

June 12, 2013

IOWA UTILITIES BOARD

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

In the Matter of	Docket No. FCU-2013-0009
The Complaint of Douglas Pals	(C-2013-0026)

JOINDER IN REQUESTS BY STAFF AND THE
OFFICE OF CONSUMER ADVOCATE FOR FORMAL PROCEEDINGS

Pursuant to Iowa Code § 476.3, West Liberty Telephone Company dba Liberty Communications (“Liberty”) joins the requests by the Board’s staff and the Office of Consumer Advocate (“OCA”) for a formal proceeding regarding the above rural call completion complaint.

In support of this request, Liberty states:

1. This proceeding involves a consumer’s complaint relating to a telephone call that Douglas Pals placed on February 12, 2013, at 2:00 pm, to Sandee Buysse-Baker (the “Victim’s Call”). Although Mr. Pals’ originating number is 515-987-3249, the call identification information was illegally altered so that inaccurate information was displayed to Ms. Buysse-Baker indicating that the originating number was 347-466-5828 and the calling party’s name was BIDAXIS. As a consequence of the misleading and inaccurate caller identification information, Ms. Buysse-Baker did not answer the call. Consequently, the fraudulent manipulation of the caller identification information caused the same harm to the public as a blocked call.

2. CenturyLink was both the originating local exchange carrier (“LEC”) and the presubscribed long distance carrier for the Victim’s Call. CenturyLink routed the Victim’s Call to an internet protocol (“IP”) based least cost router named Bluetone Communications LLC

("Bluetone"). Bluetone then routed the Victim's Calls to one or more additional intermediate service providers.

3. Liberty was the LEC that terminated the call to Ms. Buysse-Baker. The caller identification information had already been altered to be inaccurate before it reached Liberty's facilities. As has been recognized by the FCC, "because the terminating provider often has no direct relationship with the person placing a call, that provider often has no way to determine the accuracy of the caller ID information it receives and provides to its subscribers."¹

4. On March 27, 2013, Liberty received a call from Bluetone indicating that it was common for an IP routed call, like the Victim's Call, to incur several intermediate service providers before reaching its destination. Neither CenturyLink nor Bluetone has disclosed to Liberty the identity of the other intermediate service providers involved in the routing of the Victim's Call.

5. On May 23, 2013, the Board's staff recommended that the Board commence a formal proceeding to investigate the Victim's Call. The Office of Consumer Advocate filed a joinder on May 24, 2013 concurring in staff's request for a formal proceeding. Liberty also joins staff's request for a formal proceeding and concurs that there is a "reasonable ground for investigation" within the meaning of Iowa Code § 476.3.

6. All service providers are required to pass caller identification information to the next provider in the call path without alteration. 47 C.F.R. § 64.1601(a). Causing harm to consumers and other carriers through misleading or inaccurate caller identification information is also prohibited. 47 C.F.R. § 64.1604. Further investigation in a formal proceeding could identify the service provider that violated these FCC rules, and such findings could then be

¹ *Rules and Regulations Implementing the Truth in Caller ID Act of 2009*, 26 FCC Rcd 9114, 9117 (2011).

reported to the FCC with a request for enforcement. Such FCC rule violations also contravene a service provider's obligation under Iowa law to "furnish reasonably adequate service." Iowa Code § 476.3. Therefore, the Board clearly has an interest in preventing interference with the proper completion of calls in Iowa and preventing further degradation to call quality.

7. "Reasonable grounds for further investigation exist when there are numerous unanswered questions regarding the precise circumstances of a complaint."² In this case, there are numerous unanswered questions warranting further investigation. There is still no answer as to who and what caused the transmission of false caller identification information for the Victim's Call. Investigation is needed to determine how many intermediate providers were involved in the routing of the Victim's Call, what are their identities and roles, and the reasons why caller identification information would be made more accurate by re-routing or removal of a downstream provider from the routing. Furthermore, the impact on the accuracy of caller identification information when calls are routed on an IP basis requires investigation.

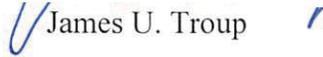
8. Liberty takes very seriously, and is committed to resolving, interference by third parties with the completion of calls to Liberty's customers. On May 13, 2013, Liberty filed joint comments at the FCC with twenty-eight (28) other rural LECs recommending stronger enforcement measures to prevent further interference with the completion of calls to small towns and rural areas.³ Those joint comments described the Board's efforts to investigate the worsening call completion and call quality problems plaguing Iowa. The falsification of caller identification information is yet another call interference scheme that needs to be fully investigated and brought to the FCC's attention.

² *In re: Rehabilitation Center of Allison, Iowa, Opinion, Order Granting Request for Formal Proceeding and Setting Procedural Schedule*, 2013 Iowa PUC LEXIS 111 *24, Docket No. FCU-2012-0019 (IUB Mar. 15, 2013).

³ A copy of the comments filed with the FCC is attached.

WHEREFORE, Liberty concurs with the staff and the OCA that the Board should initiate a formal proceeding on the Pals complaint.

Respectfully submitted,

 James U. Troup

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dba Liberty Communications

June 12, 2013

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EXHIBIT 1

PLEASE STAMP
AND RETURN

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)
Rural Call Completion) WC Docket 13-39
_____)

FILED/ACCEPTED

MAY 13 2013

Federal Communications Commission
Office of the Secretary

JOINT COMMENTS OF:

BAY SPRINGS TELEPHONE COMPANY, INC.
BREA TELEPHONE CORP.
BTC, INC.
COOPERATIVE TELEPHONE COMPANY
CROCKETT TELEPHONE COMPANY
DUMONT TELEPHONE COMPANY
EAST BUCHANAN TELEPHONE COOPERATIVE
HICKORY TELEPHONE COMPANY
MODERN COOPERATIVE TELEPHONE COMPANY
MOULTRIE INDEPENDENT TELEPHONE COMPANY
MUTUAL TELEPHONE COMPANY OF MORNING SUN
NATIONAL TELEPHONE OF ALABAMA, INC.
OGDEN TELEPHONE COMPANY
OLIN TELEPHONE COMPANY, INC.
PALMER MUTUAL TELEPHONE COMPANY
PEOPLES TELEPHONE COMPANY
PRAIRIE TELEPHONE CO., INC.
ROANOKE TELEPHONE COMPANY
ROYAL TELEPHONE COMPANY
SHARON TELEPHONE COMPANY
SPRINGVILLE COOPERATIVE TELEPHONE COMPANY
TERRIL TELEPHONE COMPANY
THE FARMERS MUTUAL TELEPHONE COMPANY OF STANTON, IOWA
VILLISCA FARMERS TELEPHONE COMPANY
WELLMAN COOPERATIVE TELEPHONE ASSOCIATION
WEST LIBERTY TELEPHONE COMPANY
WESTSIDE INDEPENDENT TELEPHONE COMPANY
WEST TENNESSEE TELEPHONE COMPANY, INC.
WTC COMMUNICATIONS INC.

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Their Attorney

Dated: May 13, 2013

SUMMARY

The Independents include twenty-nine (29) local exchange carriers with service areas in the Northeast, South, and Midwest. Commission enforcement actions, such as the recent consent decree with Level 3, have not slowed the rapid increase in illicit call degradation. The Independents continue to experience calls placed to their customers with very poor reception, incorrect calling number delivery, and calls not completing at all. By failing to ensure the proper completion of calls to the Independents' customers, upstream service providers have seriously damaged the Independents' relationships with their customers, resulting in severe harm to rural economic development as businesses move out of rural areas or are deterred from moving to rural areas because they will lose revenue if they cannot receive calls from the consumers of their products and services.

Frustrated when their calls do not go through, consumers mistakenly blame the terminating local exchange carriers ("LECs") for the failure of upstream carriers to properly complete their calls, and complain about the reliability of the terminating LEC's service. Through their inaction and lack of cooperation, upstream service providers are wrongfully shifting the blame to the Independents, permitting the Independents' customers to perceive the Independents as the cause of the uncompleted calls, even though the Independents' facilities are working properly. The uncompleted call problem is not only inflicting serious harm on quality of life and economic development in rural parts of the U.S., but is also endangering public safety and health by blocking calls to hospitals and other medical facilities. Clearly, there is an urgent need for an immediate solution to this very serious problem.

To quickly deter such serious threats to the public welfare, stronger measures than those proposed in the *NPRM* are required. The numerous tracking reports submitted to the

Commission by terminating LECs and the complaints filed by consumers over the last several years, like the data reporting proposed in the *NPRM*, are insufficient. Stronger deterrence measures with more severe, immediate sanctions are needed to protect the public from serious harm. Therefore, the Commission should establish minimum standards for call completion and quality that can be enforced by tariffed blocking penalties and with fines automatically imposed through carrier self-certifications.

The new rules should also require a monthly electronic data exchange providing the industry and the Commission with the information necessary to swiftly resolve future degradation of our nation's telecommunications network. The electronic data exchange should consist of all call attempts by terminating exchange, uncompleted calls by terminating exchange, complaints of poor call quality by terminating exchange, the names of all intermediary service providers (including voice over internet protocol ("VoIP") providers), the names of all underlying carriers, and the names of all service providers with which interexchange carriers ("IXCs") contract for carriage. Such an electronic data exchange would be in lieu of the reporting requirements proposed in the *NPRM*. All service providers, except those LECs that serve a study area with fewer than 10,000 inhabitants, should be required to electronically file this data with the Commission.

The goal of any new rules adopted in this proceeding should be to restore this country's historical reputation for having the most reliable telecommunications network in the world where calls are completed 99.999% of the time. Therefore, the Commission should reject its proposed safe harbor condoning rural call answer rates that are 2 percent less than urban call answer rates. The Commission should also reject its proposal that would exempt a service provider from reporting data when it makes 100 or less call attempts to a particular telephone company during

the reporting month. The effect of excluding from the data 100 call attempts to a particular telephone company is to create the potential for excluding data for 100 calls blocked to that same telephone company during a single month. The Commission should also reject its proposed managing intermediate provider safe harbor because calls are not being completed even when there is only a single intermediary provider. In concealing information necessary to solve this serious problem, such safe harbors and exemptions are contrary to the public interest and should be rejected.

Until all exchanges, whether rural or urban, return to a call answer rate of at least 99.999%, the rules adopted in this proceeding should remain in effect. Only then can this nation once again be proud of the quality and reliability of its telecommunications network.

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**Before the
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JOINT COMMENTS OF:

**BAY SPRINGS TELEPHONE COMPANY, INC.
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WEST TENNESSEE TELEPHONE COMPANY, INC.
WTC COMMUNICATIONS INC.**

Bay Springs Telephone Company, Inc., Breda Telephone Corp., BTC, Inc., Cooperative Telephone Company, Crockett Telephone Company, Dumont Telephone Company, East

Buchanan Telephone Cooperative, Hickory Telephone Company, Modern Cooperative Telephone Company, Moultrie Independent Telephone Company, Mutual Telephone Company of Morning Sun, National Telephone of Alabama, Inc., Ogden Telephone Company, Olin Telephone Company, Inc., Palmer Mutual Telephone Company, Peoples Telephone Company, Prairie Telephone Co., Inc., Roanoke Telephone Company, Royal Telephone Company, Sharon Telephone Company, Springville Cooperative Telephone Company, Terril Telephone Company, The Farmers Mutual Telephone Company of Stanton, Iowa, Villisca Farmers Telephone Company, Wellman Cooperative Telephone Association, West Liberty Telephone Company, Westside Independent Telephone Company, West Tennessee Telephone Company, Inc., and WTC Communications, Inc. (collectively the “Independents”) hereby jointly submit their comments in response to the Commission’s Notice of Proposed Rulemaking proposing rules to help alleviate rural call completion problems.¹

I. Introduction

The Independents are comprised of twenty-nine (29) local exchange carriers operating in six (6) different states. The Independents and their subscribers have been the victims of numerous acts of unlawful interference with the completion of calls. With service areas located in the Northeast, South and Midwest, the Independents are uniquely situated to confirm that call degradation is not isolated to any one part of this country, but is a widespread infliction requiring an immediate remedy.

¹ *Rural Call Completion, Notice of Proposed Rulemaking*, 28 FCC Rcd 1569 (2013) (“NPRM”).

II. **As Commission Enforcement Actions Have Not Slowed The Rapid Increase In Illicit Call Degradation, Stronger Deterrence Measures With More Severe, Immediate Sanctions Are Needed To Protect The Public From Serious Harm**

Before deregulation and consolidation in this country's telecommunications industry, the major local and long distance carriers exhibited a pride in ensuring the highest call quality and best call completion record in the world. The U.S. telephone industry used to brag about providing a high level of service quality, known as the five 9s (meaning calls were completed 99.999% of the time); a standard that was the envy of other industries and foreign nations. However, as telephone service in this country became dominated by a few national wireless carriers and a handful of large landline carriers (which now enjoy greater deregulation), calls have been increasingly blocked, impaired by degraded call quality, or interrupted by false busy signals or misleading error messages. These insidious business practices preventing the completion of calls or degrading call quality have spread at the same time as terminating access charges have declined and despite recent Commission enforcement actions. See e.g. *Level 3 Communications, LLC*, 28 FCC Rcd 2272 (2013).

The Commission has clearly held that all service providers have a statutory obligation to take prompt corrective action in order to prevent uncompleted calls and cannot simply shirk all responsibility by handing off calls to downstream providers. "[I]f carriers continue to hand off calls to agents, intermediate providers, or others that a carrier knows are not completing a reasonable percentage of calls or are otherwise restricting traffic (e.g., impaired service quality), that is an unjust or unreasonable practice prohibited by Section 201 of the Act."² The Commission has also warned carriers that "adopting or perpetuating routing practices that result in lower quality service to rural or high-cost localities than like service to urban or lower cost

² *Developing a Unified Inter-carrier Compensation Regime*, 27 FCC Rcd 1351, 1356 ¶ 12 (2012).

localities (including other lower cost rural areas) may, in the absence of a persuasive explanation, constitute unjust or unreasonable discrimination in practices, facilities, or services and violate section 202 of the Act.”³ Call degradation also violates a carrier’s duty under Section 201(a) of the Communications Act (the “Act”) “to furnish such communications service upon reasonable request” and to establish “through routes” and “physical connections with other carriers.” Furthermore, the Commission warned Voice over Internet Protocol (“VoIP”) service providers that the “blocking of voice traffic to or from the PSTN by [VoIP] providers” is unlawful, as it “would deny the traditional telephone customer the intended benefits of telecommunication interconnection under section 251(a)(1).”⁴ These Commission warnings are being blatantly ignored. The number of uncompleted calls continues to escalate while the major carriers in this country look the other way.

Collectively, the Independents continue to experience calls placed to their subscribers with very poor reception, incorrect calling number delivery (“CND”), and calls not completing at all. *See e.g.* complaints filed with the Commission on April 16, 2013 and April 22, 2013 by Grier Adamson concerning calls that could not be completed to customers of Hickory Telephone Company (attached hereto as **Exhibit 1**). Data retention and reporting has not led to any solution. Despite numerous tracking reports submitted to the Commission by the Independents, the problem has not been resolved. Many of the Independents’ subscribers have also kept a record of the uncompleted calls and submitted complaints, only to have done so in vain. The consumers’ efforts sometimes result in a temporary period of time, even as long as a month, when calls are completed, then the problem starts all over again.

³ *Id.* at 1357 ¶ 14.

⁴ *Connect America Fund*, 26 FCC Rcd 17663, 18029 ¶ 974 and n. 2043 (2011).

The widespread consumer frustration that the Commission predicted would result in the absence of a quick solution to such call degradation is now the reality and a disgrace to both the telecommunications industry and our nation. The Commission declared that uncompleted calls “shift the perceived responsibility for call failure – from the viewpoint of the caller – from the originating provider to the terminating rural provider, which may frustrate consumers and make it more difficult to trace and correct problems.”⁵ The uncompleted call problems have persisted in an unpredictable manner for so many years that many of the Independents’ customers now find it unduly burdensome to keep records of uncompleted calls or to report complaints. Customers have indicated that it is not their responsibility, but that of the Independents, to fix these problems. The Independents’ customers blame the Independents for the uncompleted calls and poor call quality, even though the Independents have explained to their customers that the Independents’ facilities are functioning properly.

When the Independents have contacted upstream carriers to help resolve the uncompleted call problems, they have been stonewalled by a myriad of excuses, rather than the corrective action mandated by Commission orders and the Communications Act’s requirement for carriers to interconnect. In many cases, the upstream carrier has utterly refused to accept a trouble ticket from the terminating local exchange carrier (“LEC”), instead insisting that the originating calling party submit the trouble ticket. Getting the calling party to submit a trouble ticket to the upstream carriers is nearly impossible because the terminating LEC has no relationship with the calling party, who will often express frustration with getting involved with a problem that the carriers should resolve amongst themselves. Other unacceptable excuses that terminating LECs receive from upstream carriers include claims that the upstream carrier is unable to find any

⁵ *Developing a Unified Intercarrier Compensation Regime*, 27 FCC Rcd at 1357 ¶ 13.

record of the uncompleted calls, that the originating number is not assigned to the upstream carrier when it actually is, that the originating number has been assigned to a reseller or VoIP service provider, that the problem is caused by outdated equipment being used by the calling party, that the terminating LEC or some unknown intermediary provider is causing the problem, or that the call completed when it didn't.

By failing to ensure the proper completion of calls, upstream carriers are seriously damaging the reputations of terminating LECs and their customer relationships. Frustrated when their calls do not go through, consumers mistakenly blame the terminating LECs for the failure of upstream carriers to properly complete their calls, and complain about the reliability of the terminating LEC's service. Through their inaction and lack of cooperation, upstream carriers are wrongfully shifting the blame to the Independents, permitting the Independents' customers to perceive the Independents as the cause of the uncompleted calls, when the Independents have done nothing to impair the customers' calls.

Uncompleted calls to businesses located in small towns and rural areas are having anti-competitive consequences and causing severe harm to rural economic development. Businesses lose revenue and sales opportunities when consumers of their products and services are unable to complete calls to those businesses. For example, when service calls and service order faxes could not be completed to a DirecTV and DISH satellite TV repair center located in the service territory of Villisca Farmers Telephone Company of Villisca, Iowa ("Villisca Farmers"), future repair calls from consumers were re-routed to a different repair center. To avoid losing further revenue as a consequence of the re-routing of service calls, the repair center moved its telephone service to Mediacom, causing the loss of an important Villisca Farmers business customer with 7 telephone lines. As the repair center no longer experiences uncompleted calls with Mediacom,

that former business customer wrongfully perceives that Villisca Farmers' facilities are the cause of the uncompleted calls. The failure of upstream service providers to properly complete calls is therefore putting small, rural LECs at a competitive disadvantage, and ultimately is putting the future of rural America at risk. Businesses are being encouraged to move out of rural areas or are deterred from moving to rural areas because they will lose revenue if they cannot receive calls from the consumers of their products and services. The reliability of completing calls to small towns and rural areas must be restored soon in order to ensure future rural economic development and avoid further commercial and financial injury.

The uncompleted call problem is not only inflicting serious harm on quality of life and economic development in rural parts of the U.S., but is also endangering public safety and health by blocking calls to hospitals and other medical facilities. State regulators trying to investigate such uncompleted calls have gotten little cooperation from upstream service providers. In a formal complaint proceeding, the Iowa Utilities Board is currently investigating why calls and faxes from health care facilities to the Rehabilitation Center of Allison, Iowa have been frequently blocked over the last two years. CenturyLink is the upstream carrier that originated the calls that were blocked and the terminating LEC is Dumont Telephone Company, one of the Independents filing these comments. CenturyLink has told the Iowa Utilities Board that "it has no evidence on its network of dropped calls to the facility" and that "it has no means of investigating whether calls were dropped." *Rehabilitation Center of Allison, Iowa, Order Granting Request for Formal Proceeding and Setting Procedural Schedule*, Docket No. FCU-2012-0019 (C-2012-0129), slip op. at 13 (IUB Mar. 15, 2013) ("*Iowa Health Care Blocking Investigation*") (attached hereto as **Exhibit 2**). Further obstructing a quick solution, CenturyLink

refused to disclose to the IUB the identity of its underlying carrier involved with those blocked calls. *Id.* at 18. I

Iowa's Office of Consumer Advocate is also seeking a second formal investigation involving calls originating from a hospital served by CenturyLink and placed to, but blocked from reaching, a medical clinic only 11 miles away.⁶ In that second case, CenturyLink handed the calls off to Intelepeer, which handed the calls off to Impact Telecom, which either sent the calls back to Intelepeer or routed them to Intermetro Communications or Broadvox Communications. The hospital in that case is still experiencing uncompleted calls even though CenturyLink and the other intermediary service providers contend that the problems have been solved. The failure of upstream carriers to clearly explain to state regulators the reasons for the uncompleted calls and to promptly correct the problem is particularly egregious in these cases, where public safety and health is being threatened by the blocking of calls to medical facilities.

To quickly deter such serious threats to the public welfare, stronger measures than those proposed in the NPRM are required.⁷ The Independents urge the Commission to adopt new rules in this proceeding establishing minimum federal requirements for call completion and call quality that are enforced through fines automatically imposed through sworn carrier self-certifications. The data retention and reporting requirements, as proposed in the NPRM and modified below, would still be necessary in order to verify the accuracy of the carrier self-certifications and to aid in the ultimate resolution of the uncompleted call problems. The new rules should automatically impose a fine for excessive failure to complete calls and require each originating and intermediary service provider to remit such fine to the Commission at the same

⁶ *In the Matter of Complaint of Hancock County Health Systems*, Iowa Utilities Board Docket No. FCU-2013-0005, Request for Formal Proceeding. Office of Consumer Advocate (March 27, 2013) (attached hereto as Exhibit 3).

⁷ The Commission requested comments on different approaches that may be more effective. *NPRM* ¶ 14.

time the service provider reports data, certified as accurate, showing that the service provider was involved in either the origination or transportation of more than three uncompleted calls to any single exchange during the reporting month. Furthermore, each originating and intermediary service provider that receives in excess of three complaints of poor call quality for calls placed to a particular exchange in any single month should be required by the new rules to pay a fine to the Commission at the same time the service provider reports the number of monthly complaints to the Commission, certified as true. Under this approach, wrongdoers are more easily exposed, as the number of consumer complaints and the number of uncompleted calls is readily identified. In addition, the complexities of call routing and multiple providers will no longer shield call blockers from Commission enforcement.

The Commission should also confirm in this proceeding that it would be reasonable for terminating LECs to add a call blocking penalty to their switched access tariffs as a means of protecting the integrity of their through routes with upstream carriers. Section 201(a) of the Act authorizes terminating LECs to “adopt regulations for operating such through routes.”⁸ Under such tariff regulations, originating and/or intermediary service providers that fail to properly complete calls or degrade call quality would be required to remit the penalty to the terminating LEC. Private enforcement, made possible by a tariffed call blocking penalty, when combined with the government’s enforcement of minimum standards and self-certified fines, would quickly make it both unprofitable and overly risky to engage in unlawful call blocking.

⁸ 47 U.S.C. § 201(a).

III. The Commission Should Not Adopt Safe Harbors That Would Exempt The Major Carriers From Reporting The Data Needed To Solve This Very Serious National Problem

To help verify the accuracy of carrier self-certifications and enforce the minimum standards discussed above, the Independents recommend new rules requiring a monthly electronic exchange of data with the Commission that would be made publicly available. The electronic data exchange would consist of all call attempts by terminating exchange, uncompleted calls by terminating exchange, complaints of poor call quality by terminating exchange, the names of all intermediary service providers (including VoIP providers), the names of all underlying carriers, and the names of all service providers with which the IXC contracts for carriage. Such an electronic data exchange would be in lieu of the reporting requirements proposed in the *NPRM*. All service providers, except those LECs that serve a study area with fewer than 10,000 inhabitants, should be required to electronically file this data with the Commission. Data should be submitted by all resellers, VoIP providers, and intermediary service providers, regardless of size, because, as evidenced by the Hancock County Health Systems case discussed above, numerous small resellers and small VoIP providers may be the root cause of uncompleted calls. By contrast, given the incentive that small, rural LECs have to ensure calls are completed to their exchanges, it is eminently reasonable to exempt small, rural LECs from the data reporting burden, which would clearly outweigh any potential benefit.

The Independents agree with the Commission's proposal to broadly define the types of call attempts that will be reported to the Commission in order to ensure that investigations of uncompleted calls have access to the data necessary to resolve the problem. Each call attempt that returns any type of User category cause value (such as "user busy," "user not responding,"

or “unallocated number”) should be reported in total call attempts.⁹ Furthermore, a call attempt should be considered answered when there is a “Call Completed” cause value of either 16 or 31. Short-duration call data should also be retained and reported to ensure that call attempt data is complete and to avoid the creation of a call blocking loophole based on the duration of the call.

The goal of any new rules adopted in this proceeding should be to restore this country’s historical reputation for having the most reliable telecommunications network in the world where calls are completed 99.999% of the time. The reliability and quality of telephone service directly impacts quality of life and economic development. With the more advanced technology available today, calls placed to both rural and urban areas should be completed 99.999% of the time, as they were in the past.¹⁰ The same minimum standards for uncompleted calls and call quality, as discussed above, should apply to calls placed to rural and urban areas. Therefore, the Commission should reject its proposed safe harbor condoning rural call answer rates that are 2 percent less than urban call answer rates.¹¹ The Commission should also reject its proposal that would exempt a service provider from reporting data when it makes 100 or less call attempts to a particular telephone company during the reporting month.¹² The effect of excluding from the data 100 call attempts to a particular telephone company is to create the potential for excluding data for 100 calls blocked to that same telephone company during a single month. Such extensive call blocking would seriously harm smaller LECs, like the Independents, and their customers. The proposed 100 call attempt exemption would deprive service providers and the

⁹ *NPRM* ¶ 29.

¹⁰ The Commission asks for comments as to whether it is reasonable for call answer rates to differ for calls placed to rural and urban OCNs. *NPRM* ¶ 13.

¹¹ *NPRM* ¶ 35.

¹² *NPRM* ¶ 20.

Commission of the data needed to identify the cause of such severe call blocking and take appropriate corrective actions.

The Commission should also reject its proposed managing intermediate provider safe harbor.¹³ Calls are not being completed even when there is only a single intermediary provider. For example, in the *Iowa Health Care Blocking Investigation*, CenturyLink has alleged that only one underlying intermediary carrier was involved with the calls blocked to medical clinics.¹⁴ CenturyLink has also claimed that it has a process in place to monitor the call completion performance of that underlying carrier.¹⁵ Consequently, the Commission's proposed safe harbor would exempt CenturyLink from reporting the data necessary to prevent interference with communications critical to the protection of human life and public health. Clearly, such a safe harbor that conceals data necessary to solve this serious problem is contrary to the public interest and should be rejected.

Until all exchanges, whether rural or urban, return to a call answer rate of at least 99.999%, the rules adopted in this proceeding should remain in effect. As uncompleted calls have increased with decreases in terminating access charges, it would be unreasonable to assume that the motivation to engage in illegal call blocking is tied to the price level for terminating access service. Even when terminating access charges are zero, calls to rural areas will still require more telephone plant than urban calls, infixing the incentive to avoid the use of such facilities by impairing the completion of rural calls.

¹³ *NPRM* ¶ 33.

¹⁴ *Iowa Health Care Blocking Investigation*, slip op. at 6-7.

¹⁵ *Id.* at 7.

IV. Conclusion

For the foregoing reasons, stronger measures than those proposed in the NPRM are required to quickly deter the illegal call blocking that is endangering rural economic development and public safety. The Commission should establish minimum standards for call completion and quality that can be enforced by tariffed blocking penalties and with fines automatically imposed through carrier self-certifications. The new rules should also require a monthly electronic data exchange providing the industry and the Commission with the information necessary to swiftly resolve future degradation of our nation's telecommunications network.

Respectfully submitted,

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National Telephone of Alabama, Inc.
Ogden Telephone Company
Olin Telephone Company, Inc.

Palmer Mutual Telephone Company
Peoples Telephone Company
Prairie Telephone Co., Inc.
Roanoke Telephone Company
Royal Telephone Company
Sharon Telephone Company
Springville Cooperative Telephone Company
Terril Telephone Company
The Farmers Mutual Telephone Company of
Stanton, Iowa
Villisca Farmers Telephone Company
Wellman Cooperative Telephone Association
West Liberty Telephone Company
Westside Independent Telephone Company
West Tennessee Telephone Company, Inc.
WTC Communications Inc.

Dated: May 13, 2013

EXHIBIT 1

(724) 356 - 1201 Ext:

2. What is the name of the telephone company, wireless carrier, or other company that is the subject of your complaint?

Comcast

3. What is the account number that is the subject of your complaint? 305-396-7448

4. If you are disputing charges on a telephone bill, complete the following:

a. Disputed amount: \$ Enter amount without comma (Example: 1234.56)

b. Have you paid any of the disputed charges? Yes No

c. Did the billing company adjust or refund the disputed charges? Yes No

d. If yes, what was the amount of the adjustment or refund? \$ Enter amount without comma (Example: 1234.56)

e. Are the disputed charges related to additional services? Yes No

If yes, please explain:

5. For billing and non-billing complaints (including privacy and service quality issues) please provide the details of your complaint or any additional information below:

Can not complete calls to 724-356-1201 from 305-396-7448. Works from my cellphone.
Contacted Comcast 4/16/13 - |

4/18/13 - condition changed to provide 30 seconds of silance then ringing before answer.

4/22/13 - Contacted Comcast again, condition changed to provide 30 seconds of silance then fast busy.
Ticket# CR015166142

Acknowledgement of Submission from Grier Adamson, reference number 20130422121534 .

Thank you for submitting your complaint information to the Rural Call Completion Task Force. The FCC will contact you if additional information is required. Please keep this information for future reference.

*** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT ***

1. Telephone number(s) involved (including area code):

(305)	396	- 7448	Ext:	
(724)	356	- 2398	Ext:	

2. What is the name of the telephone company, wireless carrier, or other company that is the subject of your complaint?

3. What is the account number that is the subject of your complaint?

4. If you are disputing charges on a telephone bill, complete the following:

a. Disputed amount: \$ Enter amount without comma (Example: 1234.56)

b. Have you paid any of the disputed charges? Yes No

c. Did the billing company adjust or refund the disputed charges? Yes No

d. If yes, what was the amount of the adjustment or refund? \$ Enter amount without comma (Example: 1234.56)

e. Are the disputed charges related to additional services? Yes No

If yes, please explain:

5. For billing and non-billing complaints (including privacy and service quality issues) please provide the details of your complaint or any additional information below:

Can not call my office 724-356-1201 - rings twice and goes dead
Can not call my home 724-356-2398 - rings twice and goes dead
Both numbers complete using my cell phone (724-288-2120)

Acknowledgement of Submission from Grier Adamson, reference number 20130416131901 .

Thank you for submitting your complaint information to the Rural Call Completion Task Force. The FCC will contact you if additional information is required. Please keep this information for future reference.

EXHIBIT 2

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REHABILITATION CENTER OF ALLISON, IOWA	DOCKET NO. FCU-2012-0019 (C-2012-0129)
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**ORDER GRANTING REQUEST FOR FORMAL PROCEEDING
AND SETTING PROCEDURAL SCHEDULE**

(Issued March 15, 2013)

I. BACKGROUND

On December 27, 2012, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a request for a formal proceeding regarding a rural call completion complaint. The petition has been identified as Docket No. FCU-2012-0019. Pursuant to Iowa Code § 476.3, the petition will be granted. The petition is based on informal complaint proceedings conducted pursuant to § 476.3 and 199 IAC chapter 6 in a matter identified as File No. C-2012-0129. The record in the informal proceedings can be summarized as follows.

On September 25, 2012, Kathy Miller, Administrator of the Rehabilitation Center of Allison, Iowa (the Allison facility), filed a complaint with the Board alleging that the facility was not receiving phone calls and faxes from the Shell Rock Clinic in Shell Rock, Iowa, and the Waverly Health Center in Waverly, Iowa. Ms. Miller stated that persons calling the Allison facility from the Shell Rock Clinic and Waverly Health

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Center locations have reported that sometimes the Allison facility's phone never rings, and that sometimes it rings, but no one answers. Ms. Miller also stated that, according to the facility's local telephone provider, Dumont Telephone Company (Dumont), the source of the problem is with long distance carriers and that both the Shell Rock and Waverly facilities used the same long distance carrier, AireSpring, Inc. (AireSpring). Dumont describes AireSpring as a reseller of Qwest Corporation, d/b/a CenturyLink (CenturyLink), services.

Board staff forwarded the complaint to Dumont, Iowa Network Services, Inc. (INS), CenturyLink, and AireSpring for their response. (INS provides a connection between interexchange carriers and Dumont to deliver toll calls.) On October 12, 2012, INS submitted a response saying that according to its engineering department, there were no calls from the Waverly Health Center's number to the Allison facility's number. INS stated that it tested the numbers involved and concluded that the call termination issues occurred before the calls reached its network. Explaining that it can only report on calls that reach its network, INS stated it shows calls from the Waverly Health Center's number and the Shell Rock Clinic's number completing to the Allison facility's number.

CenturyLink responded on October 15, 2012, stating that after receiving the complaint, its network department conducted an investigation on calls provided by CenturyLink long distance access. CenturyLink indicates call records for the telephone numbers in question showed the calls had duration with no report of any

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failure. CenturyLink also stated the routing records showed the calls were routed using an underlying carrier. CenturyLink stated its technician made test calls with the underlying carrier and all calls completed successfully. In addition, CenturyLink stated it attempted to place test calls with the customer, but was not able to get calls returned to schedule retesting. CenturyLink stated its own retesting showed no additional issues for completing the calls to the Numbering Plan Area Code (NPA) Central Office Exchange Code (NXX).

On October 17, 2012, AireSpring responded, stating that it conducted a thorough search of its systems, including billing, order, and carrier databases and document management systems for the queried information, but no information could be located. According to AireSpring, this means that the numbers, individuals, and/or businesses are not within AireSpring's custody or control. AireSpring further stated that any telecommunication problems or malfunctions were beyond AireSpring's ability to look at, find, correct, or control in any way.

Dumont submitted a response on October 18, 2012, stating that on October 16, it conducted a series of tests in cooperation with technicians from Butler-Bremer Communications of Shell Rock, INS, and Waverly Health Center. The tests consisted of originating voice and fax calls from the Shell Rock and Waverly facilities and terminating all calls to the voice and fax numbers at the Allison facility. Dumont reported the tests resulted in all calls terminating properly on October 16, 2012. Dumont stated it is confident that all voice or fax calls originated at the Shell Rock

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location via the Butler-Bremer network terminate in Allison correctly because INS can monitor the entire route for that call type.

Dumont also stated that while testing showed that the network delivered calls properly on a particular date, it is not convinced the problem is resolved. Dumont noted Waverly Health Center staff reported that they have experienced this trouble for over two years and have reported it to CenturyLink multiple times. Dumont stated the trouble is fixed immediately, but then returns after several weeks or months. According to Dumont, AireSpring is the long distance provider for the Waverly facility. Butler-Bremer Communications of Shell Rock (Butler-Bremer) is the long distance provider for landlines at the Shell Rock facility, while AireSpring is the long distance provider for the Shell Rock Facility. (Dumont identifies the Iowa Communications Network as the originating service provider for the Shell Rock facility.)

On October 19, 2012, staff sent a letter to AireSpring and CenturyLink asking for more information that would help the Board understand the causes of the call termination issues involved in this complaint. In the letter, staff observed that call termination problems in rural areas may relate to the practice of least cost routing of long distance traffic to rural areas of the country. Staff noted that because rural areas traditionally have higher costs associated with the termination of long distance traffic, providers that route long distance calls may wish to avoid higher termination costs by routing long distance calls in a way to minimize costs. The practice, known as least cost routing, may ultimately result in poor service quality and lost calls.

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Staff also noted that because it appears that rural call termination issues may recur, staff would welcome a better way for local exchange carriers to quickly and more readily address the issues when they learn that their local exchange customers are experiencing call termination issues. To that end, staff asked CenturyLink and AireSpring to provide specific contact information for personnel who can promptly address call routing issues when contacted.

On November 2, 2012, CenturyLink provided a response explaining its reasons for using underlying carriers and the performance standards CenturyLink requires its underlying carriers to meet. CenturyLink also discussed the use of routing tables in call processing and how changes to the routing tables can cause call routing issues to recur. CenturyLink explained it used its Operations processes to address the call failure in this case. Also, CenturyLink stated that because it does not have any records of calls that did not complete, it can only investigate records of calls that did complete. CenturyLink stated that technicians made test calls with the underlying carrier and those calls completed successfully. CenturyLink explained it made a routing change for calls completing to a certain NPA NXX and tested for call completion after the change. CenturyLink provided the contact information staff had requested.

On November 7, 2012, AireSpring provided an additional response stating that after further investigation, it agreed with Dumont's suggestion that the problems identified in the complaint are caused by poor origination service. Dumont noted it

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does not have access to the party that originated the calls that allegedly did not complete. AireSpring provided the requested contact information. In a separate e-mail response, AireSpring also clarified its response by stating that Waverly Health Center has a point-to-point private line connection with CenturyLink and that, as a reseller of Internet service, AireSpring does not handle any call traffic.

On November 14, 2012, Board staff participated in a telephone call with CenturyLink personnel discussing CenturyLink's responses to the complaint. CenturyLink described "call looping," which may occur at any point in the call flow process after the call leaves the originating carrier's network. CenturyLink distinguished call looping from routing tables, which determine the routes to be used to process the calls across the network. CenturyLink observed that changes in routing tables create the possibility that call routing issues can recur. CenturyLink stated that it conducts tests to make sure calls are not looped back to CenturyLink after origination. CenturyLink explained further that it was not able to find records for the calls that Ms. Miller stated are not completing and identified other possible explanations for why the calls are not completing, including the possibility that the calls are being made using other carriers by using either dial-around services or wireless.

According to CenturyLink, Dumont was incorrect in stating that AireSpring resells CenturyLink long distance service to the Waverly Health Center. CenturyLink explained that AireSpring is not involved in providing long distance service to the

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Waverly facility. CenturyLink states that the carrier information for the Waverly facility is confidential customer proprietary network information (CPNI). CenturyLink explains it did not identify its underlying carrier in its October 15, 2012, submission because it concluded that the underlying carrier was not at fault. With respect to its use of underlying carriers, CenturyLink states that the carriers must pass testing and agree to metrics and are held accountable for not meeting the standards. CenturyLink explains that its underlying carriers are not necessarily the least expensive.

On December 14, 2012, staff issued a proposed resolution. Staff reviewed the information provided by the various carriers in their responses, noting that according to CenturyLink, there are no current issues with completion of calls to the Allison facility. Based on its analysis of the complaint and the responses, staff indicated that it did not believe that AireSpring played a role either as a reseller of CenturyLink's long distance service or as an underlying carrier selected by CenturyLink to deliver long distance calls. Staff also concluded that neither INS nor Dumont played a role in misrouting of calls. Staff observed that the response from INS suggests that the calls in question never crossed its network. And Dumont's role as the terminating local exchange carrier suggests that Dumont would not be responsible for any call completion issues.

Regarding CenturyLink's role, staff observed that it appears that CenturyLink has no records to investigate when calls do not complete. Staff noted that the

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company can make changes to the routing tables to correct call completion problems, but problems can recur if the tables are changed again. In staff's view, CenturyLink cannot say with certainty which of the underlying carriers is responsible for calls that did not terminate. Staff noted that CenturyLink appears to be working in good faith to address any complaints that are brought to its attention. Staff concluded that the call termination issues for the Allison facility appear to have been resolved but asked the consumer to continue to report any further call completion issues.

Staff also noted in its proposed resolution that it is generally agreed that the long-term resolution of the rural call termination situation must be addressed by the Federal Communications Commission (FCC).

On December 27, 2012, Consumer Advocate filed a petition for further investigation. According to Consumer Advocate, the problems reported by the Allison facility are not unique and are occurring with sufficient frequency and affecting a sufficient number of rural consumers to justify an investigation. In support, Consumer Advocate refers to the FCC's February 2012 Declaratory Ruling,¹ which identified a pattern of call completion and service quality problems with long distance calls to rural areas; a July 2012 resolution of the National Association of Regulatory Utility Commissioners (NARUC), which described call completion failure rates being 13 times higher in rural areas than in non-rural areas and noted that rural call termination issues persist; and a November 2012 press release of the National Exchange

¹ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135 (Rel. Feb. 6, 2012), "Declaratory Ruling," 27 FCC Rcd. 1351.

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Carriers Association, which described the call completion problem as a mounting epidemic. (Request for Formal Proceeding, pp. 8-9, ¶17.)

Consumer Advocate further states:

As observed in the FCC's declaratory ruling, the call completion problems can have dire consequences. Small businesses can lose customers who get frustrated when their calls don't go through. Urgent calls from friends and families can be missed. Schools may be unable to reach parents with critical alerts. Those in need of help may be unable to reach public safety officials. In addition, as here, health care facilities may be left without an ability to provide the care their patients need due to the failure of calls and faxes from one facility to another. As stated by both U.S. senators from Iowa, and 34 of their colleagues, "[w]e ... worry it is only a matter of time before this situation leads to tragedy."

(Request for Formal Proceeding, p. 9, ¶18.)

Consumer Advocate explains that in the Declaratory Ruling, the FCC discussed routing practices, including use of least cost routers, which might be causing the call completion problem, and identified possible enforcement tools for the FCC, including cease-and-desist orders, forfeitures, and license revocation.

Consumer Advocate further notes that NARUC observes in its July 2012 resolution that

[i]t appears that some carriers are not taking the declaratory ruling seriously ... [and] [t]he call termination issues seem unlikely to be resolved unless and until a provider that has failed materially and repeatedly to route calls to destinations as sought

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by originating carriers faces serious consequences for such failures.

(Request for Formal Proceeding, p. 10, ¶ 20.)

Consumer Advocate contends that the file in this case raises more questions than it answers and there is still no answer as to who and what caused the difficulties experienced by the Allison facility. Consumer Advocate maintains there is conflicting information in the record as to the identity of the various carriers for the facilities, noting that Dumont states that AireSpring (a CenturyLink reseller) is the carrier for the Waverly facility, but AireSpring and CenturyLink deny this. Consumer Advocate notes that the record does not identify the carrier for either the Waverly or the Shell Rock facility. Consumer Advocate further states that while CenturyLink explains that the calls were routed using an underlying carrier(s), the record does not identify the underlying carrier(s). Also, while CenturyLink explains that it imposes performance requirements on its underlying carriers and states they must pass testing and agree to metrics and standards, the record does not disclose the specifics of any of that information.

Other things not established in the record, according to Consumer Advocate, include the routing tables, the processes CenturyLink uses to address call failures, and information about how the routing was changed for calls intended to reach the Allison facility. In response to CenturyLink's suggestion that the dropped calls may have resulted from using cell phones or a "dial around" number to call the Allison

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facility, Consumer Advocate notes that it does not appear that personnel at the Shell Rock or Waverly locations have been asked about that possibility.

Consumer Advocate also states that the possibility that an investigation may require accessing CPNI is not a reason to not pursue an investigation. Consumer Advocate points out that federal law allows for disclosure of CPNI in certain situations, noting in particular exceptions that allow disclosure "to protect users ... from fraudulent, abusive, or unlawful use of, or subscription to, such services" or disclosures "required by law." (Request for Formal Proceeding, p. 12, ¶ 23, citing 42 U.S.C. §§ 222(d)(2), 222(c)(1).) Consumer Advocate points to Iowa Code § 476.3, a law requiring companies to respond to complaints, and suggests that protective agreements can be used to address concerns about disclosure.

Consumer Advocate acknowledges that the FCC plays a "central role nationally in resolving the problem long-term" (Request for Formal Proceeding, p. 13, ¶ 24), but argues there is an appropriate state role in responding to the problem. Consumer Advocate stresses that the Board has an interest in ensuring that calls are completed to rural destinations in Iowa and in preventing further decline in the quality of service provided in rural Iowa. Looking ahead, Consumer Advocate states that further investigation by the Board could uncover violations of the FCC's rules, which could be reported to the FCC with a request for enforcement. Consumer Advocate suggests that the FCC might be more likely to act upon the results of a Board investigation (which would serve to develop the information presently missing in this

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case and to resolve conflicts in the information). (Request for Formal Proceeding, p. 13, ¶¶ 25, 26.)

Finally, Consumer Advocate asserts that the Board has authority over the delivery of intrastate telecommunications services. Consumer Advocate suggests that Board investigation could reveal remedial or enforcement tools already at the Board's disposal or could show a need for new law or regulations. Consumer Advocate emphasizes the seriousness of the call completion problem:

The failure of calls and faxes to complete affects the health, safety and welfare of Iowans. Calls for help may not be answered, and in this case a rehabilitation facility is unable to communicate with two other local health care facilities on patient needs.

An investigation will materially enhance the ability of the Board and its staff to participate on a well-informed basis in ongoing workshops designed to assess the problem and effect a solution.

An investigation will materially contribute to solving the problem, because carriers will know they are being watched, with a view toward enforcement when needed.

(Request for Formal Proceeding, p. 14, ¶¶ 28-30.)

On January 16, 2013, CenturyLink responded to the request for formal proceeding stating a formal proceeding is not necessary. According to CenturyLink, Consumer Advocate's assertion that this complaint reveals a broad problem is an indictment of the entire industry of interexchange carriers. CenturyLink asserts the FCC's response to the problem is adequate and further action by the Board is not needed. CenturyLink points out that in addition to the Declaratory Ruling already

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issued by the FCC, that agency is planning to initiate another rule making proceeding to address call completion issues.

Further, CenturyLink states that much of what Consumer Advocate asserts is speculative or not relevant to the issues raised in the Allison facility's complaint. CenturyLink restates its position that it has no evidence on its network of dropped calls to the facility and has received no complaints from its customers about specific calls that were not completed to the facility during the time period referred to in the complaint. CenturyLink emphasizes that it has no means of investigating whether calls were dropped and that its records for the relevant time show calls with duration were completed to the Allison facility. CenturyLink states that it conducted further testing and the test calls completed properly and that tests with underlying carriers also showed that all calls completed properly. CenturyLink disputes the relevance to this complaint of other uncompleted calls referenced by Consumer Advocate. CenturyLink states those anecdotes lack specificity and are not known to have originated on CenturyLink's network.

With respect to Consumer Advocate's suggestion that CPNI can be obtained and protected using protective agreements, CenturyLink suggests that disclosure of CPNI would not assist in "discovering why calls *might* have been dropped on CenturyLink's network where no record of these calls exist and no complaints of dropped calls were brought to CenturyLink's attention by its customers."

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CenturyLink states it conducted a full investigation of the alleged call completion issues and concluded that calls from the Waverly and Shell Rock facilities are completing as required to the Allison facility. CenturyLink further noted it has a vigorous process to respond to any call completion issues, as it believes it is a part of the duty it owes to customers to provide adequate service. CenturyLink states it took the following steps in this case to address the issue: (1) it fully investigated the issues raised in the complaint filed with Board; (2) it reviewed call records for the relevant time periods (and the review showed calls from the Waverly and Shell Rock facilities to the Allison facility that completed and had duration); (3) it reviewed its routing tables and changed routing; (4) it conducted testing with underlying carriers (and those tests showed that calls properly completed); and (5) it conducted test calls from the Waverly and Shell Rock facilities to the Allison facility and those calls completed properly.

CenturyLink states it will follow up on any issues raised in the future by its customers regarding the performance of their long distance service. CenturyLink also is willing to work with the Waverly and Shell Rock facilities to conduct additional testing (although it notes that those facilities did not respond to its previous attempts to conduct test calls). CenturyLink states that a formal proceeding is not in the public interest and is unnecessary.

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II. DISCUSSION

Both CenturyLink and Consumer Advocate refer to the Declaratory Ruling issued by the FCC in February of 2012 that addresses call completion issues, following up on the work of the FCC's Rural Call Completion Task Force that investigated the problem of calls to rural customers which are delayed or fail to connect. The FCC explained it was issuing the Declaratory Ruling in response to requests for action and in response to evidence showing "a pattern of call completion and service quality problems on long distance calls to certain rural areas" and intended "to clarify the scope of the Commission's prohibition on blocking, choking, reducing or restricting telephone traffic." (Declaratory Ruling at ¶ 1.) The FCC clarified that its prohibition against blocking, choking, reducing, or restricting telephone traffic extends to routing practices that have those effects. (Declaratory Ruling, ¶3.) The FCC also clarified that such practices may constitute unjust and unreasonable practices in violation of section 201 of the Communications Act of 1934, as amended, and may violate a carrier's duty to refrain from unjust or unreasonable discrimination in practices, facilities, or services. (Declaratory Ruling, ¶ 4.) Finally, the FCC emphasized that carriers are responsible for the actions of their agents or other persons acting for or employed by the carriers, i.e., underlying providers. (Declaratory Ruling, ¶¶ 4, 15.) The FCC explained that it can take appropriate enforcement action pursuant to its statutory authority, including cease-

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and-desist orders, forfeitures, and license revocations, against carriers engaging in the prohibited activities discussed in the Declaratory Ruling.

In its most recent response to the complaint, CenturyLink noted that the FCC is planning a notice of proposed rulemaking (NPRM) to deal with the call completion issue. On February 7, 2013, the FCC released the NPRM. *In re: Rural Call Completion*, WC Docket No. 13-39, FCC 13-18 (Call Completion NPRM). The FCC seeks comment on rules to help address problems in completion of long-distance calls to rural customers. The FCC mentions evidence that retail long-distance providers may not be adequately examining the rural call completion performance that results from use of wholesale call delivery services by intermediate providers employed by the long-distance providers. The FCC intends to "consider measures to improve the Commission's ability to monitor the delivery of long-distance calls to rural areas and aid enforcement action." (Call Completion NPRM, ¶ 3.)

Noting that lack of data impedes investigations (Call Completion NPRM, ¶ 17), the FCC seeks comment on reporting and data retention requirements that would give the Commission information about a long distance provider's performance to certain areas. The FCC proposes to adopt rules that would require originating long-distance voice service providers to collect and retain basic information on call attempts and to periodically analyze and summarize call completion and report the results to the Commission. (Call Completion NPRM, ¶ 17.)

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In the NPRM, the FCC reviews the steps it has taken so far in response to the call completion problem. The FCC states it is conducting ongoing investigations of several long-distance providers and addressing daily operational problems reported by rural customers. (Call Completion NPRM, ¶11.) The FCC describes the Web-based complaint intake process that allow rural customers and carriers to alert the Commission about call completion problems and informs them how to file complaints.

NARUC representatives recently sent a letter dated February 11, 2013, to the FCC urging the agency to take immediate action against carriers acting contrary to the FCC call completion Declaratory Ruling. NARUC observes that since the FCC issued the Declaratory Ruling, the agency has not issued any cease-and-desist orders, forfeitures, license revocations, or fines.² The letter notes that "it is not unreasonable to expect enforcement activity in the face of continued and arguably increasing problems."

Even as investigation and enforcement measures proceed at the federal level, it is appropriate to take steps at the state level to respond to a problem with potential to disrupt calls to rural consumers in Iowa. Iowa Code § 476.3(1) provides that a public utility shall furnish "reasonably adequate service" in accordance with tariffs filed with the Board. That section also provides, in relevant part, that when Consumer Advocate files a petition for formal proceeding with the Board, the Board

² This statement was correct when NARUC made it. On March 12, 2013, the FCC announced that it had reached a settlement with Level 3 Communications, LLC, resolving an investigation into the company's rural call completion practices. The settlement includes call completion standards and a voluntary contribution to the U.S. Treasury in the amount of \$975,000.

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shall grant the petition if the Board determines that "there is any reasonable ground for investigating the complaint." Reasonable grounds for further investigation exist where there are numerous unanswered questions regarding the precise circumstances of a complaint.

The Board finds there are sufficient grounds to open a docket to conduct further investigation into this particular complaint. The Board agrees with Consumer Advocate that CenturyLink's response and the responses of other carriers involved have not answered all of the questions that the case presents. The record developed to date does not provide enough specific information for the Board to fully understand the roles and responsibilities of the various providers in causing (or correcting) the problems experienced at the Allison facility and related facilities. For example, it appears that CenturyLink has not yet provided as much information about the call completion problems in this case as it appears to have access to, including the identity of its underlying carriers. The Board anticipates that further investigation would allow the Board to better understand what tools are available to carriers in Iowa to prevent the kinds of call completion problems alleged in the complaint and to respond to problems as they occur. Docketing the complaint for further investigation will enable the Board to gather more specific information about CenturyLink's use of (and standards for) underlying carriers and extent to which use of certain underlying carriers and routing practices have contributed to call completion problems. These are only examples of the unanswered questions in this case; further investigation

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may identify other relevant questions. The Board finds that reasonable grounds have been shown for further investigation.

The Board will grant Consumer Advocate's petition for formal proceeding and will establish a procedural schedule. The Board anticipates that a traditional procedure with pre-filed testimony based on discovery conducted by the parties (with confidential information exchanged pursuant to protective agreements) and cross-examination of witnesses at a hearing would be useful in this case, but would consider suggestions for alternative ways to develop a record in this case, such as use of witness panels at a hearing or other procedures. Any party with a suggestion for how the Board should conduct further investigation of this matter may file a request for an alternative procedure on or before March 21, 2013. The Board will consider such requests and may modify the procedural schedule accordingly.

The Board expects that CenturyLink's testimony will focus on what happened in this case to cause the calls not to complete; CenturyLink's process to address call failures; CenturyLink's use of intermediate carriers to complete calls, performance standards for those carriers, and consequences for failure to meet those standards; call completion rates for the company in Iowa; the effect of changes to routing tables on call completion rates; and whether any routes in Iowa are problematic, among other issues. The procedural schedule also anticipates testimony from AireSpring, Dumont, and INS. While Board staff's proposed resolution indicates that AireSpring, Dumont, and INS did not cause the call completion problems at issue in this

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complaint, those companies may have access to information that will contribute to the Board's understanding of what happened in this specific case to cause the calls not to complete.

Any findings made in this matter to date are tentative and have been made only for the purpose of determining whether reasonable grounds exist for further investigation of the complaint. Final findings of fact will be made after the parties have had an opportunity to present any evidence and argument that may be relevant to this complaint.

III. ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The request for formal proceeding filed by the Consumer Advocate Division of the Department of Justice on December 27, 2012, relating to File No. C-2012-0129, is granted pursuant to Iowa Code § 476.3. The matter is identified as Docket No. FCU-2012-0019. The issues for investigation are as identified in the petition, as described in the body of this order, and as they may develop during the course of the proceedings.
2. Any party proposing an alternative to the procedure established in this order shall file a request to modify the procedural schedule on or before March 21, 2013.
3. The following procedural schedule is established for this proceeding:

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a. CenturyLink, AireSpring, Dumont, and INS shall file prepared direct testimony, with supporting exhibits and workpapers, on or before April 15, 2013.

b. Consumer Advocate shall file rebuttal testimony, with supporting exhibits and workpapers, on or before April 29, 2013.

c. CenturyLink, AireSpring, Dumont, and INS shall file reply testimony, with supporting exhibits and workpapers, on or before May 8, 2013.

d. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 10 a.m. on Wednesday, June 5, 2013, in the Board's hearing room at 1375 E. Court Ave, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at (515) 725-7334 at least five days in advance of the scheduled date to request that appropriate arrangements be made. The parties are advised that the Board has reserved two days for the hearing in this matter.

e. The parties may file simultaneous initial briefs on or before July 3, 2013, and reply briefs on or before July 24, 2013.

4. In the absence of objection, all underlying workpapers shall become a part of the evidentiary record of these proceedings at the time the related testimony and exhibits are entered into the record.

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5. In the absence of objection, all data requests and responses referred to in oral testimony or on cross-examination which have not been previously filed shall become a part of the evidentiary record of these proceedings. The party making reference to the data request shall file the data request and response with the Board at the earliest possible time.

6. In the absence of objection, when the Board has called for further evidence on any issue and the evidence is filed after the close of the hearing, the evidentiary record will be reopened and the evidence will become part of the record three days after the evidence is filed with the Board. All evidence filed pursuant to this paragraph shall be filed no later than three days after the close of the hearing in this proceeding.

UTILITIES BOARD

/s/ Elizabeth S. Jacobs

/s/ Darrell Hanson

ATTEST:

/s/ Joan Conrad
Executive Secretary

/s/ Swati A. Dandekar

Dated at Des Moines, Iowa, this 15th day of March 2013.

EXHIBIT 3

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

In the Matter of The Complaint of Hancock County Health Systems	Docket No. FCU-2013-____ (C-2013-0005)
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REQUEST FOR FORMAL PROCEEDING

Pursuant to Iowa Code § 476.3, the Office of Consumer Advocate (OCA), Iowa Department of Justice, requests a formal proceeding regarding the above rural call completion complaint. In support of the petition, OCA states:

1. On January 15, 2013, Curt Gast of Hancock County Health Systems submitted a complaint alleging its medical facilities were having “an awful time with call completion from our main campus to outlying numbers within our service area.” According to the complaint, “calls won’t ring, calls won’t answer and it seems to be getting worse not better.” According to the complaint, the problem seemed to center on calls leaving the main campus (served by CenturyLink) going to medical clinics (served by Communications 1 Network), “specifically when calling from Britt Iowa to Kanawha Iowa.” The Hancock County Memorial Hospital is located in Britt. The Kanawha Medical Clinic is located in Kanawha.¹

2. On January 16, 2013, staff requested responsive information from CenturyLink.

¹Kanawha, Iowa, (population 652) is eleven miles south of Britt, Iowa (population 2,069). Population figures are from 2010 census.

3. On February 4, 2013, CenturyLink responded. According to the response, on January 15, 2013, before 9:30 a.m. CST, several test calls were attempted to the Kanawha facility from each of two different numbers at the Britt facility (the first number ending in 80 and the second ending in 86). In neither case would the calls go through. Following CenturyLink's process for investigating these issues, a CenturyLink technician opened a trouble ticket. The technician investigated the trouble and the call paths. The technician was able to locate calls between the calling and called numbers. The technician tested and determined the problem was related to the call routing. According to the response, the underlying carrier used in the routing was Intelepeer.² CenturyLink removed Intelepeer from the routing to the NPA/NXX of the Kanawha facility, notified Intelepeer of this action, and was working with Intelepeer to address the issue. After the routing change, test calls went through.

4. On February 7, 2013, staff requested responsive information from Intelepeer.

5. On February 20, 2013, Intelepeer responded. According to the response, on January 15, 2013, before 9:30 a.m. CST, several test calls were attempted to the Kanawha facility from each of two different numbers at the Britt facility (the first number ending in 80 and the second ending in 86). In neither case would the calls go through.

²In proceedings before the FCC, Intelepeer describes itself as follows: "IntelePeer, Inc. is a leading provider of Internet protocol ('IP') communications services to service providers and enterprises and a privately held corporation headquartered in San Mateo, California. IntelePeer is transforming communications by delivering multimodal offerings, including voice and video, across devices, networks and geographies IntelePeer delivers more than 23 billion minutes annually over . . . sophisticated and intelligent routing software . . . by exchanging traffic with more than 130 other service providers, in addition to between more than 450 million telephone numbers and end point identifying addresses Our solutions allow wholesale and enterprise customers to transition from legacy telecommunications networks to next-generation, all IP-based communications in a rapid and cost-effective manner." Comments of Intelepeer, Inc., *In the Matter of AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, et al.*, GN Docket No. 12-353 (Jan. 28, 2013).

Following Intelepeer's process for investigating these issues, an Intelepeer technician opened a trouble ticket. The Intelepeer technician, in conjunction with CenturyLink, investigated the trouble and the call paths. The technician was able to locate calls between the calling and called numbers. The technician tested and determined the problem was related to the call routing. According to the response, the underlying carrier used in the routing was Impact Telecom (Impact).³ Intelepeer removed Impact from the routing to the NPA/NXX of the Kanawha facility, notified Impact of this action, and was working with Impact to address the issue. After the routing change, test calls went through.

6. On February 21, 2013, staff requested responsive information from Impact.

7. On March 6 and 7, 2013, Impact responded. According to the response, Impact had done a thorough investigation. Following its standard process to investigate these issues, an Impact technician opened a trouble ticket. Impact researched the call detail records and evaluated the call paths and results of the calls. According to the response, Intelepeer asked Impact to block the terminating number from routing pending investigation, and Impact complied. Impact stated: "Even though we do not see evidence of Dead Air, we block the terminating number per the request."

8. According to the Impact response, Intelepeer had contacted Impact on January 30, 2013, with a message stating: "I just received another PUC complaint from a

³The website impacttelecom.com states: "Founded as a CLEC in 2005, and headquartered in the Denver Tech Center, Impact Telecom is a leader in the wholesale telecommunications market delivering flexible and effective solutions. Impact owns and operates a state-of-the-art Voice over IP network which carries billions of minutes every year."

customer over your route (this one isn't formal yet). Can you please open a ticket and investigate the following. If no determination is made, please 503 the call back." The message referenced two calls from the Britt facility (number ending in 00)⁴ to the Kanawha facility on January 15, 2013, the first at 14:37 GMT (8:37 CST) and the second at 14:39 GMT (8:39 CST).⁵

9. According to the Impact response, the first of these calls "was presented to the Impact network, had 3 seconds and . . . was in the ring phrase for 11 seconds (approx. 3 rings) when the call was terminated by the originating end (in this case Intelpeer)." According to Impact, "[t]his is commonly known as a 'ring no answer' or 'origination cancel' indicating that the originating party disconnected the call prior to the terminating end picking up the phone." Impact stated: "The carrier attempted was Intermetro Communications. Our Call Detail Record shows IP packets in both the inbound and outbound directions indicating ring back to the customer."⁶

10. According to the Impact response, the second of these calls "shows that there was 1 minute of PDD, 7 seconds of ring time and a 200 Normal BYE (call was answered). The call shows 15 seconds of duration and IP packets in both incoming and outgoing directions. This call was terminated by Broadvox Communications."⁷ In

⁴In response to staff inquiry, Impact advised that the 00 number is the billing telephone number presented in the outbound caller ID, which essentially masks the extension number from which a call is made.

⁵Impact uses GMT (Greenwich Mean Time) so there is a standard for researching calls.

⁶According to the website intermetrocomm.net, "InterMetro Communications, Inc. (Ticker: IMTO) is a leading facilities-based provider of enhanced voice and data communication services. We own and operate a national, private, proprietary voice-over Internet Protocol (VoIP) network infrastructure powered by state-of-the-art switching equipment. Our robust network transports carrier-quality enhanced voice services that can be packaged into customized high margin products . . . InterMetro is headquartered in Simi Valley, California."

response to inquiry from staff, Impact explained that “PDD” stands for “post dial delay,” which “is the duration that lapses from the time we receive a call (from Intelepeer in this case) to the time we connect that call to the vendor and the customer begins to hear a ring,” that is, for the caller, “the time that they dial the number until the time that they hear a ring.” According to Impact, anything under 3 seconds is acceptable, though some types of calls can take longer, such as calls to Alaska or calls to cell phones. Impact stated: “We measure every attempt with PDD metrics so we are very aware of customers or vendors that have issues.”

11. According to the Impact response, “[a]dditional research was done inside the reported hour and other calls were identified. Either calls completed with minimal PDD (sub 3 seconds) duration or the call was sent back to Intelepeer for them to route advance. The calls that completed have duration and packet flow in both directions indicating good audio. Our test calls replicating the call also completed.” Impact concluded it “did not have any issues with the calls that were reported by Intelepeer and subsequently the Iowa PUC.”

12. On March 14, 2013, Board staff issued a proposed resolution. The proposed resolution concluded (i) CenturyLink’s testing indicated the problem was with Intelepeer and CenturyLink removed Intelepeer from the routing, (ii) Intelepeer determined the problem to be with Impact and Intelepeer removed Impact from the routing, and (iii) Impact stated the calls either completed or were sent back to Intelepeer for rerouting. The proposed resolution further concluded that calls successfully

⁷According to the website broadvox.com, “Broadvox is a leading nationwide provider of Business Communications. We help businesses of all sizes succeed through cloud-based communications, applications, and high-quality broadband connections. . . . We . . . serve over 300 VoIP and telecommunications carriers as a strategic supplier of VoIP Origination and Termination services.”

completed following the rerouting and that Hancock County Health Systems was reporting the matter was resolved.

13. For the reasons stated in the remaining paragraphs of this request, there is a “reasonable ground for investigation,” within the meaning of Iowa Code § 476.3.

14. The problems reported by Hancock County Health Systems are not unique. They are occurring with more than sufficient frequency, and to more than a sufficient number of rural telecommunications consumers, both in Iowa and across the nation, to justify an investigation. In Iowa:

A. The Board recently granted a petition seeking a formal proceeding based on a recent complaint alleging that calls and faxes failed to complete from health care facilities in Shell Rock and Waverly, Iowa, to a nearby rehabilitation center in Allison, Iowa (population 1,029). The administrator of the Allison facility advised she never really knows whether the facility has missed a call and has lost confidence in the reliability of the system. See *In re Allison Rehabilitation Center*, No. FCU-2012-0019 (Order dated March 14, 2013)

B. OCA has filed a second petition seeking a formal proceeding based on another recent complaint, this one alleging that a medical clinic in Huxley, Iowa, (population 3,317) was unable to get urgent test results from Mary Greeley Medical Center, ten miles north in Ames, Iowa. The complaint also alleged fax issues and calls not getting through to the answering service after hours. The complaint stated: “If we fail to provide care for a patient and something awful happens because we were unable to make or receive a phone call, there are terrible consequences.” See file no. C-2012-0147 (FCU-2013-0004).

C. Two recent complaints alleged difficulties experienced by two daughters in trying to reach their 97-year-old mother in Emerson, Iowa, (population 438). The first complainant was trying to call from Red Oak, Iowa, eleven miles away, the second from Glenwood, Iowa, thirty miles away. The first alleged difficulties including ringing and ringing on the calling party's end but no ringing on the called party's end, ringing once or twice then a busy signal or drop, and a connection so poor the parties couldn't hear each other. The second alleged that the calls sometimes ring through without difficulty, but other times "it rings once or twice and then goes dead," and still other times "it may ring sounding fine for the first couple of rings and then the ring sounds garbled and if mother tries to answer we cannot hear or understand each other." She stated she has hung up and tried as many as 8-10 times and after numerous tries the call may go through. She says she can tell immediately if the ring sounds clear and if the call is going to be proper. She observed that their mother did not have difficulty making outgoing calls. See file nos. C-2013-0006, C-2013-0011.

D. Another recent complaint alleged difficulties calling from Mt. Pleasant, Iowa, to Mediapolis, Iowa, (population 1,560), a distance of 23 miles. The complainant alleged she had spent hours on the phone trying to place the call and that the problem had been going on for months. The complainant stated her friend in Mediapolis could call her. The complainant said she thought the routing was being done on a cheaper service. She said she "did talk to Shirley who works for Windstream and . . . told her to change the routing on my phone which I knew

they could do and she told me she would talk to her supervisor.” After that, the trouble stopped. See file no. C-2013-0025.

E. Another recent complaint alleged difficulty placing a call from Clive, Iowa, to West Liberty, Iowa, (population 3,736) a distance of 142 miles. The complaint alleged the call went through but the called party did not answer because the caller ID gave an incorrect calling party name and calling party number. See file no. C-2013-0026.

Nationally:

F. In a February 2012 declaratory ruling, the Federal Communications Commission noted evidence of a pattern of call completion and service quality problems on long distance calls to certain rural areas.⁸

G. In a July 2012 (second) resolution on the topic, the National Association of Regulatory Utility Commissioners (NARUC) observed that call completion failure rates are 13 times higher in rural areas than in non-rural areas, that of one hundred rural telephone lines tested, one in five experienced failure rates of 10 percent or greater, while one in three had a “total issues” (call failure, poor quality, or delayed set-up) rate greater than 20 percent, and that rural call termination issues remain “serious” and “widespread” and “continue to threaten public safety, homeland security and consumer welfare in rural America.”⁹

⁸Declaratory Ruling, *Developing an Unified Inter-carrier Compensation Regime*, CC Docket No. 01-92, and *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, 27 F.C.C.R. 1351, 2012 WL 387736 (FCC 2012), ¶ 1.

⁹NARUC, Resolution Addressing Rural Call Termination Issues (July 25, 2012), <http://www.naruc.org/Resolutions/12%200801%20Passed%20Resolution%20Addressing%20Rural%20Call%20Termination%20Issues.pdf>

H. In a November 2012 press release, the National Exchange Carriers Association (NECA) described the problem as a “mounting epidemic,” with call completion issues continuing to occur at “alarming” rates.¹⁰

I. In a February 2013 notice of proposed rulemaking, the FCC stated: “Completion rates of long-distance calls to rural . . . areas are frequently poor.”¹¹ And again: “[t]here is ample evidence that rural call completion problems are widespread and serious.”¹²

J. The FCC added: “Rural associations suggest that the call-completion problems may arise from the manner in which originating providers set up the signaling and routing of their calls, and that many of these call routing and termination problems can be attributed to intermediate providers.”¹³

15. As also stated by the FCC, the call completion problems can have dire consequences. Small businesses can lose customers who get frustrated when their calls don’t go through. Urgent calls from friends and families can be missed. Schools may be unable to reach parents with critical alerts. Those in need of help may be unable to reach public safety officials.¹⁴ In addition, as here, health care facilities may be left without an

¹⁰NECA, Press Release, “Survey by Rural Telecom Associations Finds Call Completion Problems Persist: Complaints on the Rise As Consumers Grow Frustrated with Repeated Occurrences of ‘Dead Air,’” (Nov. 15, 2012), https://www.neca.org/cms400min/NECA_Templates/PublicInterior.aspx?id=8287.

¹¹Notice of Proposed Rulemaking (NPRM), *Rural Call Completion*, FCC 13-18, WC Docket No. 13-39 (Feb. 7, 2013) ¶ 2.

¹²*Id.*, ¶ 13.

¹³*Id.*, ¶ 6. In particular, as the FCC had previously advised, according to the rural associations, many of the problems appear to lie with the underlying routing providers selected by the retail long distance carriers, including “least cost routers,” which attempt to connect calls to their destinations at the lowest cost possible. These routing practices can have the effect of blocking, choking, reducing or otherwise restricting traffic. Declaratory Ruling, note 8 above, ¶¶ 3,7.

¹⁴Declaratory Ruling, note 8 above, ¶ 2.

ability to provide the care their patients need due to the failure of calls and faxes from one facility to another. Further, particularly in rural areas, where patients, particularly elderly patients, may still be inclined to call their clinic rather than 911 even when needing emergent care, a patient may fail to receive such care if the call fails to complete. As stated by both U.S. senators from Iowa and 34 of their colleagues, “[w]e . . . worry it is only a matter of time before this situation leads to tragedy.”¹⁵

16. In its July 2012 resolution, NARUC observes: “it appears that some carriers are not taking the declaratory ruling seriously.” NARUC continues: “[t]he call termination issues seem unlikely to be resolved unless and until a provider that has failed materially and repeatedly to route calls to destinations as sought by originating carriers faces serious consequences for such failures.”¹⁶

17. Here, the file raises more questions than it answers, leaving the Board not much closer to understanding who and what caused the difficulties experienced by Hancock County Health Systems than was the case on the day the complaint was filed.

18. CenturyLink advises the problem was related to the call routing and that removal of Intelpeer as underlying carrier solved the problem. Intelpeer advises the problem was related to the call routing and that removal of Impact as underlying carrier solved the problem. Neither CenturyLink nor Intelpeer explains what caused the problem.

¹⁵See letter to Julius Genachowski, Chairman, FCC, dated December 3, 2012, available at <https://prodnet.www.neca.org/publicationsdocs/wwwpdf/12312congress.pdf>

¹⁶NARUC, Resolution Addressing Rural Call Termination Issues (July 25, 2012), <http://www.naruc.org/Resolutions/12%200801%20Passed%20Resolution%20Addressing%20Rural%20Call%20Termination%20Issues.pdf>

19. Impact, meanwhile, in part denies there was a problem, claiming that test calls that CenturyLink and Intelepeer advised *did not* go through *did* go through.

Investigation is needed to determine what actually happened and to attempt to acquire an understanding as to how one company's system can indicate a call was completed while another company's system can indicate the call was not completed.¹⁷

20. Impact acknowledges that some of the calls were sent back to Intelepeer for rerouting. The record does not disclose how many or which of the calls were sent back, or why they sent back, or why some were sent back and some were not, or what happened to those that were sent back. Investigation is needed to answer these questions.

21. Investigation is needed regarding the roles being played by Intermetro Communications and Broadvox Communications. Either or both may be third-tier underlying carriers. Perhaps, as one would expect the number of fumbles to increase with the number of handoffs in a football play, one would similarly expect an increasing number of dropped calls with an increasing number of underlying carriers.¹⁸

¹⁷The fact that a calling party hears ringing does not necessarily mean that the called party's phone has rung. As the FCC recently observed, a major complaint regarding call termination problems is "false ringing," in which the caller hears prolonged ringing (and so finally hangs up) before the called party's phone has rung at all. This appears to be relatively new as a widespread phenomenon, and is brought about when the originating provider prematurely triggers the audible ring tone to the caller before the call setup request has actually reached the terminating provider. This premature audible ringing departs from the long-established telephony signaling practice (and end-user expectation) of audible ringing indication being provided to the caller only after the terminating provider affirmatively signals that the called party is being alerted. . . . [T]he . . . called party may eventually hear his phone ringing and answer after the calling party has finally hung up." NPRM, note 11 above, ¶¶ 39-40. This phenomenon, which the proposed rules seek to end, appears to be consistent with the complaint of Hancock County Health Systems that "[c]alls won't ring, calls won't answer" and with the reports of CenturyLink and Intelepeer that they could not get the test calls to go through. In OCA's understanding, the fact that packets are moving in both directions does not necessarily mean that a calling party has been connected to a called party or that a conversation is occurring.

¹⁸See ATIS Handbook at 5.1, quoted at n. 57 of the FCC's NPRM, note 11 above ("As the number of providers handling a call increases, there is the potential for lengthier call setup delay and other impairments. Troubleshooting may also prove more difficult. Some carriers have found it useful to limit underlying carriers to including no more than one additional provider, not including the terminating provider").

22. Investigation is needed regarding the routing of the calls, the changes made to the routing, and the reasons why CenturyLink and Intelpeer concluded the re-routing would improve the likelihood that the calls would complete.

23. Investigation is needed regarding the performance requirements, metrics and standards imposed by CenturyLink and Intelpeer on other companies that are carrying the traffic, in order to ensure that attempted calls complete.

24. The difficulties may be attributable to the lack of compatibility between traditional time-division multiplexing (TDM) and new Internet protocol (IP) switches and signaling systems. Investigation is needed to determine whether that is the case and if so what can be done to secure the needed compatibility.

25. The fact that a problem is corrected by re-routing after calls have failed to complete and after an adversely affected party complains is *not* a full or adequate solution. What is needed is an understanding of the cause of the problem and tools with which to prevent it *before* it occurs.

26. Investigation is needed to assess whether the problem has actually been solved. On March 22, 2013, Mr. Gast advised OCA that staff was reporting ongoing problems. The clinic receptionist advised him: "I have this happen almost daily when doing reminder calls to Corwith and Kanawha numbers. Can't tell you any specific times/numbers off the top of my head, but happens all the time."

27. While the Federal Communications Commission undoubtedly plays a central role nationally in resolving the problem long-term, that is no reason for the Board to step aside. On the contrary, the most effective way to address and solve the problem, especially near-term, is for state and federal officials to work in mutually supportive ways

within their respective jurisdictions. As the FCC observes, NARUC's (first) resolution on the topic urged its state members to "take all appropriate actions to protect consumers by immediately addressing the call terminating issues that exist."¹⁹ The word "immediately" is important.²⁰

28. The Board is more familiar than the FCC with the geography, and in many or most cases, the relevant players in Hancock County, Iowa. It is closer to the scene and to many or most of the relevant sources of information. It has a focused interest in seeing that calls are completed to rural destinations in Iowa, including the Kenawha clinic, and more generally in seeing that the quality of service provided to rural communities in Iowa is preserved and restored and not lost or further degraded. It has a focused ability to commit resources to investigating the source of the difficulties occurring in Iowa and to seeking remedies and enforcement when needed, to the end that the problems do not recur. By contrast, resource constraints probably prevent the FCC from conducting a granular investigation of the local landscape across an entire nation.

29. Potentially, the Board may uncover violations of the federal obligations addressed in the FCC's declaratory ruling. If so, the violations can be reported to the FCC with a request for enforcement action. Because resource constraints at the FCC may be less of an inhibiting factor for the FCC when the FCC is presented with a completed investigation than when it is presented with a file that does not identify the cause of the

¹⁹FCC Declaratory Ruling, note 8 above, ¶ 8.

²⁰The FCC states in its declaratory ruling that it has adopted rules that should ultimately address the root causes of rural call completion problems. In particular, it has comprehensively reformed intercarrier compensation, with a transition that will gradually reduce most termination charges. At the end of the transition, the FCC concludes, the rules should eliminate the primary incentives for cost-savings that appear to be undermining the reliability of telephone service. However, as NARUC has argued, and as the FCC agrees, "there is a need to limit the adverse impact of these rural call completion problems on consumers in the near term." Declaratory Ruling, note 8 above, ¶ 10.

difficulty, the FCC may be more able to proceed with an enforcement action in the latter case than the former, thus advancing the goal that the problems be brought to an end, and sooner rather than later.

30. Insofar as federal law is concerned, the state is also free to police directly the delivery of intra-state telecommunications services. See *Louisiana Public Service Com'n v. FCC*, 476 U.S. 355, 360 (1986). There may be remedial or enforcement tools available to the Board under the laws of Iowa and the Board's regulations. That, too, merits investigation. If it turns out existing Iowa laws and regulations are inadequate to give the Board the tools it needs to police the problem directly, investigation may suggest a need for new regulations or a new law providing those tools.

31. The failure of calls and faxes to complete affects the health, safety and welfare of Iowans. Calls for help may not be answered, and in this case a county hospital was apparently unable to communicate with a nearby medical clinic on patient needs.

32. An investigation will materially enhance the ability of the Board and its staff to participate on a well informed basis in ongoing workshops designed to assess the problem and effect a solution.

33. An investigation will materially contribute to solving the problem, because carriers will know they are being watched, with a view toward enforcement when needed.

WHEREFORE, OCA requests a formal proceeding on the Hancock County Health System's complaint.

Respectfully submitted,

Mark R. Schuling
Consumer Advocate

/s/ Craig F. Graziano

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