC Rcd at 16187, ¶ 27.

⁸ COMPTTEL Comments at 2-3; *see also* Request at 7-8.

⁹ The relief sought by the Request would not be necessary if the Commission granted the COMPTTEL petition for reconsideration prior to the time it acts on the Request.

¹⁰ Rural Association Comments at 4.

¹¹ Request at 8-10.

explains, this commitment to rural call completion is central to Midcontinent's business, which depends on satisfying customers who makes calls to and from rural locations.¹²

The rural associations also argue that the Commission should not grant any waiver until a carrier has provided a full year of data on its call completion rates under the new rules.¹³ This demand is entirely unreasonable. If the Commission were to adopt the rural associations' position, even a petitioner that conclusively demonstrated that a waiver better serves the public interest would be required to comply with the rules anyway. That result would be directly contrary to the standard applied by the FCC and the courts under Section 1.3 of the Commission's rules.¹⁴

Moreover, Midcontinent already has offered to provide data that will permit the Commission to monitor its performance during the period of the waiver, including specific data on the steps Midcontinent takes to address call completion issues.¹⁵ When combined with Midcontinent's existing record of acting aggressively – without any specific requirement to do so – to maintain high call completion rates, this reporting will more than satisfy the rural associations' underlying goal of making sure that calls get through to their customers. Thus, there is no reason for the Commission to require Midcontinent to bear the burdens of complying with the call completion reporting rules before granting a waiver. Indeed, Midcontinent has shown that its alternative compliance program would result in “more effective implementation of overall policy” than strict compliance with the rules and that the requested deviation from the

¹² *Id.* at 8.

¹³ Rural Association Comments at 3.

¹⁴ *See, e.g.,* Vonage Holdings Corp., *Order*, 29 FCC Rcd 744, 746 (citing *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

¹⁵ Request at 10-11.

