

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

An Investigation into Call Routing and Call Completion)
Problems in the State of Missouri) File No. TW-2012-0112

VERIZON’S COMMENTS ON STAFF REPORT

MCI Communications Services, Inc. d/b/a Verizon Business Services and MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services (together, “Verizon”) hereby submit their comments in response to the March 29, 2013 Staff Report on call routing issues in Missouri (“Report”).¹

Over the past year and a half, Commission Staff has held a call gapping workshop,² issued data requests to local exchange carriers seeking information about call completion issues, filed several status reports, and conducted several site visits. Report at 1-2; 5-6. The Report is an outgrowth of these earlier activities. Although the Report does not recommend a specific course of action, it opines that “the entities that are causing the call termination problems in Missouri are purposely and deliberately creating the problem” and posits that “more prompt and directed action by the Missouri Commission may be appropriate.” Report at 10. The Report does so even while acknowledging that the Federal Communications Commission (“FCC”) is already taking action.

Since commenters have no access to the highly-confidential calling study data Staff has reviewed, Verizon’s comments focus on the Report’s conclusions and observations and the

¹ Verizon does so pursuant to the invitation in the Commission’s April 5, 2013 Order in this proceeding (“Order”).

² The Commission received a round of written post-workshop comments in late 2011. Report at 2.

Commission’s existing authority to address call completion issues (the first and third issues identified in the Order).

I. Introduction and Summary

The Report recognizes that call completion issues are not unique to Missouri and explains that the FCC (in conjunction with other organizations) has been actively engaged in a comprehensive examination of call termination issues, particularly over the past year and a half. Report at 4-5. As discussed below, the FCC is addressing rural call completion issues, not only in terms of promulgating rules to ensure that calls are terminated and removing the economic incentives to engage in such activities, but also by taking enforcement action against non-compliant carriers.

The rural call completion issues require a workable, *nationwide* solution. The Commission should not undermine the FCC’s efforts to achieve that solution by leapfrogging ongoing federal efforts and adopting Missouri-specific obligations that may conflict with the requirements and processes being developed by the FCC and national industry organizations. While the Report urges “prompt and directed” action by this Commission (Report at 10), the identified root cause for the problems reported in Missouri – the financial incentive to engage in improper call routing to avoid high intrastate terminating access rates in rural areas (*id.* at 6-7) – will be significantly reduced, if not wholly eliminated, in approximately eight weeks, as federal law requires local exchange carriers to reduce their intrastate terminating access rates to levels no higher than their interstate terminating access rates effective July 1, 2013.³ At that time, there will be no financial incentive for unscrupulous providers to engage in circuitous call routing practices designed to make intrastate calls appear to be interstate to avoid intrastate access

³ See 47 C.F.R. §§ 51.907(c), 51.909(c) and 51.911(c).

charges, as the terminating access rates for intrastate and interstate long distance calls will be the same. The Commission should focus on supporting and aiding these FCC reforms by ensuring that the upcoming intrastate access rate reductions are timely and properly implemented, rather than by creating state-specific call routing requirements that might conflict with or impede national efforts that are already underway. To the extent the Commission identifies specific call routing situations in Missouri requiring remediation, the existing statutory scheme offers sufficient authority for the Commission to address them today, without need for adoption of additional rules.

II. The FCC Is Already Actively Addressing Call Termination Problems

The Report summarizes the substantial ongoing federal efforts to address call termination issues comprehensively, starting with the FCC's oft-stated prohibition against blocking, choking, reducing or restricting traffic in any way.⁴ Report at 4-5; 7-9. Since 2011, the FCC has been working with a number of interest groups, including industry associations of rural local exchange carriers, the National Association of Regulatory Utility Commissioners ("NARUC") and individual state regulatory commissions, interexchange carriers and other service providers, and the Alliance for Telecommunications Industry Solutions ("ATIS"), an organization that develops technical and operational standards for the telecommunications industry. During this process, the FCC has taken several significant and concrete steps to identify and remedy the source of call completion problems in rural areas.

In September 2011, the FCC established a Rural Call Completion Task Force to investigate and address delays and failures in completing calls to rural customers. That task force – an intra-agency working group that includes staff from the FCC's Wireline Competition,

⁴ Declaratory Ruling and Order, *Establishing Just and Reasonable Rates for Local Exchange Carriers; Call Blocking by Carriers*, WC Docket 07-135, 22 FCC Rcd 11629 (Wireline Competition Bureau 2007).

Enforcement, and Public Safety and Homeland Security Bureaus – conducted its first Rural Call Completion Workshop in October 2011 and invited participants from across the industry. The task force continues to interact with service providers to better understand the problems and develop solutions. It also effectively mediates specific call completion issues on behalf of local exchange carriers that raise concerns about particular customer experiences. For example, during April and May of 2012, the task force began communicating with individual carriers about specific call termination troubles that had been brought to its attention and requested that the carriers involved provide detailed explanations. The task force has also established a website as a vehicle for collecting information when problems occur.⁵

The FCC has also expanded its coordination with ATIS. One of its committees, the Next Generation Interconnection Interoperability Forum (“NGIIF”), “addresses next-generation network interconnection and interoperability issues associate with emerging technologies,” and “develops operational procedures which involve the network aspects of architecture, disaster preparedness, installation, maintenance, management, reliability, routing, security, and testing between network operators.”⁶ At the FCC’s request, ATIS has been investigating and evaluating call termination issues and working to determine whether technical or standards-based solutions could mitigate problems. Among other things, the FCC specifically asked ATIS to provide information on any work it has done in connection with the development of industry best practices for managing intermediate service providers.

⁵ See <http://transition.fcc.gov/eb/rcc/Welcome.html>. Carriers may lodge complaints via an on-line process at http://transition.fcc.gov/eb/rcc/RCC_Form2000B.html. In addition, individual carriers have established dedicated processes for rural LECs to report problems directly to the carriers involved in transmitting particular calls.

⁶ See <http://www.atis.org/ngiif/>.

On May 31, 2012, ATIS NGIIF filed with the FCC a detailed report on its progress in a number of areas.⁷ In the preceding months, NGIIF had held open industry workshops, solicited input from rural carriers and others, and conducted a detailed survey of both originating and terminating carriers on call completion issues. NGIIF described its work on an industry handbook that would “address issues such as the management of underlying carriers; existing standards and/or guidelines relevant to long distance call completion/call termination,” including signaling, transmission quality, routing, network congestion and trouble reporting. That Intercarrier Call Completion/Call Termination Handbook received final ATIS approval on August 16, 2012, was published as Document No. ATIS-0300106, and is now available to the industry.⁸

NGIIF reported that it anticipates that new standards, technical reports and/or other guidelines may emerge as the result of its ongoing efforts. NGIIF Report at 26. It also reported that it is expanding its Service Provider Contact Directory (“SPCD”) to include interexchange carrier-to-carrier contact information, to facilitate the reporting of problems related to call completion/call termination issues between carriers. *Id.* at 1. Finally, NGIIF offered to assist rural carrier associations in developing methods and procedures for conducting tests of call completions. *Id.* at 2.

As summarized by Staff, since November 2011, the FCC has issued two important decisions, a notice of proposed rulemaking and a consent decree that directly address call completion issues. Report at 4-5. In November 2011, the FCC announced comprehensive

⁷ See *Ex Parte* Presentation of ATIS, CC Docket No. 01-92 and WC Docket No. 07-135, filed May 31, 2012 at 1 (available on-line at <http://apps.fcc.gov/ecfs/document/view?id=7021921045>) (“NGIIF Report”).

⁸ See <http://www.atis.org/docstore/product.aspx?id=26780>.

reform of the intercarrier compensation regime and established a framework for immediately reducing interstate and intrastate terminating access charges, and ultimately transitioning to a bill-and-keep approach.⁹ The first intrastate access charge reductions took place in July 2012. At that time, all rate-of-return carriers, including rural LECs in Missouri, were to reduce their intrastate terminating access rates halfway to their interstate rate levels. *See* 47 C.F.R. § 51.909(b).¹⁰ As noted above, effective July 1, 2013, federal law requires carriers to reduce their intrastate terminating access rates further, to no higher than their interstate terminating access rates. Given that improper efforts to avoid paying high intrastate terminating access charges in rural areas appear to be the main cause of rural call termination problems (and the Report makes clear that the identified problems are limited to rural areas of Missouri; *see* Report at 9), these FCC reforms should greatly reduce, if not eliminate, any such incentives. The Commission should allow time for these reforms to work before deciding whether new state requirements are justified.

The FCC's *CAF Order* also established clear pricing policies applicable to the termination of VoIP-PSTN traffic, which the FCC defined as "traffic exchanged over PSTN facilities that originates and/or terminates in IP format."¹¹ The *CAF Order*, which took effect December 29, 2011, made clear that its transitional rate structure applies to VoIP-PSTN traffic. Furthermore, the *CAF Order* requires that terminating intrastate access charges for VoIP-PSTN

⁹ *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17633 (2011) ("*CAF Order*").

¹⁰ FCC rules required the same reductions by price cap carriers and competitive local exchange carriers. *See* 47 C.F.R. §§ 51.907(b) and 51.911(b).

¹¹ *CAF Order* at ¶ 940.

be set at parity with interstate terminating access charges as of December 29, 2011.¹² Thus, to the extent that legal uncertainty over the appropriate intercarrier compensation treatment of VoIP traffic may have had implications for call termination issues in the past, the FCC has addressed that concern.

The FCC's *CAF Order* addressed other policies that relate directly to rural call termination. The FCC emphasized that call blocking has the potential to degrade the reliability of the nation's telecommunications network and reiterated its prohibition on blocking of all types of traffic, including VoIP-PSTN traffic, as a means of avoiding unreasonable intercarrier compensation charges. *CAF Order* at ¶¶ 734, 973-974. The FCC also adopted new rules that bar carriers and VoIP service providers from altering call signaling information (including calling number information) transmitted with a call, to ensure that the signaling information reaches terminating carriers and provides accurate caller ID for call recipients. *Id.* at ¶¶ 714, 717, 719. Based on its longstanding prohibition against call blocking and similar practices, the FCC adopted these rules rather than permit selective call blocking, as some had urged. *Id.* at ¶ 734.

A second major development was the FCC's issuance of a declaratory ruling in February 2012, reminding carriers of the agency's longstanding prohibition on carriers blocking, choking, reducing or restricting traffic.¹³ Report at 4. The ruling states that if a carrier knows or should know that calls are not being completed to certain areas, or that it is providing degraded service to certain areas, such conduct might constitute an unjust and unreasonable practice in violation of

¹² *CAF Order* at ¶ 944; *see also Connect America Fund*, WC Docket No. 10-90, *et al.*, Second Order on Reconsideration (released April 25, 2012), at ¶ 28; 47 C.F.R. § 51.913(a)(1).

¹³ *In the Matter of Developing a Unified Intercarrier Compensation Regime and Establishing Just and Reasonable Rates for Local Exchange Carriers*, Declaratory Ruling, CC Docket No. 01-92 and WC Docket No. 07-135, DA 12-154 (released February 6, 2012) at ¶¶ 9-11 ("*Declaratory Ruling*").

the federal Communications Act. *Declaratory Ruling* at ¶¶ 11-14. The FCC reminded carriers of its enforcement authority and carriers’ potential liability for engaging in practices prohibited by the Act or FCC rules. *Id.* at ¶ 16. And as discussed below, the FCC’s Enforcement Bureau has been conducting investigations into rural call completion problems, and recently entered into a significant consent decree on the subject.

The FCC’s work towards combatting rural call completion issues did not end with its 2012 declaratory ruling. On February 7, 2013, the FCC issued a Notice of Proposed Rulemaking seeking comment on additional rules to help address call completion problems.¹⁴ The rulemaking focuses on long distance call completion problems in rural areas, including the issue of intermediate providers offering wholesale call delivery services that may not be delivering traffic as required (the very issues of concern to Staff). *Id.* at ¶ 2. The FCC seeks comment on “reporting and data retention requirements that would allow the Commission to review a long distance provider’s call performance to specific areas, ... strengthen[ing] the [FCC]’s ability to ensure a reasonable and nondiscriminatory level of service to rural areas.” *Id.* at ¶ 3. The FCC also seeks comment on how to minimize compliance burdens for the providers whose call-routing practices are not causing significant call-completion problems. *Id.* Initial comments are due May 13, 2013 – ten days after these Missouri comments – and replies on May 28, 2013. This FCC rulemaking will result in the collection of a far more comprehensive data set than that available to Staff.

Finally, on March 12, 2013, the FCC’s Enforcement Bureau released a consent decree with Level 3 Communications, LLC that resolved an investigation into Level 3’s call completion

¹⁴ Notice of Proposed Rulemaking, *In the Matter of Rural Call Completion*, FCC 13-18 (rel. February 7, 2013) at ¶ 1 (“*NPRM*”); *see also* Report at 5.

practices in rural areas.¹⁵ Report at 8-9. The terms of the consent decree require Level 3 to develop and implement a compliance plan pursuant to which Level 3 will maintain a call completion rate no lower than 5% below the benchmark for both wholesale customer and enterprise customer calls to rural incumbent local exchange carrier locations, and monitor the performance of intermediate providers it uses to complete such calls. *Level 3 CD* at ¶ 16. Level 3 must cooperate with the FCC and rural carriers to engage in testing as appropriate and file periodic compliance reports. *Id.* at ¶¶ 16-17. Level 3 made a \$975,000 contribution to the U.S. Treasury as part of the consent decree, and will have to make additional \$1,000,000 contributions for future compliance failures. *Id.* at ¶ 20. This consent decree sends a clear signal that the FCC does not, and will not, tolerate illegal call routing practices.

III. The Commission Should Support the FCC's Efforts to Resolve Call Completion Problems in a Comprehensive Manner

The recent decisions and ongoing actions by the FCC and ATIS NGIIF demonstrate a robust, multi-pronged, national approach to the issues identified in the Report, and will provide both short- and long-term solutions. The Commission should focus on supporting these multi-faceted efforts instead of considering state-specific measures at this time. Rather than proceed independently, the Commission should encourage the FCC, NARUC and other organizations that have been engaged in these issues for some time to continue to drive realistic solutions on a national level. The Commission should also support action by the FCC to enforce the rules and policies set forth in its *Declaratory Ruling* and provide comments in the pending NPRM.

At the state level, the Commission should devote its efforts to ensuring compliance with the FCC's new intercarrier compensation regime by ensuring implementation of the pricing

¹⁵ Consent Decree, *In the Matter of Level 3 Communications, LLC*, DA 13-371 (rel. March 12, 2013) ("Level 3 CD").

changes that will take effect in July 2013 and at subsequent stages in the multi-year transition to bill-and-keep arrangements. The new intercarrier pricing policies are designed to remove financial incentives for service providers to engage in practices that may undermine the reliability of service in rural communities. Thus, successful and timely implementation of the FCC's pricing rules will go a long way to eliminating the financial incentive for providers to engage in suspected call completion mischief.¹⁶ The Commission should refrain from implementing new state-specific requirements and instead should observe how the FCC's reforms address and remedy the underlying problems. Even though the decisions discussed above were issued fairly recently, there are indications that progress is already being made. In fact, in contrast to comments made by two Missouri rural carriers (Report at 6), the National Exchange Carrier Association ("NECA") reported on May 21, 2012 that a "national call completion test" it had conducted showed that "overall [call] completion and quality problems have improved" since a prior test.¹⁷

Individual state requirements could ultimately become problematic, since many of the policies established and being addressed at the federal level will apply on a nationwide basis. Similarly, telecommunications carriers are most apt to implement technical or standards-based industry solutions developed through ATIS, the FCC or some other forum throughout their regional or nationwide networks. Moreover, carriers often enter into contracts to exchange

¹⁶ The Staff Report opines that federal efforts are unlikely to "address the root causes of call completion problems in Missouri" (Report at 7) but does not explain why. Given that the report repeatedly points to access avoidance as the root cause, all signs indicate that the FCC's and ATIS' actions, coupled with the strong enforcement mechanisms reflected in the *Level 3 CD*, will eliminate incentives for engaging in call routing mischief.

¹⁷ See *Ex Parte Notice* filed May 21, 2012 in WC Docket No. 07-135, *et al.* by NECA, the National Telecommunications Cooperative Association, the Organization for the Promotion and Advancement of Small Telecommunication Companies and the Western Telecommunications Alliance.

traffic with other carriers on a national basis. It would be overly burdensome to try to modify those contracts to address call completion requirements on a state-specific basis. It would also be impractical, if not impossible, to try to alter the nature of the business relationship between the carriers (and establish different liability and indemnity provisions in a contract) in only a single state in order to comply with unique requirements established in that one jurisdiction. Adoption of state-specific requirements could therefore conflict with or undermine the establishment of a uniform policy framework. They could also interfere with carriers' ability to implement technical solutions in a uniform and efficient manner.

Indeed, given the interconnected and inter-operational character of telecommunications networks, it is likely that requirements imposed in Missouri to address purely "intrastate" traffic issues could complicate the ability of carriers to efficiently manage networks engineered to handle both interstate and intrastate traffic. Complex jurisdictional issues would undoubtedly arise if the Commission attempted to establish its own requirements in this area. As evidenced by efforts to resolve specific call completion complaints, it is often difficult to trace the origins and causes of these problems. It is also unclear how state requirements could be applied solely to intrastate communications within the Commission's jurisdiction. This is critical because the Commission does not have the authority to resolve issues or take enforcement action in connection with interstate traffic. Even when calls are destined for customers in Missouri, the Commission has no authority to act if the calls originated in other states.

This is why a national policy framework is the best approach to resolving these types of issues. It is also why the Commission should not attempt to fashion Missouri-specific requirements at this time.

IV. Carrier-to-Carrier Resolution of Individual Problems Is Preferable to Adopting Broad, State-Specific Requirements

Verizon, like other telecommunications service providers, has a strong interest in ensuring that its customers' calls are delivered properly to their intended destinations; indeed, that is what customers expect when they sign up for service. For these reasons, Verizon also has an interest in making sure that its networks are properly engineered and maintained to provide high quality service. If it does not, customers will seek out competitive alternatives. Thus, Verizon is highly motivated to address promptly any problems that its customers may experience. In addition to participating in ongoing efforts focused on call completion issues at the national level, Verizon has established a dedicated toll-free number (800-285-3776) that other carriers can call to obtain immediate attention should a problem occur. Personnel in Verizon's centralized maintenance center are trained to work with other carriers to investigate specific call completion issues. They will open trouble tickets if warranted, and endeavor to resolve any problems promptly.

Other carriers have established similar processes, and the FCC is encouraging such approaches. And as indicated above, ATIS NGIIF has enhanced its SPCD to facilitate communications between carriers, enabling them to report and address call completion issues in a timely manner. Resolving call completion/call termination issues on a carrier-to-carrier basis is more efficient and effective than trying to accomplish the same result through a set of new administrative rules or requirements. This is particularly so given that there are a number of reasons why some calls are not delivered correctly. Some are technical, some involve end user equipment, and others are due to inadvertent human error (*e.g.*, incorrect entry of information). Unfortunately, even after investigation, it is not always possible to determine the cause.

It is unreasonable to expect that creating new and potentially conflicting state requirements will assist in solving all of the kinds of problems that can occur, or will be effective in resolving problems that do arise. Given the complex nature of network routing, modern telecommunications equipment and sophisticated software, the service providers themselves are best capable of troubleshooting specific problems and resolving them based on their knowledge of their own facilities, systems and operations. The carriers' own employees are also in a better position to respond to specific problems raised by other carriers and consumers and to address them in a timely manner, than is a regulatory agency enforcing rules of general applicability. An administrative process necessarily takes time to initiate and lasts longer, and is not as likely to resolve issues or achieve customer satisfaction as quickly or efficiently as carriers collaboratively working toward resolution of call completion issues. Accordingly, instead of adopting Missouri-specific requirements, the Commission should encourage and support efforts of carriers to resolve these types of complex technical issues on a carrier-to-carrier basis.

V. The Commission Has Adequate Existing Mechanisms to Address Problems Involving Call Blocking, Choking and Adequacy of Service

Missouri law already provides the Commission with adequate mechanisms to address the rural call completion issues raised in the Report. For example, the Report notes that Missouri law already prohibits alteration/masking of calling party numbers ("CPNs") (as does federal law). Report at 7, FN 26 (citing 4 CSR 240-29.049). In addition, the Report notes that Commission has incorporated in recent certificate application orders requirements that new voice certificate holders undertake all necessary measures to ensure that their contracts with underlying carriers do not contain provisions preventing delivery of traffic to any telephone exchange in Missouri. Report at 6.

While not specifically cited in the Report, Missouri statute already prohibits the types of call blocking/choking conduct discussed therein. Section 392.200.6, R.S.Mo. requires that “[e]very telecommunications company operating in this state shall receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telecommunications company with whose facilities a connection may have been made.”¹⁸ Failure to comply with this requirement can subject a carrier to liability for damages, penalties, and certificate/registration revocation. *See* §§ 392.220, 392.350, 392.360 and 392.550.4(6), R.S.Mo. The Commission’s complaint process offers a mechanism for carriers and/or Staff to pursue redress if they believe a carrier is violating its call-routing obligations.

There has been no demonstration that existing law does not provide the Commission with sufficient authority to address known problems relating to call blocking, choking, and adequacy of service. In fact, existing law already appears to cover call blocking and choking that result in the interruption of and failure to complete/terminate calls. Accordingly, there is no need to establish new requirements to enable the Commission to deal with this particular subset of operational issues.

VI. Conclusion

For all of the foregoing reasons, the Commission should actively support the FCC’s and the industry’s ongoing efforts to address call termination issues in a comprehensive, nationwide manner, but refrain from considering implementation of state-specific requirements at this time.

¹⁸ Sections 392.130, 392.140 and 392.170, R.S.Mo. set forth obligations similar to those found in § 392.200.6, R.S.Mo., requiring telephone companies to deliver calls properly or face penalties.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 3rd day of May, 2013.

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