

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

REPLY COMMENTS OF THE MISSOURI SMALL TELEPHONE COMPANIES

The Missouri Small Telephone Companies ("Small Companies"),¹ agree with the Missouri Public Service Commission (Commission) Staff's March 29, 2013 Report which concludes that rural call completion problems continue to exist in Missouri, and that the "primary cause of call completion problems appears to be intentional traffic manipulation by certain intermediate providers (a.k.a. least-cost-routers) used by some originating interexchange carriers." (Staff's Report, p. 10) Staff's Report observes, "[T]he entities that are causing the call termination problems in Missouri are **purposefully and deliberately creating the problem.**" *Id.* (emphasis added.)

¹ For the purposes of this case, the Small Companies consist of the following rural telephone companies: Alma Communications Company d/b/a Alma Telephone Company, BPS Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Fidelity Telephone Company, Goodman Telephone Company, Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Corporation, Kingdom Telephone Company, K.L.M. Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Otelco Mid-Missouri LLC, Miller Telephone Company, MoKAN Dial, Inc., New Florence Telephone Company, New London Telephone Company, Northeast Missouri Rural Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Peace Valley Telephone Company, Inc., Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

A. The Commission Has Legal Authority to Address the Problem.

1. Staff Counsel's Legal Analysis that Intermediate Providers (Least-Cost-Routers) Must Be Certificated or Registered with the MoPSC.

The Missouri Cable Telecommunications Association (MCTA) agrees with Staff's conclusion that the Commission has jurisdiction to require certification of a telecommunications company that is an intermediate provider of telecommunications services in Missouri. (MCTA Comments, p. 7) The Small Companies concur.

2. Commission Authority

Verizon comments, "[T]he existing statutory scheme offers sufficient authority for the Commission to address them today." (Verizon Comments, p. 3) MCTA agrees that the Commission "has sufficient existing authority . . . to engage in enforcement actions to address call termination issues as they arise." (MCTA, p. 2) Likewise, CenturyLink states, "[I]t appears that Missouri already has in place the necessary laws and regulations to address call routing and completion issues." (CenturyLink Comments, p. 3) Thus, there appears to be no dispute or question about the Commission's authority to address the call completion problem.

B. Missouri Commission Action Is Necessary.

MCTA and Verizon both suggest that when intrastate rates are reduced to match interstate rates, then "the financial incentive to engage in improper call routing to avoid

high intrastate terminating access rates in rural areas will be significantly reduced, if not wholly eliminated . . .” (Verizon Comments, p. 2) Their reasoning is flawed.

First of all, the intercarrier compensation rate for terminating “local” or intraMTA wireless calls went to bill-and-keep (i.e. zero rate) and the disparity between intrastate and interstate access rates was reduced by 50% as of July 1, 2013. Despite these significant rate decreases the call completion problems continued. Second, even after the upcoming June 1, 2013 rate reduction, the access rates of small rural companies will continue to be higher than those of the large companies. This is because the small companies’ intrastate access rates are based on their costs of service, and it is more expensive to serve in high-cost rural areas with low customer density. Therefore, although not as great, the same financial incentive for least cost routers to fail to complete calls will remain. And as this Commission learned in the *Halo Wireless* case,² any rate higher than zero will provide an opportunity for unscrupulous operators.

CenturyLink, MCTA, and Verizon suggest that the Commission should wait until the FCC acts. Staff’s Report and the firsthand experiences of Missouri’s small telephone companies dictate against putting this issue on hold any longer. First, Staff’s Report highlights significant concerns with the FCC’s approach to the problem:

² See *Halo Wireless, Inc. v. Craw-Kan Telephone et al.*, File No. TC-2012-0331, *Report and Order*, issued August 1, 2012; see also *Staff v. Halo Wireless, Inc. and Transcom Enhanced Services, Inc.*, File No. TC-2013-0194.

It is unlikely that the solution being proposed in the FCC's Notice of Proposed Rulemaking will address the root causes of call completion problems in Missouri. Nor is it likely that traffic statistics will be sufficient to address Staff's concern with the apparent two-wire bridging conditions and practices which appear to be in use by the "intermediate providers" and causing low volumes when calls do complete. . . . The FCC recognized that even when calls to rural areas do get answered, the communications quality of the call may be so poor as to render the communications between calling and called parties unsuccessful.

Staff's Report, p. 7. Second, while Staff recognizes that the FCC is taking some action, Staff suggests that "**solutions to the problem deserve more prompt attention by the Missouri Commission.**" *Id.* (emphasis added) The Small Companies agree with Staff's assessment and urge the Commission to begin taking action to address call completion issues in Missouri.

CenturyLink says that Staff's investigation "involved limited empirical data" and suggests that "additional investigations into the root cause of the . . . issues should be conducted." (CenturyLink, p. 2) Additional investigation will be costly and time consuming, yet do little to solve the problem. Staff's Report and FCC orders provide sufficient explanation about the root cause, and recent comments from the National Association of Regulatory Utility Commissioners (NARUC) note that call completion problems are worsening. In May 9, 2013 comments to the FCC, NARUC stated:

This is an issue that can seriously impact the lives and livelihood of all rural, suburban, and urban customers as these calls may originate or terminate anywhere in the United States. Indeed, in an April 12, 2013 *ex parte*, NTCA described **a recent dramatic increase in consumer complaints** and described several typical complaints, including a nursing home reporting that it could not receive a doctor's orders, a veteran

medical clinic complaining it could not receive calls from a hospital, and one business that received complaints from multiple employees and over 20 customers that could not contact the company during business hours. **NARUC, members of Congress, and trade associations have repeatedly raised call completion as a serious issue for the FCC.**

In the Matter of Rural Call Completion, WC Docket No. 13-39, NARUC Comments, filed May 8, 2013, pp. 2-3 (emphasis added) Missouri Senators Blunt and McCaskill have both expressed serious concerns about call completion to the FCC. (Staff Report, p. 4)

The place to address this problem is within the Missouri network, and the time to address this problem is now. The MCTA comments that the Commission can supplement the FCC's efforts to address call completion problems by "exercising enforcement authority." (MCTA Comments, p. 6) The Missouri Commission has a history of taking action when problems with the Missouri telecommunications network are identified. For example, in 2005 the Commission and its Staff addressed years of documented problems with unidentified and uncompensated "phantom traffic" by establishing the Enhanced Record Exchange (ERE) Rule. (4 CSR 240-29.010 – 29.160) This rule has been effective in addressing phantom traffic and other unlawful use of Missouri's telecommunications network.³

Missouri's customers should not have to wait for the FCC's data collection efforts. The Commission should take decisive action now to address this problem plaguing Missouri customers and the Missouri telecommunications network.

³ See *Halo Wireless, Inc. v. Craw-Kan Telephone et al.*, File No. TC-2012-0331, *Report and Order*, issued August 1, 2012; see also *Staff v. Halo Wireless, Inc. and Transcom Enhanced Services, Inc.*, File No. TC-2013-0194.

C. Next Steps

Staff advises, “It is unlikely that the solution being proposed in the FCC’s Notice of Proposed Rulemaking will address the root causes of call completion problems in Missouri.” (Staff Report, p. 7) Likewise, NARUC’s May 9, 2013 comments to the FCC stated that “collecting data alone is not sufficient to resolve the problem.” (NARUC Comments, p. 3) NARUC further commented that “State commissions have and retain sufficient authority to deal with call completion issues under independent State law.” *Id.* at p. 4. Therefore, it is time for the Missouri Commission to take action to address rural call completion problems.

The Missouri Small Companies propose a three-part approach:

- A. A public awareness campaign;
- B. A web-based reporting page for Missouri customers to report rural call completion problems; and
- C. Establishment of a rule to directly address rural call completion issues.

The Missouri Small Companies respectfully request that the Commission move forward as soon as possible to implement a procedural schedule to address the call completion problems identified in Staff’s Report.

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was mailed, hand-delivered, or served electronically this 13th day of May, 2013 to:

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