Before the
Federal Communications Commission
WASHINGTON, D.C. 20554

In the Matter of

Rural Call Completion

WC Docket No. 13-39

COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

The National Association of Regulatory Utility Commissioners (NARUC) respectfully submits these comments in response to the Federal Communications Commission (FCC) November 8, 2013 Report and Order and Further Notice of Proposed Rulemaking (FNPRM) in the above-captioned proceeding.¹

NARUC, a nonprofit organization founded in 1889, has members that include the government agencies in the fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands charged with regulating the activities of telecommunications,² energy, and water utilities.


² NARUC’s member commissions have oversight over intrastate telecommunications services and particularly the local service supplied by incumbent and competing local exchange carriers (LECs). These commissions are obligated to ensure that local phone service supplied by the incumbent LECs is provided universally at just and reasonable rates. They have a further interest to encourage unfettered competition in the intrastate telecommunications market as part of their responsibilities in implementing: (1) State law and (2) federal statutory provisions specifying LEC obligations to interconnect and provide nondiscriminatory access to competitors. See, e.g., 47 U.S.C. § 252 (1996).
Congress and the courts have consistently recognized NARUC as a proper entity to represents the collective interests of the State public utility commissions. In the Federal Telecommunications Act, Congress references NARUC as “the national organization of the State commissions” responsible for economic and safety regulation of the intrastate operation of carriers and utilities.

The FCC should be commended for, in the Report and Order that accompanies the November FNPRM, adopting recording, retention, and reporting requirements to improve its ability to monitor and address call completion problems. Those requirements should apply to local exchange and interexchange carriers, including Commercial Mobile Radio Services that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber voice lines (regardless of the technology or protocol used to provide the service).

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3 See United States v. Southern Motor Carrier Rate Conference, Inc., 467 F. Supp. 471 (N.D. Ga. 1979), aff’d 672 F.2d 469 (5th Cir. 1982), aff’d en banc on reh’g, 702 F.2d 532 (5th Cir. 1983), rev’d on other grounds, 471 U.S. 48 (1985). See also Indianapolis Power and Light Co. v. ICC, 587 F.2d 1098 (7th Cir. 1982); Washington Utilities and Transportation Commission v. FCC, 513 F.2d 1142 (9th Cir. 1976).


5 See 47 U.S.C. § 410(c) (1971) (NARUC nominates members to FCC Joint Federal-State Boards which consider universal service, separations, and related concerns and provide formal recommendations that the FCC must act upon; Cf 47 U.S.C. § 254 (1996) (describing functions of the Joint Federal-State Board on Universal Service). Cf NARUC, et al. v. ICC, 41 F.3d 721 (D.C. Cir 1994) (where the Court explains “…Carriers, to get the cards, applied to…(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the "bingo card" system.)
The FCC’s November FNPRM seeks additional comment on several issues concerning, among other things, intermediate providers, modifications to safe harbors, and rural Incumbent Local Exchange Carriers. It also seeks comment on additional rules that will help address problems in the completion of long distance telephone calls to rural consumers.

As NARUC noted in prior comments filed in this proceeding.6

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.7 NARUC, members of Congress, and trade associations have repeatedly raised call completion as a serious issue for the FCC.8 (Original footnotes retained)

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While the new rules contained in the *Report and Order* requiring data collection are a positive step towards correcting the rural call completion problem, additional measures are needed. The FCC needs to assure that:

- **Intermediate providers register and certify they will follow industry standards and State/FCC rules;**

- **No additional limitations or safe harbors regarding collection and retention of data are created;**

- **Rural Incumbent Local Exchange Carrier data reporting remains voluntary;**

- **Existing prohibitions on blocking, choking, or restricting traffic are codified into an FCC rule (one that recognizes concurrent State authority to investigate and resolve problems involving intrastate traffic - regardless of the outcome in the 10th Circuit appeal of the FCC’s November 2011 Transformational Order); and**

- **There are no barriers to either State acquisition of data needed to investigate call completion issues or State coordination of investigations with other States.**

In support of these positions, NARUC respectfully submits the following:

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DISCUSSION

 Intermediate providers should be required to register and certify they adhere to industry standards as well as State and FCC rules.

By requiring intermediate providers to pass “signaling information, unaltered, to the next provider in a call path,”9 the FCC has acknowledged that “many . . . call routing and termination problems can be attributed to intermediate providers.”10 However, the FCC declined to impose obligation or certification requirements on this industry segment.11

In ¶ 122 of the FNPRM, the FCC seeks comment on whether the agency should impose certifications or other obligations on intermediate providers. Although the originating carrier is ultimately responsible for completing the call, all providers routing traffic should be obligated to abide by standards and rules.

Intermediate carriers have used least cost routing12 for years in many geographic areas.13 Some apparently have refused to terminate calls to some

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9 Report and Order, ¶ 6.
10 Report and Order, ¶ 16.
11 FRNPM, ¶ 22. (“[W]e decline at this time to impose the rules on intermediate providers. We seek comment on whether we should extend these rules to intermediate providers, or a subset thereof, and on the Commission’s authority to do so.”)

12 “Least cost routing” also has been referred to by the FCC as “Automatic Route Selection,” which is defined as a “PBX and Centrex service that allows for automatic selection of the most efficient and cost-effective route. . . . By using the ARS feature, outgoing phone calls from PBX and Centrex stations are routed to the most cost-efficient service or facilities.” Public Notice, Comment Sought on Draft Eligible Services List for Schools and Libraries Universal Service Mechanism, FCC 07-130, at Glossary (rel. July 27, 2007).
carriers based on cost. However, a rural call completion failure is not always linked to an intermediate carrier *refusing* to complete a call due to cost. Failing to routinely update routing tables or follow other industry standards also cause call completion failures.

Intermediate providers must have the knowledge and technical capability to 1) successfully perform call routing, 2) comply with associated State and FCC rules, and 3) adhere to ATIS-0300106 Intercarrier Call Completion/Call Termination Handbook standards.

The FCC should require each intermediate provider to certify that its business practices conform to the same standards and (State and federal) rules for call routing as covered providers.

The FCC should establish a federal *Intermediate Provider Registry* that contains a designated point of contact for each listed and defined geographical area where the carrier provides intermediary services to facilitate FCC and State investigations of call completion issues.

The FCC should also specify that intermediate carriers not registered as an federal intermediate provider, including those terminating intrastate voice calls that are not otherwise registered/certified by a State commission (in States that

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determine or already require similar or related certifications/certificates of intermediate carriers) are not allowed to perform the functions of an intermediate provider.

*There should be no additional limitations or safe harbors regarding collection and retention of data.*

NARUC opposed safe harbors in its May 13, 2013 comments.¹⁴

NARUC opposes additional safe harbors. Until the FCC has more experience with the information it has currently ordered to be collected, such action is premature. There should be no limitations or additional safe harbors regarding *collection and retention* of data. All entities involved in any call path should be required to retain call data for any call it is involved in routing to allow resolution of complaints as they occur, including rural carriers and intermediate providers for six months. This will ensure the burden of call collection and retention is equally shared by all entities involved in the call path.

*The FCC should maintain voluntary Rural ILEC Data reporting.*

The *FNPRM*, at ¶ 128, points out the FCC has encouraged, but does not require, each rural ILEC to report quarterly on the number of incoming long-distance call attempts received, the number answered on its network and the

resultant call answer rate calculation. This voluntary approach is sound policy. The requirement imposes the additional burden of compiling and reporting the data on the only other entity, aside from the called customer, that already bears significant losses as a result of call completion failures. Moreover, such data would be of limited utility. Information collected from covered providers is incomplete and would be compared against 100% of the inbound call activity reported by the terminating RLEC.

The FCC should codify existing prohibitions on blocking or restricting traffic.

In ¶ 130 of the FNPRM, the FCC asks if it should adopt rules formally codifying existing prohibitions on blocking, choking, reducing, or restricting traffic. NARUC supported the FCC’s 1st declaratory ruling as a useful first step towards inhibiting inappropriate practices, as well as possible fraudulent activity that can result in call completion problems. The adoption of a specific rule prohibiting such behavior with respect to all traffic, pending resolution of jurisdictional issues raised in the appeal of the Commissioners November 2011 so-called USF/ICC Transformational Order,15 is the logical culmination of the Commission’s efforts. Such rules should also include a generic rule prohibiting any manipulation of call records to prevent false reports that skew or mask call

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completion issues. Such codification should also explicitly clarify that, as a matter of federal law, State commissions continue to have jurisdiction to collect data, as well as impose and enforce requirements with respect to intrastate traffic, regardless of the technology used to provide the service.

The FCC should clarify that States will have access to all data collected related to call completion problems.

The FCC should make all call completion data it collects available to all States. It should make sure there are no roadblocks to State investigations/corrective action.

Large carriers provide long-distance service in multiple States as do intermediate providers. The FCC should allow States that meet confidentiality requirements and receive FCC data to disclose detected call completion patterns or cyclical events in the data received from the FCC with one another to help combat issues as they arise. The FCC should also establish a mechanism that makes all retained call data from involved carriers available to the States during specific State investigations of call failures.
IV. CONCLUSION

NARUC applauds the FCC’s recognition of the rural call completion problem and its enforcement actions thus far, enactment of the majority of the rules in the November Report and Order and the promulgation of this FNRPM. The FCC should incorporate NARUC’s suggestions in future rules to ensure call failure causes are timely identified and corrected.

Respectfully Submitted,

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