

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

In the Matter of)
Rural Call Completion) WC Docket No. 13-39
Petition for Limited Waiver of AT&T Services,)
Inc.)
Petition for Waiver of CenturyLink)

ORDER

Adopted: February 2, 2015

Released: February 2, 2015

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. This Order addresses two Petitions for Limited Waiver of rules adopted by the Federal Communications Commission (Commission) in the Rural Call Completion Order. AT&T Services, Inc. (AT&T) requests a waiver of sections 64.2103 and 64.2105 of the Commission's rules for (1) certain portions of its Core and non-Core network traffic, and (2) in those instances where a terminating local exchange carrier (LEC) switch only supports multi-frequency signaling (MF signaling). CenturyLink also requests a waiver of recordkeeping, retention, and reporting rules where a terminating LEC switch only supports MF signaling.

2. Pursuant to section 1.3 of the Commission's rules and the waiver procedure established in the Rural Call Completion Order, the Wireline Competition Bureau (Bureau) conditionally grants

1 See Rural Call Completion, WC Docket No. 13-39, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 16154 (2013) (Rural Call Completion Order or Order); Order on Reconsideration, 29 FCC Rcd 14026 (2014) (Rural Call Completion Recon Order).

2 See 47 C.F.R. §§ 64.2103, 64.2105.

3 See AT&T Services, Inc. (AT&T) Petition for Limited Waiver, WC Docket No. 13-39 at 4, 11, 14-15 (filed Apr. 10, 2014) (AT&T Petition).

4 CenturyLink Petition for Waiver, WC Docket No. 13-39, at 2, 6 (filed July 28, 2014) (CenturyLink Petition). In addition, both AT&T and CenturyLink requested a waiver of the recordkeeping, retention, and reporting rules for intraLATA/interexchange toll traffic where the originating LEC hands the traffic directly to the terminating provider or where the AT&T or CenturyLink LEC both originates and terminates the call. The Commission previously dismissed these requests as moot when it determined that recordkeeping, retention, and reporting are not required for such traffic. See Rural Call Completion Recon Order, 29 FCC Rcd at 14027, para. 2, 14051, para. 71-72.

5 See Rural Call Completion Order, 28 FCC Rcd at 16194-95, paras. 95-97; 47 C.F.R. § 1.3 (stating that the Commission may waive its rules, in whole or in part, for good cause shown). To be clear, we grant this waiver pursuant to section 1.3 of the Commission's rules. Paragraph 96 of the Rural Call Completion Order provides factors that the Bureau should consider when deciding whether good cause to grant a waiver of our recordkeeping, retention, and reporting requirements has been shown.

AT&T's request for limited waiver of certain aspects of the recordkeeping, retention, and reporting requirements in sections 64.2103 and 64.2105 of the Commission's rules for certain portions of AT&T's Core and non-Core network traffic.⁶ The Bureau also clarifies that covered providers are not required to record, retain, and report on call attempt information that they are unable to obtain because the terminating LEC switch only supports multi-frequency signaling (MF signaling).⁷ We believe that taking these steps is in the public interest, and will not compromise the Commission's ability to address rural call completion problems. In particular, the limited waiver we grant today is only available to providers that have taken significant steps toward preventing rural call completion problems from occurring by adopting practices that the Commission has identified as mitigating rural call completion issues.⁸

II. BACKGROUND

3. *Rural Call Completion Order.* Call completion performance for long-distance calls to rural areas can often be poor—a call may be significantly delayed, the called party's phone may never ring, or a caller may hear a false busy signal, among other issues.⁹ These problems may be the result of practices that contravene prohibitions on blocking, choking, reducing, or restricting traffic and the Commission's rules and precedents adopted under section 201 or 202 of the Communications Act of 1934, as amended.¹⁰ The *Rural Call Completion Order* adopted, among other things, recordkeeping, retention, and reporting rules to improve the Commission's ability to monitor the delivery of long-distance calls to rural areas, and to aid enforcement action in connection with providers' call completion practices as necessary.¹¹ These rules apply to providers of long-distance voice service that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines (covered providers).¹² In most cases, the covered provider is the calling party's long-distance provider—which includes LECs, interexchange carriers (IXCs),¹³ commercial mobile radio service (CMRS) providers,¹⁴ and VoIP service providers.¹⁵

⁶ See 47 C.F.R. §§ 64.2103, 64.2105.

⁷ Because this clarification addresses AT&T and CenturyLink's respective requests for waiver of the Commission's recordkeeping and reporting rules where the terminating LEC switch only supports MF signaling, see AT&T Petition at 14-15, CenturyLink Petition at 6, we dismiss the CenturyLink Petition, and relevant portions of the AT&T Petition, as moot.

⁸ See *Rural Call Completion Order*, 28 FCC Rcd at 16194-95, paras. 95-97.

⁹ *Id.* at 16155, para. 1.

¹⁰ See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17903, para. 734, 18028-29, paras. 973-974 (2011), *aff'd sub nom. In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014); *Developing an Unified Inter-carrier Compensation Regime; Establishing Just and Reasonable Rates for Local Exchange Carriers*, CC Docket No. 01-92, WC Docket No. 07-135, Declaratory Ruling, 27 FCC Rcd 1351, 1356, para. 12 n.37 (Wireline Comp. Bur. 2012); *Establishing Just and Reasonable Rates for Local Exchange Carriers; Call Blocking by Carriers*, WC Docket No. 07-135, Declaratory Ruling and Order, 22 FCC Rcd 11629 (Wireline Comp. Bur. 2007); see also 47 U.S.C. §§ 201-202.

¹¹ See *Rural Call Completion Order*, 28 FCC Rcd at 16164-91, paras. 19-84, 16211-214, Appx. A; 47 C.F.R. §§ 64.2103-64.2105.

¹² See *Rural Call Completion Order*, 28 FCC Rcd at 16164, para. 19; 47 C.F.R. § 64.2101(c). The "initial long-distance call path choice," refers to the static or dynamic selection of the path for a long-distance call based on the called number of the individual call. For facilities-based providers, this decision may include choosing to deliver the call on the provider's own network. *Rural Call Completion Order*, 28 FCC Rcd at 16165, para. 20. In addition, the Commission adopted a rule in the *Rural Call Completion Order* prohibiting all originating and intermediate providers from causing audible ringing to be sent to the caller before the terminating provider has signaled that the called party is being alerted. See *id.* at 16202, para. 115.

¹³ An interexchange carrier is a telephone company that provides telephone toll service. See 47 C.F.R. § 64.4001(d).

4. Covered providers are generally required to record information about each call attempt to a rural Operating Company Number (OCN)¹⁶ from subscriber lines for which the covered provider makes the initial long-distance call path choice, and retain the information in a readily retrievable form for a period that includes the six most recent complete calendar months.¹⁷ Covered providers must also electronically file quarterly, certified reports with the Commission.¹⁸ These reports must include the following information about subscriber lines for which the provider makes the initial long-distance call path choice, reported separately for each month in the quarter: (1) for each rural OCN – the OCN, the state, the total number of attempted interstate call attempts, the number of attempted interstate calls that were answered, and the number of attempted interstate calls that were not answered, reported separately for call attempts signaled as busy, ring no answer, or unassigned number; (2) the same information described in (1), but for intrastate calls; (3) the same information regarding attempted interstate calls described in (1), but for nonrural OCNs in the aggregate; and (4) the same information regarding attempted intrastate calls described in (2), but for nonrural OCNs in the aggregate.¹⁹ Based on these reports, the Commission can review the percentage of call attempts answered (the call answer rate) and the percentage of call attempts completed to the terminating provider regardless of whether answered or unanswered (the network effectiveness ratio), and can calculate the totals and values for the rural OCNs and the nonrural OCNs in the aggregate.²⁰

5. *Managing Intermediate Provider Safe Harbor.* The rules adopted in the *Rural Call Completion Order* improve the Commission’s ability to monitor call completion practices in rural areas and pursue enforcement actions where necessary. At the same time, the Commission allowed providers that have practices consistent with the Commission’s call completion objectives to qualify for reduced reporting and retention requirements. To this end, the Commission adopted the Managing Intermediate Provider Safe Harbor (Safe Harbor). The Commission recognized that problems with routing calls to rural areas often arise where multiple intermediate providers are involved in transmitting a call.²¹ Accordingly, the Commission adopted the Safe Harbor to encourage providers to reduce the number of intermediate providers in a call path to no more than two, thereby improving the ability to manage intermediate providers and call paths end-to-end.²² Qualifying providers may avail themselves of reduced

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¹⁴ See 47 C.F.R. § 20.9 (listing the mobile services that are regulated as CMRS).

¹⁵ See *Rural Call Completion Order*, 28 FCC Rcd at 16164, para. 19, 16166-67, paras. 22-23.

¹⁶ An OCN is a four-place alphanumeric code that uniquely identifies providers of local telecommunications service. See *id.* at 16159, para. 8 n.28 (citing Alliance for Telecommunications Industry Solutions (ATIS), *ATIS Telecom Glossary*, <http://www.atis.org/glossary/definition.aspx?id=8448> (last visited Jan. 8, 2015)).

¹⁷ *Id.* at 16182-84, paras. 61-65; 47 C.F.R. § 64.2103(a). The specific information that each record must contain is set forth in sections 64.2103(c)-(e) of the Commission’s rules. See 47 C.F.R. § 64.2103(c)-(e).

¹⁸ *Rural Call Completion Order*, 28 FCC Rcd at 16184-85, paras. 65-67; 47 C.F.R. § 64.2105(a).

¹⁹ *Rural Call Completion Order*, 28 FCC Rcd at 16184, para. 65; 47 C.F.R. § 64.2105(b).

²⁰ *Rural Call Completion Order*, 28 FCC Rcd at 16184, para. 65.

²¹ *Id.* at 16192, para. 87.

²² See 47 C.F.R. § 64.2107; *Rural Call Completion Order*, 28 FCC Rcd at 16191-92, para. 86. The Commission determined that an originating provider that limits the intermediate providers in the call path to two is better able to manage performance to rural destinations than an originating provider that sends calls through numerous intermediate providers, the identities of which the originating provider may not even know. See *Rural Call Completion Order*, 28 FCC Rcd at 16192, para. 87. Inteliquent notes that most call completion problems are caused by a “subset of providers ‘with a limited on-net footprint’ that use aggressive least cost routing strategies and ‘often route calls through extensive “daisy chains” of other intermediate providers which increases the likelihood of call completion problems due to excessive post-dial delay, looping, and other phenomenon.’ These aggressive least cost routers could not likely meet the Commission’s present Safe Harbor.” Comments of Inteliquent in Support of

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reporting and retention requirements through an annual self-certification process.²³ Qualifying providers are required to report and retain data in the same manner as any non-qualifying provider but are limited to one year of reporting and are required to retain the information for only the three most recent complete calendar months.²⁴

6. *Waivers of Data Collection and Retention Requirements.* Under the waiver process established in the *Rural Call Completion Order*, the Bureau may consider requests for waiver of the specific reporting and data retention requirements in sections 64.2103-64.2105 of the Commission's rules.²⁵ In evaluating a provider's waiver request, the Bureau will consider not only whether a provider has demonstrated that it qualifies for the Safe Harbor, but also whether it has processes in place to ensure that call attempts to rural incumbent LECs (ILECs) will reach their destinations, such as by adopting industry best practices.²⁶ The Bureau will also consider whether the provider has demonstrated that it has capabilities and processes to monitor its performance by the OCN of the called party's ILEC (rather than just at an aggregate level).²⁷ The Bureau shall require, as a condition of a waiver, that a provider report information about rural call completion for a one-year period.²⁸ Such a report may be based on a statistically valid sample of calls.²⁹ In addition, the Bureau may require, as a condition of a waiver, that a provider collect and retain some data, such as data reflecting a statistically valid sample of calls to rural and nonrural areas.³⁰

7. *AT&T and CenturyLink Waiver Petitions.* AT&T filed a Petition for Limited Waiver on April 10, 2014.³¹ Two commenters supported the petition and two opposed it.³² AT&T filed a Reply on

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AT&T's Petition for Limited Waiver, WC Docket No. 13-39, at 4-5 (filed May 12, 2014) (quoting Reply Comments of Inteliquent, WC Docket No. 13-39, at 3 (filed June 11, 2013)) (Inteliquent Comments).

²³ See 47 C.F.R. § 64.2107.

²⁴ *Id.*

²⁵ *Rural Call Completion Order*, 28 FCC Rcd at 16195, paras. 95-97. In the *Rural Call Completion Order*, the Commission delegated to the Bureau, in consultation with the Enforcement Bureau, the authority to act on such waiver requests. See *id.* at 16195, para. 96.

²⁶ See *id.* In 2012, ATIS released the Intercarrier Call Completion/Call Termination Handbook outlining industry standards and practices relevant to ensuring call completion. See ATIS, *Intercarrier Call Completion/Call Termination Handbook* (Mar. 2013), <https://www.atis.org/docstore/product.aspx?id=26780> (last visited Jan. 8, 2015) (ATIS Handbook).

²⁷ *Rural Call Completion Order*, 28 FCC Rcd at 16195, para. 96.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ See generally AT&T Petition; *Wireline Competition Bureau Seeks Comment on Petitions for Waiver Filed in the Rural Call Completion Proceeding*, WC Docket No. 13-39, Public Notice, 29 FCC Rcd 4856 (Wireline Comp. Bur. 2014).

³² See Comments of CenturyLink, WC Docket No. 13-39 (filed May 12, 2014) (CenturyLink Comments) (supporting the AT&T Petition); Inteliquent Comments (supporting the AT&T Petition); Comments of NTCA—The Rural Broadband Association, the National Exchange Carrier Association, the Eastern Rural Telecom Association, and WTA-Advocates for Rural Broadband (collectively the Rural Associations), WC Docket No. 13-39 (filed May 12, 2014) (Rural Associations Comments) (opposing the AT&T Petition); Reply Comments of the National Association of Regulatory Utility Commissioners (NARUC), WC Docket No. 13-39 (filed May 19, 2014) (NARUC Reply) (opposing the AT&T Petition).

May 19, 2014.³³ CenturyLink filed its Petition for Waiver on July 28, 2014.³⁴ Two commenters supported CenturyLink's Petition.³⁵

III. DISCUSSION

8. The Commission adopted the recordkeeping, retention, and reporting requirements in sections 64.2103-64.2105 of its rules to improve the Commission's ability to monitor call completion practices in rural areas and pursue enforcement actions where necessary. As described above, the Safe Harbor allows providers that have practices consistent with these objectives to qualify for reduced reporting and retention requirements.³⁶ The Commission created further incentives for providers to improve their rural call completion performance by adopting a waiver process for providers that are able to demonstrate that they have taken steps beyond those required for the Safe Harbor to ensure that calls to rural areas are being completed.³⁷ The Commission adopted this waiver process to encourage providers to take immediate and decisive action to redress rural call completion problems and to adopt practices and processes to prevent rural call completion problems from occurring in the first place.³⁸

9. The Commission delegated to the Bureau, in consultation with the Enforcement Bureau, authority to act on waiver requests, such as the AT&T and CenturyLink Petitions for Limited Waiver.³⁹ Pursuant to this authority, we conditionally grant AT&T's request for limited waiver of sections 64.2103-64.2105 of the Commission's rules regarding call data on AT&T's Core Network and certain AT&T Mobility inter-MTA traffic that is not routed to rural OCNs. We also grant AT&T's request that it be given six months from the date of release of this Order to implement the system changes required to comply with the conditions of the grant of this waiver.

10. Our grant of these waiver requests is conditioned as follows: (1) AT&T must comply with the Safe Harbor requirements set forth in section 64.2107(a)(1)-(2) of the Commission's rules and file the required certifications;⁴⁰ (2) AT&T must develop and implement the systems needed to track calls on an ILEC-specific basis for rural OCNs and aggregate data for non-rural OCNs;⁴¹ and (3) AT&T must report information about rural call completion based on a statistically valid sample of calls for a one year period, and must retain such data for a three month period.⁴² We also condition our grant of AT&T's request for limited waiver of sections 64.2103-64.2105 of the Commission's rules regarding call data for

³³ Reply Comments of AT&T, WC Docket No. 13-39 (filed May 19, 2014).

³⁴ See CenturyLink Petition; *Wireline Competition Bureau Seeks Comment on Petition for Waiver Filed in the Rural Call Completion Proceeding*, WC Docket No. 13-39, Public Notice, 29 FCC Rcd 9440 (Wireline Comp. Bur. 2014).

³⁵ See Comments of Public Utility Commission of Oregon, WC Docket No. 13-39 (filed Aug. 8, 2014) (supporting the CenturyLink Petition); Comments of AT&T Services, Inc., WC Docket No. 13-39 (filed Aug. 11, 2014) (supporting CenturyLink's request for a limited waiver).

³⁶ See *supra* para. 5; 47 C.F.R. § 64.2107; *Rural Call Completion Order*, 28 FCC Rcd at 16191, para. 86.

³⁷ See *supra* para. 6; *Rural Call Completion Order*, 28 FCC Rcd at 16191, para. 85, 16194-195, paras. 95-97. The Commission may also waive its rules, in whole or in part, for good cause and may exercise its discretion to waive a regulation where the particular facts make strict compliance inconsistent with the public interest. See 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

³⁸ See *Rural Call Completion Order*, 28 FCC Rcd at 16195, paras. 96-97.

³⁹ See *id.* at 16195, para. 96 (delegating to the Bureau, in consultation with the Enforcement Bureau, the authority to act on waiver requests of the specific reporting and data retention rules as described in the *Rural Call Completion Order*); see also 47 C.F.R. §§ 0.919(b) & (m), 0.291.

⁴⁰ See *infra* paras. 23-25; 47 C.F.R. § 64.2107(a)(1)-(2).

⁴¹ See *infra* para. 30.

⁴² See *infra* paras. 27-30.

AT&T Mobility inter-MTA traffic that is routed through non-AT&T intermediate providers as follows: (1) AT&T must not route calls subject to this waiver to rural OCNs; (2) AT&T must continue to contractually restrict its intermediate providers carrying AT&T originated traffic from using more than one additional intermediate provider in a call path before the call reaches the terminating provider or terminating tandem; and (3) AT&T and its intermediate providers must continue to comply with ATIS Best Practices.⁴³

11. We also clarify on our own motion that the Commission's rules do not require covered providers to record, retain, and report information where the terminating LEC switch only supports multi-frequency signaling (MF signaling) technology. We therefore dismiss as moot AT&T's and CenturyLink's requests for waiver of sections 64.2103-64.2105 of the Commission's rules in instances where a terminating LEC switch only supports MF signaling.⁴⁴

A. AT&T's Petition

12. AT&T requests waiver⁴⁵ of the recordkeeping, retention, and reporting requirements for interexchange traffic transported by its Core Network⁴⁶ and AT&T Mobility inter-major trading area (inter-MTA) traffic that is not terminated through its Core Network and is not routed to rural OCNs.⁴⁷ An MTA is a geographic boundary defined by the Commission for the purpose of issuing licenses for personal communications services (a low-powered, high-frequency alternative to traditional cellular services).⁴⁸

13. *AT&T Core Network Traffic.* AT&T states that the vast majority of interexchange traffic transported by AT&T on a retail or wholesale basis is transported by the AT&T "Core Network." The Core Network is owned and operated by AT&T Corp., AT&T's primary interexchange service provider affiliate.⁴⁹ AT&T "does not currently hand off traffic from its Core Network to any intermediate provider."⁵⁰ Instead, once a call enters the Core Network, AT&T terminates it either to the terminating tandem or directly to the terminating end office.⁵¹ The Core Network "transports traffic from: (1) AT&T and non-AT&T LEC customers that presubscribe to AT&T's interexchange service; (2) wholesale customers; (3) enterprise direct connect customers; and (4) AT&T Mobility."⁵² On March 13, 2014, AT&T acquired Leap Wireless, which operates under the Cricket brand. AT&T plans to migrate at least some of Cricket's traffic to the Core Network.⁵³ AT&T proposes that, as Cricket traffic is migrated onto

⁴³ See *infra* paras. 32-35.

⁴⁴ The Bureau has delegated authority to act upon petitions for clarification under sections 0.91(b) & (m) and 0.291 of the Commission's rules. See 47 C.F.R. §§ 0.919(b) & (m), 0.291.

⁴⁵ AT&T seeks a "limited waiver of the call attempt recording, retention and reporting requirements in section 64.2103-64.2105 of the Commission's rules in those circumstances in which compliance with the new rules is technically infeasible using currently deployed equipment." AT&T Petition at 1. It states that coming into full compliance with these rules would require AT&T to "invest millions of dollars in developing and executing costly and resource-intensive workarounds and retrofits, diverting resources from other priorities." *Id.* at 4.

⁴⁶ Interexchange traffic is traffic carried by an interexchange carrier, which is defined in the Commission's rules as a "telephone company that provides telephone toll service. An interexchange carrier does not include commercial mobile radio service providers as defined by federal law." See 47 C.F.R. § 64.4001(d).

⁴⁷ AT&T Petition at 11.

⁴⁸ See Harry Newton, Newton's Telecom Dictionary 768, 873 (26th ed. 2011).

⁴⁹ AT&T Petition at 8 n.30.

⁵⁰ *Id.* at 8.

⁵¹ *Id.*

⁵² *Id.*

⁵³ AT&T Petition at 11-12.

AT&T's Core Network, the traffic would fall within AT&T's requested waiver for the Core Network traffic.⁵⁴

14. In support of its waiver requests, AT&T asserts that it meets the Safe Harbor requirements and has processes in place, including adopting industry best practices, to ensure that call attempts to rural ILECs reach their destinations.⁵⁵ AT&T states, however, that even compliance with the more limited reporting and retention rules under the Safe Harbor would require AT&T to perform costly reprogramming of its TDM switches to collect data that it does not generally track today, costing from three to five million dollars.⁵⁶ This is especially true, AT&T asserts, for the majority of calls on its Core Network, because "AT&T generally does not record data that is not used for billing, including for unanswered calls."⁵⁷ AT&T also states that, in some instances, this reprogramming may be technically infeasible.⁵⁸ AT&T proposes to report instead on a statistically valid sample based on call attempts it already records. The sample would include a subset of calls on the Core Network, including unanswered calls with cause codes.⁵⁹ AT&T states that it is capable of monitoring its own performance, and ensuring that no systemic rural call completion issues arise, through use of data regarding this subset of calls on the Core Network, noting that all calls on the Core Network are routed the same way.⁶⁰ AT&T proposes to collect and report on these calls for the one year period required by the Safe Harbor, but AT&T further requests that the obligations not begin until six months after the date that the limited waiver of the recordkeeping, retention, and reporting rules is granted, to allow AT&T an opportunity to change its recordkeeping system.⁶¹

1. General Objections to the AT&T Petition and the *Rural Call Completion Order* Waiver Process

15. In filings responding to AT&T's waiver request, NARUC and the Rural Associations voiced general concerns about the waiver process adopted in the *Rural Call Completion Order*, and also expressed concerns about AT&T's Petition in particular.⁶² We first address the general concerns. To the extent that parties argue that AT&T fails to satisfy the Commission's waiver criteria, we address those arguments as part of our analysis of AT&T's requests set out below.⁶³

16. The Rural Associations and NARUC assert that the Commission should consider waivers only in the narrowest of circumstances and only if the petitioner provides demonstrable proof that it consistently completes calls to rural areas.⁶⁴ As an initial matter, we note that to the extent that NARUC and the Rural Associations disagree with the waiver process the Commission adopted in the *Rural Call Completion Order*, the time for filing a petition for reconsideration has passed.⁶⁵ Moreover, the standard

⁵⁴ *Id.*

⁵⁵ *Id.* at 5-6.

⁵⁶ *Id.* at 5-6, 9; *see also* 47 C.F.R. § 64.2107.

⁵⁷ AT&T Petition at 9.

⁵⁸ *Id.*

⁵⁹ *Id.* at 9-10.

⁶⁰ *Id.* at 7, 10.

⁶¹ *Id.* at 15-16.

⁶² CenturyLink and Inteliquent filed comments in support of the AT&T Petition. *See generally* CenturyLink Comments and Inteliquent Comments.

⁶³ *See infra* paras. 21-39 (discussing AT&T's waiver request for Core and Non-Core Network traffic).

⁶⁴ *See* Rural Associations Comments at 2; NARUC Reply at 4.

⁶⁵ A petition for reconsideration of a final order in a rulemaking proceeding must be filed within 30 days from the date of public notice of such action. *See* 47 C.F.R. § 1.429(d). The Rural Associations filed their comments on May

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that the Rural Associations and NARUC propose would require a higher showing than the Commission originally articulated in determining whether a waiver request is justified.⁶⁶ In the *Rural Call Completion Order*, the Commission set forth a specific process for considering whether to grant a waiver, and we apply that process to the facts presented.

17. NARUC and the Rural Associations also assert that provider incentives and cost of compliance should counsel against a waiver grant. NARUC argues that the problem of rural call completion has persisted for far too long, and that originating providers have the ability, but not always the financial incentive, to ensure that calls properly complete.⁶⁷ The Rural Associations state that “given the substantial injury to rural communities attributable to call completion failure, the mere argument that compliance is ‘too expensive’ is offensive and must be rejected.”⁶⁸ The Rural Associations also argue that the public’s interest in reliable voice service and the public safety and economic ramifications outweigh the financial inconvenience of compliance.⁶⁹ NARUC argues that, in considering waivers, the Commission should ensure that crucial data needed to determine the scope and causes of rural call completion problems are not eliminated.⁷⁰ NARUC notes that, because of AT&T’s size, the potential impact of granting AT&T a waiver is relatively significant.⁷¹

18. We find these assertions unpersuasive. In adopting the *Rural Call Completion Order*, the Commission carefully balanced the desire to obtain data on a significant portion of calls with the goal of encouraging good practices by reducing burdens for providers that implement practices designed to ensure successful call completion. The waiver process was designed to give some measure of flexibility

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12, 2014, one hundred forty-six days after publication of the *Rural Call Completion Order* in the Federal Register. NARUC filed its comments on May 19, 2014, one hundred fifty-three days after publication of the *Order*. See NARUC Reply at 14; Rural Associations Comments at 4; FCC, Rural Call Completion, 78 Fed. Reg. 76218 (Dec. 17, 2013), <http://www.gpo.gov/fdsys/pkg/FR-2013-12-17/pdf/2013-29867.pdf>.

⁶⁶ For example, the Rural Associations also suggest that providers should conclusively demonstrate a minimum of “four quarters of comparable call completion performance between rural and nonrural areas before the Commission considers any relaxation of the data retention and reporting requirements.” See Rural Association Comments at 2. *Accord*, NARUC Reply at 4. Under the terms of the *Rural Call Completion Order*, however, the Bureau, in evaluating whether good cause exists to grant a provider’s waiver request, should consider: (1) whether a provider has demonstrated that it qualifies for the Safe Harbor; (2) whether it persuasively demonstrates that it has processes in place to ensure that call attempts to rural ILECs successfully reach their destinations, such as by adopting industry best practices; and (3) whether the provider has demonstrated that it has capabilities and processes to monitor its own performance by the OCN of the called party’s ILEC (rather than just at an aggregate level). *Rural Call Completion Order*, 28 FCC Rcd at 16195, para. 96; see also *supra* note 5. As a condition of the waiver, the Bureau shall require that a provider report information about rural call completion for a one-year period, and such a report may be based on a statistically valid sample of calls. Additionally, the Bureau may require as a condition of the waiver that a provider collect and retain some data, such as data reflecting a statistically valid sample of calls to rural and nonrural areas. See *Rural Call Completion Order*, 28 FCC Rcd at 16195, para. 96.

⁶⁷ NARUC Reply at 5.

⁶⁸ Rural Associations Comments at 3. NARUC argues further that the “expense of compliance may present some concern to those that need to comply,” but that the “Commission must not lose sight of the ongoing costs that failures to complete calls impose on rural consumers and businesses.” NARUC Reply at 5.

⁶⁹ Rural Associations Comments at 3.

⁷⁰ NARUC Reply at 13. NARUC notes further that data collection and retention requirements supply crucial tools that the Commission, State Commissions, and providers can use to determine the root causes and scope of call completion problems. *Id.* at 12. They argue that carrier data is indispensable to state and Commission staff investigations and enforcement of state and federal call completion mandates. *Id.* According to NARUC, a waiver, by definition, will eliminate at least some crucial data (or limit access to it) needed to determine the scope and causes of problems. *Id.* at 13.

⁷¹ NARUC Reply at 4.

only to providers that have taken measures to ensure that calls to rural areas are being completed, regardless of their size or traffic volume.⁷² In other words, it is intended to encourage providers to adopt practices and processes that will prevent rural call completion problems from occurring in the first place.⁷³ Imposing additional obligations as requested by the Rural Associations and NARUC would upset the balance struck by the Commission. Accordingly, we reject the suggestion that we should deny the waiver merely because of AT&T's size or traffic volume.

19. We also disagree that cost of compliance should play no part in our decision to waive our rules. Although cost alone may not justify a waiver, we find it reasonable to consider the costs of compliance, as well as the potential value of the data, in evaluating the waiver petition. Thus, we are not convinced that we must disregard AT&T's assertions about costs. Nonetheless, our primary focus is ensuring that AT&T meets the waiver standards that the Commission set forth in the *Rural Call Completion Order*. We do not anticipate that granting AT&T a limited waiver of our rules will negatively impact our data collections or undermine the objectives of our recordkeeping and retention rules. As detailed below, AT&T will report on a statistically valid set of data for one year and will retain that data for three months.

20. In sum, we find that none of the objections raised by the Rural Associations or NARUC counsel in favor of denying the waiver when weighed against the countervailing arguments raised by AT&T. As we discuss below, we believe AT&T has met its burden for a waiver because it has persuasively demonstrated that: (1) it is likely to qualify for the Safe Harbor upon filing the required certifications; (2) it has processes in place to ensure that call attempts to rural ILECs complete successfully; and (3) it will have capabilities and processes to monitor its own performance by the OCN of the called party's ILEC upon implementing its planned system modifications.

2. AT&T Waiver Request for Core Network Traffic

21. AT&T seeks, and contends that it meets the requirements for, the waiver described in the *Order*⁷⁴ with respect to traffic transported by its Core Network.⁷⁵ AT&T asserts that granting its waiver request is consistent with the public interest and warranted for good cause.⁷⁶

22. In evaluating AT&T's waiver request, we consider whether AT&T persuasively demonstrated that it meets the criteria set out in the *Rural Call Completion Order*. Specifically, we consider whether AT&T: (1) qualifies for the Safe Harbor; (2) has processes in place to ensure that call attempts to rural ILECs successfully reach their destinations, such as by adopting industry best practices; and (3) has capabilities and processes to monitor its own performance by the OCN of the called party's ILEC (rather than just at an aggregate level).⁷⁷ As a condition of the waiver, AT&T must report information about rural call completion based on a statistically valid sample of calls for a one-year period.⁷⁸ For the reasons set forth below, we find that AT&T has met these criteria.

⁷² See *Rural Call Completion Order*, 28 FCC Rcd at 16194-195, paras. 95-97.

⁷³ See *id.*

⁷⁴ See *Rural Call Completion Order*, 28 FCC Rcd at 16195, para. 96.

⁷⁵ See AT&T Petition at 4.

⁷⁶ *Id.*

⁷⁷ See *Rural Call Completion Order*, 28 FCC Rcd at 16195, para. 96.

⁷⁸ See *Rural Call Completion Order*, 28 FCC Rcd at 16195, para. 96 (stating that, as a condition of the waiver, the Bureau shall require that a provider report information about rural call completion for a one-year period, and that such a report may be based on a statistically valid sample of calls). The Bureau may also require, as a condition of a waiver, that a provider collect and retain some data, such as data reflecting a statistically valid sample of calls to rural and nonrural areas. *Id.*

a. Qualification for the Safe Harbor

23. First, we address whether AT&T qualifies for the Safe Harbor. In order to qualify for the Safe Harbor, a covered provider must certify on any of the four quarterly filing dates and annually thereafter either that: (1) it uses no intermediate providers; or (2) it restricts by contract any intermediate provider to which the covered provider directs a call from permitting more than one additional intermediate provider in the call path (that is, a total of no more than two intermediate providers in the call path) before the call reaches the terminating provider or terminating tandem; any nondisclosure agreement with an intermediate provider permits the covered provider to reveal the identity of the intermediate provider and any additional intermediate provider to the Commission and to the rural ILEC(s) whose incoming long-distance calls are affected by the intermediate provider's performance; and the covered provider has a process in place to monitor the performance of its intermediate providers.⁷⁹ A covered provider that files the certification indicating that it does use intermediate providers must describe the process it has in place to monitor the performance of its intermediate providers.⁸⁰

24. AT&T states that it intends to file the section 64.2107 Safe Harbor certification and required materials on the first quarterly filing date and annually thereafter.⁸¹ It reports that it does not hand off traffic from the Core Network to any intermediate provider.⁸² AT&T further reports that it has internal procedures in place to ensure proper, high-quality routing and signaling.⁸³ The record does not contain any claim that AT&T does not meet the Safe Harbor standards. Specifically, NARUC notes that "AT&T will meet the [Safe Harbor] requirements if in its certification it includes a description of the process it has in place to monitor the performance of its intermediate providers."⁸⁴

25. We find that AT&T has demonstrated in its petition that it is likely to qualify for the Safe Harbor. And we note that because AT&T has not yet filed the required certification, we condition grant of this waiver on AT&T's actual compliance with the Safe Harbor requirements set forth in section 64.2107(a)(1)-(2) of the Commission's rules.⁸⁵

b. Processes to Ensure Successful Rural Call Completion

26. Second, we address whether AT&T "has processes in place to ensure that call attempts to rural incumbent LECs successfully reach their destinations, such as by adopting industry best practices."⁸⁶ We find, based on AT&T's assertions in its petition, that AT&T meets this prong of the waiver criteria.⁸⁷ AT&T states that it "complies with and has been actively involved in development of call-completion

⁷⁹ 47 C.F.R. § 64.2107(a)(1).

⁸⁰ 47 C.F.R. § 64.2107(a)(2).

⁸¹ AT&T Petition at 6. AT&T states that this certification "will not include AT&T's newly acquired Cricket affiliate until its traffic is migrated onto the AT&T Core Network." *Id.* at 6 n.23, 12.

⁸² AT&T Petition at 8.

⁸³ *Id.* at 6.

⁸⁴ NARUC Reply at 7.

⁸⁵ 47 C.F.R. § 64.2107(a)(1)-(2).

⁸⁶ See *Rural Call Completion Order*, 28 FCC Rcd at 16195, para. 96.

⁸⁷ See AT&T Petition at 6. AT&T also asserts that it does not contribute to rural call completion problems and that granting its waiver request will not result in the rural call completion problems that the rules were designed to prevent. *Id.* at 4. AT&T states that it will continue to actively manage its network and "continue to employ its well-tested management of intermediate providers and use of industry best practices to ensure quality call completion." *Id.*

best practices through ATIS.”⁸⁸ AT&T reports that it ensures proper, high-quality routing and signaling through internal procedures and that it holds itself and its vendors to high standards for handling all traffic.⁸⁹ AT&T states that it takes all rural call completion complaints seriously and actively investigates each one, internally tracking call completion complaints and conducting voluntary testing in cooperation with rural LECs.⁹⁰ AT&T notes that it will continue to monitor performance to ensure no systemic rural call completion concerns arise and to quickly resolve any isolated incidents in cooperation with the Commission and the relevant rural ILEC.⁹¹ We find these assertions credible and therefore find that AT&T has processes in place to ensure that call attempts to rural incumbent LECs successfully reach their destinations and that it meets this prong of the waiver criteria.

c. One Year Reporting Requirement and Monitoring Performance by OCN of the Called Party’s ILEC

27. Third, we address whether AT&T “has demonstrated that it has capabilities and processes to monitor its own performance by the OCN of the called party’s ILEC (rather than just at an aggregate level)” and the requirement that AT&T report information about rural call completion for a one-year period.⁹² Pursuant to the waiver process established in the *Rural Call Completion Order*, a provider must report information about rural call completion for a one-year period; such reporting may be based on a statistically valid sample of calls.⁹³

28. To meet the reporting prong of the waiver criteria, AT&T proposes to obtain and report on data using systems that it already has in place. AT&T reports that it already records call attempts, including for unanswered calls with cause codes, for a subset of calls on its Core Network.⁹⁴ To meet the reporting condition, it has “a comprehensive proposal to retain and report data based on a statistically valid sample of inter- and intrastate calls to rural and nonrural areas.”⁹⁵ Specifically, AT&T proposes to submit data for one year based on AT&T’s Originating Access Charge Verification (O-ACV) records derived from “a random sample of switched access call attempts that originate from non-AT&T LECs.”⁹⁶ AT&T currently uses this information for verifying originating switched access bills received from non-AT&T LECs. AT&T reports that “[b]ecause all calls are routed the same way on the [Core] network regardless of how they originate, these records are representative of all traffic, even for types of calls not

⁸⁸ AT&T Petition at 6. AT&T states that it complies with the call completion best practices in the ATIS Handbook. *See id.* at 6 n.27. In 2012, the Alliance for Telecommunications Industry Solutions (ATIS) released the Intercarrier Call Completion/Call Termination Handbook outlining industry standards and practices relevant to ensuring call completion. *See* Alliance for Telecommunications Industry Solutions, *Intercarrier Call Completion/Call Termination Handbook* (Mar. 2013), <https://www.atis.org/docstore/product.aspx?id=26780> (last visited Jan. 8, 2015) (ATIS Handbook). For example, among other things, the ATIS Handbook proposes ways to better manage intermediate providers and prohibit looping (not handing the call to the same carrier that sent the call), suggests that originating carriers should maintain capacity to complete calls using their own networks, discourages false signaling information, recommends that any additional intermediate provider should be bound to the same standards as the first, provides recommendations on reporting, and encourages the development of a service provider contact directory (which includes IXC carrier-to-carrier contact points). *See generally* ATIS Handbook.

⁸⁹ AT&T Petition at 6.

⁹⁰ *Id.* at 7 n.29.

⁹¹ *Id.* at 7.

⁹² *See Rural Call Completion Order*, 28 FCC Red at 16195, para. 96.

⁹³ *Id.*

⁹⁴ *See* AT&T Petition at 9.

⁹⁵ *Id.* at 7.

⁹⁶ *Id.* at 10.

included in the O-ACV records.”⁹⁷ AT&T asserts that these records provide a large, statistically valid sample that is broadly representative of all traffic on AT&T’s Core Network.⁹⁸ AT&T asserts that its proposed sample, on a representative day, amounts to roughly one-sixth of its interexchange Core Network traffic, therefore creating a sample of “tens of millions of records out of the hundreds of millions of calls on the AT&T Core Network on a given day.”⁹⁹ AT&T states that, “[u]nder the terms of the Safe Harbor, AT&T will report the required data using this sampling method quarterly for one year and will retain data for three months.”¹⁰⁰ AT&T further asserts that these data will provide ample information to monitor performance, ensure that no systemic rural call completion concerns occur, and quickly identify and resolve any problems that arise.¹⁰¹

29. We find that these data represent a broad sample of calls and that AT&T’s method of reporting will provide the data necessary to meet our stated objectives of ensuring that long-distance calls to all Americans are completed and improving the Commission’s ability to monitor the delivery of long-distance calls to rural areas.¹⁰² We are convinced that AT&T’s sample is representative of its overall traffic because calls included in the sample are subject to the same route choices as all other traffic on the network.¹⁰³ We therefore conclude that, conditioned on AT&T developing and implementing a system that tracks calls on an ILEC-specific basis, AT&T’s proposed sample is adequate and AT&T has demonstrated that it has the “capabilities and processes to monitor its own performance by the OCN of the called party’s ILEC.”¹⁰⁴ AT&T will be required to report data for one year and will retain data for three months.

30. NARUC asserts that the O-ACV records do not track calls on an ILEC-by ILEC basis.¹⁰⁵ NARUC also questions how AT&T’s procedures and practices ensure call delivery and identify problems if AT&T is not able to record and monitor traffic in compliance with the rules adopted in the *Rural Call Completion Order*.¹⁰⁶ AT&T admits that its systems currently do not permit it to track calls by terminating OCN, but states that it will develop the systems necessary to track the calls in the sample on an ILEC-by-ILEC basis for rural OCNs and aggregate data for nonrural OCNs.¹⁰⁷ So long as AT&T develops such systems, we find that AT&T will have the capability to monitor its own performance by the OCN of the called party’s ILEC. We condition grant of this waiver on AT&T’s development and implementation of the systems needed to track calls on an ILEC-specific basis for rural OCNs and aggregate data for nonrural OCNs. As explained below, AT&T requests, and we grant, a six-month waiver to permit AT&T to implement these systems and come into compliance with this prong of the waiver criteria.¹⁰⁸

⁹⁷ *Id.* at 9-10. Because AT&T has “no business need to verify access records in some cases, O-ACV records are not made for calls originating from AT&T Mobility, AT&T LECs, enterprise direct connect customers, and wholesale customers.” *Id.* at 10.

⁹⁸ See AT&T Petition at 7, 10.

⁹⁹ *Id.* at 10 n.34.

¹⁰⁰ *Id.* at 7.

¹⁰¹ See *id.* at 7, 10.

¹⁰² See *Rural Call Completion Order*, 28 FCC Rcd at 16155, paras. 1-2.

¹⁰³ AT&T Petition at 7-9.

¹⁰⁴ *Rural Call Completion Order*, 28 FCC Rcd at 16195, para. 96.

¹⁰⁵ NARUC Reply at 11.

¹⁰⁶ *Id.* at 8-9.

¹⁰⁷ See AT&T Petition at 7, 10.

¹⁰⁸ See *infra* para. 31.

31. *Implementation Schedule.* AT&T asserts that it will need to make significant system changes in order to record, retain, and report data based on the sample described above and to track performance on an ILEC-by-ILEC basis using OCNs.¹⁰⁹ AT&T states that implementation will take six months and, requests a six-month waiver from the date that the limited waiver of the recordkeeping, retention, and reporting rules is granted to allow for these system changes.¹¹⁰ We find that, because AT&T does not route Core Network traffic to intermediate providers and has implemented ATIS call completion best practices, allowing AT&T additional time to implement these system changes will not undermine the objectives of the rules. Accordingly, we grant AT&T's request for six months from the date of release of this Order to begin complying with the recordkeeping, retention, and reporting rules.¹¹¹

3. AT&T Waiver Request for Non-Core Network Traffic

a. AT&T Mobility

32. In addition to the waiver applicable to its Core Network traffic discussed above, AT&T also seeks a waiver of the recordkeeping, retention, and reporting requirements in sections 64.103-64.2105 of the Commission's rules for AT&T Mobility inter-MTA traffic that terminates using the small set of non-AT&T intermediate providers.¹¹²

33. We consider whether AT&T qualifies for a waiver of these recordkeeping, retention, and reporting requirements with regards to this AT&T Mobility inter-MTA traffic. In order to qualify, AT&T must demonstrate that granting the waiver is consistent with the public interest and warranted for good cause.¹¹³

34. In support of its request, AT&T asserts that, with respect to its non-Core Network traffic that it routes to intermediate providers, it already contractually limits the number of intermediate providers in a call path to no more than two.¹¹⁴ AT&T further reports that it has internal procedures in place to ensure proper, high-quality routing and signaling, including rigorous oversight of non-Core Network intermediate providers.¹¹⁵ AT&T states that intermediate providers used by AT&T to receive non-Core Network traffic must comply with AT&T's high standards for call termination, including limiting the total number of intermediate carriers to two or fewer in a call path and complying with ATIS best practices.¹¹⁶ Although AT&T would not have a process in place to monitor its performance on an ILEC by ILEC basis for this traffic, AT&T reports that this traffic currently is not routed to rural OCNs.¹¹⁷ Accordingly, AT&T would not be required to record and retain call detail records for the traffic

¹⁰⁹ See AT&T Petition at 15.

¹¹⁰ *Id.* at 15-16.

¹¹¹ See 47 C.F.R. § 1.3 (stating that the Commission may waive its rules, in whole or in part, for good cause shown).

¹¹² AT&T Petition at 11. The AT&T Mobility traffic that is routed through the Core Network falls within the scope of the Core Network traffic waiver discussed above in Section III.A.2. AT&T Mobility traffic that is migrated to AT&T's Core Network after release of this Order will fall under the Core Network waiver, as long as that traffic is treated as described in the AT&T Petition explanation of the Core Network (*i.e.* no intermediate providers, all traffic treated the same, etc.).

¹¹³ See 47 C.F.R. § 1.3.

¹¹⁴ AT&T Petition at 5 n.21, 8, 11 n.35.

¹¹⁵ *Id.* at 6.

¹¹⁶ *Id.* at 11. AT&T reports that, when it uses an intermediate provider, "the contract provides that the intermediate provider itself may use no more than one additional intermediate provider, resulting in a total of no more than two intermediate providers in any call path." *Id.* at 11 n.35.

¹¹⁷ See *id.* at 11. AT&T emphasizes that none of this traffic goes to a rural OCN and that AT&T "would not route traffic to a rural OCN through an intermediate provider unless and until it could report call attempt data in compliance with the rules (if ever)." *Id.*

at issue here.¹¹⁸ Because these calls are not routed to rural OCNs, AT&T contends that reporting data associated with these calls would provide limited meaningful information on AT&T's performance related to calls completing to rural OCNs.¹¹⁹ Accordingly, AT&T argues that granting a waiver of the recordkeeping, retention, and reporting rules would not undermine the goals of the rules and given the relative costs and benefits would be in the public interest.¹²⁰

35. As AT&T points out in its waiver request, none of the traffic for which it seeks a waiver is terminated to rural OCNs. A primary goal of collecting this information would be to compare the data with that of AT&T Mobility calls to rural OCNs, which in this case will not be carried by intermediate providers.¹²¹ As such, and given AT&T's contractual limitations on its intermediate providers, we grant this waiver request for AT&T Mobility's inter-MTA traffic routed through non-AT&T intermediate providers. This waiver shall remain in effect so long as: (1) no calls subject to this waiver request are routed to rural OCNs;¹²² (2) AT&T continues to contractually restrict its intermediate providers from using more than one additional intermediate provider in a call path before the call reaches the terminating provider or terminating tandem; and (3) AT&T and its intermediate providers continue to comply with ATIS Best Practices.

b. SBC Long Distance

36. We next consider whether SBC Services, Inc. and SBC Communications Inc. (together, SBC Long Distance) constitute a "covered provider" for the purposes of our rules. Under the *Rural Call Completion Order*, the recordkeeping, retention, and reporting requirements in sections 64.2103-64.2105 apply only to "covered" providers of long-distance voice service that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines, counting the total of all business and residential fixed subscriber lines and mobile phones and aggregated over all of the providers' affiliates.¹²³

37. AT&T asserts that SBC Long Distance is not a covered provider under the rules.¹²⁴ AT&T reports that SBC Long Distance maintains a single contract with an intermediate provider for resale of long-distance voice services and simply hands off traffic to this intermediate provider without making the initial long-distance call path choice.¹²⁵ To the extent that SBC Long Distance traffic is migrated onto AT&T's Core Network, AT&T requests that we include it within the scope of our waiver grant of its Core Network traffic.¹²⁶

38. Since, as AT&T asserts, SBC Long Distance does not make the initial long-distance call path choice for any calls, SBC Long Distance is not presently required to report on its lines pursuant to sections 64.2103 and 64.2105 of our rules.¹²⁷ To the extent SBC Long Distance traffic is migrated onto

¹¹⁸ AT&T would, however, be required to report aggregate data for traffic to *nonrural* OCNs. See 47 C.F.R. § 64.2015(b)(2).

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ We note that none of the commenters in this proceeding dispute AT&T's claim that none of the AT&T Mobility inter-MTA traffic for which it seeks a waiver is routed to rural OCNs.

¹²² The list of rural OCNs can be downloaded from The National Exchange Carrier Association's website at: <https://www.neca.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=10171&libID=10191> (last visited Jan. 8, 2015).

¹²³ *Rural Call Completion Order*, 28 FCC Rcd at 16164, para. 19.

¹²⁴ AT&T Petition at 12-13.

¹²⁵ *Id.* at 12-13.

¹²⁶ *Id.* at 13.

¹²⁷ See 47 C.F.R. §§ 64.2103, 64.2105.

AT&T's Core Network, we grant AT&T's request to include such traffic within the scope of our grant related to its Core Network, discussed above.¹²⁸ We note, however, that if SBC Long Distance has more than 100,000 domestic retail subscriber lines, it must file a letter in WC Docket No. 13-39 explaining that it does not make the initial long-distance call path choice for more than 100,000 long-distance voice service subscriber lines and identifying the long-distance provider or providers to which it hands off their end-user customers' calls.¹²⁹ We also note that if, at any time, SBC Long Distance begins to make the initial call path choice for any calls, it may fall under the reporting obligations contained in sections 64.2103-64.2105.

c. Cricket

39. On March 13, 2014, AT&T acquired Leap Wireless, which operates under the Cricket brand.¹³⁰ AT&T states that it plans to migrate at least some of Cricket's traffic to the Core Network and proposes that, as the traffic is migrated onto AT&T's Core Network, the traffic would fall within AT&T's requested waiver for the Core Network traffic.¹³¹ AT&T states that it will fully comply with the recordkeeping, retention, and reporting rules for Cricket traffic that has not been migrated to the Core Network when the rules go into effect.¹³² We consider the Cricket traffic that is migrated onto AT&T's Core Network to be part of AT&T's general waiver request for the Core Network.¹³³ And, as such, we will apply the waiver we grant for AT&T's Core Network traffic to this traffic as well.

B. MF Signaling Clarification

40. AT&T and CenturyLink (collectively Petitioners) request a limited waiver of the call attempt recordkeeping, retention, and reporting requirements in sections 64.2103-64.2105 of the Commission's rules¹³⁴ in those instances where a terminating LEC switch only supports multi-frequency signaling (MF signaling).¹³⁵ Petitioners assert that it is technically infeasible to report all call attempt categories in accordance with the rules adopted in the *Rural Call Completion Order* when the terminating LEC switch only supports MF signaling.¹³⁶ As noted by Petitioners, the rules seem to create an obligation that is technically impossible to comply with in those cases where the terminating LEC switch only

¹²⁸ See *supra* paras. 32-35; see also AT&T Petition at 13. SBC Long Distance traffic that is migrated to AT&T's Core Network after release of this Order will fall under the Core Network waiver, as long as that traffic is treated as described in the AT&T Petition explanation of the Core Network (*i.e.* no intermediate providers, all traffic treated the same, etc.).

¹²⁹ See *Rural Call Completion Order*, 28 FCC Rcd at 16185, para. 67.

¹³⁰ AT&T Petition at 11.

¹³¹ *Id.* at 11-12.

¹³² *Id.* at 12.

¹³³ Cricket traffic that is migrated to AT&T's Core Network after release of this Order will fall under the Core Network waiver, as long as that traffic is treated as described in the AT&T Petition explanation of the Core Network (*i.e.* no intermediate providers, all traffic treated the same, etc.).

¹³⁴ See 47 C.F.R. §§ 64.2103-64.2105.

¹³⁵ See AT&T Petition at 14-15; CenturyLink Petition at 6; see also *Wireline Competition Bureau Seeks Comment on Petitions for Waiver Filed in the Rural Call Completion Proceeding*, WC Docket No. 13-39, Public Notice, 29 FCC Rcd 4856 (2014); *Wireline Competition Bureau Seeks Comment on Petition for Waiver Filed in the Rural Call Completion Proceeding*, WC Docket No. 13-39, Public Notice, 29 FCC Rcd 9440 (2014).

¹³⁶ See AT&T Petition at 14-15; CenturyLink Petition at 9-10; see also Comments of General Communication, Inc. (GCI), WC Docket No. 13-39 at 1 (filed Jan. 16, 2014) (GCI Comments); Reply Comments of Alaska Communications Systems, WC Docket No. 13-39 at 3 (filed Feb. 18, 2014) (Alaska Communications Systems Reply). We note that the AT&T and CenturyLink petitions are the only petitions formally before the Commission on this issue.

supports MF signaling. The *Rural Call Completion Order* did not provide guidance for how covered providers should address such a situation. This lack of guidance constitutes an ambiguity, which we now clarify.¹³⁷

41. We clarify that the Commission did not intend to require covered providers to record, retain, and report information where the terminating LEC switch only supports MF signaling technology. In these instances, it is impossible for the covered provider to obtain all the information required by our rules.¹³⁸ Given this clarification, we dismiss as moot AT&T and CenturyLink's petitions for waiver insofar as they request a limited waiver of sections 64.2103-64.2105 of the Commission's rules in instances where a terminating LEC switch only supports MF signaling.

42. When the Commission adopted the *Rural Call Completion Order*, it imposed on covered providers "the requirement to record and retain certain signaling cause code information."¹³⁹ It did not, however, impose a requirement on rural ILECs to transmit these cause codes to the covered provider responsible for recording and retaining the relevant call detail records. While the Commission noted that this cause code information could be captured via Signaling System 7 and Session Initiation Protocol signaling,¹⁴⁰ it did not explicitly address MF signaling.

43. MF signaling, which was introduced by the Bell Systems after World War II, is a signaling technique using in-band frequencies for communications between network switches with codes that include 10 digits and special auxiliary signals.¹⁴¹ AT&T states that MF signaling will report "only whether a particular call completed or not; additional call detail and cause codes are not available."¹⁴² CenturyLink further asserts that MF signaling information does not provide the data required by sections 64.2103-64.2105 of the Commission's rules, because it "does not support the capability to gather all elements of Call Attempt Records."¹⁴³ These arguments are echoed in the filings by both General Communication, Inc. (GCI) and Alaska Communications Systems.¹⁴⁴ GCI explains that for MF signaling, "off-hook" signals are only generated if the call is actually answered, and no other signal is generated if

¹³⁷ See 47 U.S.C. § 154(j) ("The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice.").

¹³⁸ Because we clarify that Petitioners' requests for waiver were based on an erroneous reading of the Commission's rules, we dismiss their requests for relief regarding MF signaling issues as moot.

¹³⁹ See *Rural Call Completion Order*, 28 FCC Rcd at 16175-76, para. 43.

¹⁴⁰ *Id.* at 16176, para. 43 (noting the required retention of data associated with "an SS7 signaling cause code or SIP signaling message code associated with each call attempt").

¹⁴¹ See Harry Newton, *Newton's Telecom Dictionary* 618 (23rd ed. 2007); see also *Rules and Policies Regarding Calling Number Identification Service – Caller ID*, CC Docket No. 91-281, Memorandum Opinion and Order on Reconsideration, Second Report and Order and Third Notice of Proposed Rulemaking, 10 FCC Rcd 11700, 11704, para. 7 n.8 (1995) (*Caller ID Order*) ("When a switch uses multifrequency signaling to establish a circuit connecting it to another switch, it outputs sequences of tones representing the call set up information on the same circuit that is used to connect the calling and called parties."); GCI Comments at 3 (explaining how MF signaling works).

¹⁴² AT&T Petition at 15.

¹⁴³ CenturyLink Petition at 9.

¹⁴⁴ See GCI Comments at 1-5; Alaska Communications Systems Reply at 3. The Commission has also acknowledged the technical limitations of MF signaling. See, e.g., *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17895-896, para. 716 (2011), *aff'd sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014). In the caller ID context, we have also acknowledged the limitations of MF signaling compared to Signaling System Seven (SS7), stating "[w]ith multifrequency signaling, signaling information capable of identifying the calling party generally was not passed beyond the interexchange carrier (IXC), which used the information primarily for billing purposes. SS7, however, makes information identifying the calling party available to the terminating carrier." *Caller ID Order*, 10 FCC Rcd at 11705, para. 9.

the call rings no answer, is busy, rings an invalid number, receives an announcement, or otherwise fails.¹⁴⁵ It is therefore technically infeasible, according to AT&T, CenturyLink, GCI, and Alaska Communications Systems, to completely comply with our rules when a terminating switch supports MF signaling alone.¹⁴⁶

44. No party disputes that when Signaling System 7 (SS7)¹⁴⁷ or Session Initiation Protocol (SIP) technology¹⁴⁸ are deployed at the terminating switch, providers are incapable of generating the information necessary to comply with our reporting rules.¹⁴⁹ GCI explains that an unanswered call attempted from a covered provider using SS7 signaling to a rural LEC serviced by GCI in Alaska using MF signaling is always indicated as “interworking, unspecified” (ISUP release code 127), which means the terminating status of the call is unknown.¹⁵⁰ In other words, when a terminating LEC supports MF signaling alone, there is no practicable means to categorize an unanswered call as being busy, ring no answer, or to an unassigned number. And, there is no practicable way to modify this shortcoming other than for the terminating LEC to replace the switch:¹⁵¹ an expensive obligation the Commission has not imposed in other contexts, nor did it intend to impose it here.¹⁵²

45. Although the Commission has no definitive list of the OCNs with switches that still use MF signaling, we believe a substantial portion of such OCNs to be in Alaska.¹⁵³ We note that during the

¹⁴⁵ See GCI Comments at 4; see also AT&T Petition at 15 (stating that MF signaling “will allow AT&T to report only whether a particular call completed or not; additional call detail and cause codes are not available”); Alaska Communications Systems Reply at 3 (noting that MF signaling “often provides little information beyond an ‘answer’ or ‘no answer’ result”).

¹⁴⁶ AT&T Petition at 14; CenturyLink Petition at 9-10; GCI Comments at 4; Alaska Communications Systems Reply at 3.

¹⁴⁷ SS7 “typically employs a dedicated 64 kilobit data circuit to carry packetized machine language messages about each call connected between and among machines of a network to achieve connection control.” Harry Newton, Newton’s Telecom Dictionary 837 (23rd ed. 2007).

¹⁴⁸ Session Initiation Protocol (SIP) is “an application-layer control (signaling) protocol for creating, modifying, and terminating sessions with one or more participants. These sessions include Internet telephone calls, multimedia distribution, and multimedia conferences.” Memorandum from J. Rosenberg et al., The Internet Society, on Session Initiation Protocol 1 (June 2002), <http://www.ietf.org/rfc/rfc3261.txt> (last visited Jan. 8, 2015).

¹⁴⁹ See GCI Comments at 4 (explaining in detail the difference between MF signaling and SS7 technology).

¹⁵⁰ GCI Comments at 4-5.

¹⁵¹ See, e.g., AT&T Petition at 15 n.49 (noting that any solution “would not be entirely within AT&T’s control because it would require the terminating LEC to replace equipment using MF signaling with equipment using SS7 or SIP”).

¹⁵² See, e.g., *id.* at 15 (noting that technical solutions to come into compliance for MF signaling would require costly switch upgrades or replacement of legacy equipment (if technically feasible at all)); 47 C.F.R. § 64.1601(a) (limiting the types of information that carriers using MF signaling are required to transmit in the Commission’s signaling rules).

¹⁵³ See The Alaska Rural Coalition’s Petition for Limited Waiver, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208 at 5 (filed Mar. 23, 2012) (Alaska Rural Coalition Petition) (noting that the Alaska Rural Coalition’s member companies all rely on traditional MF signaling in many areas of rural and remote Alaska); Alaska Communications Systems Group, Inc. (Alaska Communications Systems) Petition for Limited Waiver, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208 at 1-4 (filed Mar. 16, 2012) (Alaska Communications Systems Petition) (requesting a limited waiver of the Commission’s “phantom traffic” rules because its MF signaling trunks are not capable of generating or passing the information required by the rules); GCI Petition for Limited Waiver, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208 at 2 (filed Feb. 27, 2012) (GCI Petition) (stating that in remote Alaska, GCI’s Demand Assigned Multiple Access (DAMA) system relies on MF signaling).

period from July 2013 through June 2014, the Commission received no rural call completion complaints from rural LEC subscribers in Alaska. Finally, we note that all covered providers attempting calls to an OCN with a switch or switches that use MF signaling should encounter the same signaling conditions and, barring intermediate routing differences unrelated to that rural OCN, should exhibit the same proximate call answer rate when viewed by the Commission across all providers.

46. The AT&T and CenturyLink waiver requests indicate there is a lack of clarity about whether providers are required to somehow record and retain information that is unavailable from a terminating LEC switch that supports only MF signaling. We clarify that providers are not required to collect or submit such information. We find that this clarification is consistent with Commission precedent and with the objectives of the Commission in the *Rural Call Completion Order*.¹⁵⁴ Thus, we clarify that the Commission did not require covered providers to record, retain, and report on call attempt information indicating whether a call attempt was signaled as busy, ring no answer, or unassigned number that a covered provider is unable to obtain because the terminating LEC switch supports only MF signaling. However, covered providers will still be required to record, retain, and report information on the number of calls attempted and the number of calls answered for all rural OCNs, regardless of signaling capabilities.

IV. ORDERING CLAUSES

47. Accordingly, IT IS ORDERED, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, and paragraphs 95-97 of the Commission's *Rural Call Completion Order*, that the Petition for Limited Waiver filed by AT&T Services, Inc. IS GRANTED to the extent described herein and is otherwise DISMISSED AS MOOT.

48. IT IS FURTHER ORDERED, pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and paragraphs 95-97 of the Commission's *Rural Call Completion Order*, that the Petition for Waiver filed by CenturyLink, Inc. IS DISMISSED AS MOOT.

¹⁵⁴ See, e.g., *Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Provision of Directory Listing Information under the Telecommunications Act of 1934, as Amended*, CC Docket Nos. 96-115, 96-98, 99-273, Third Report and Order, Second Order on Reconsideration, and Notice of Proposed Rulemaking, 14 FCC Rcd 15550, 15626, para. 146 (1999) (clarifying that rebranding of operator or directory assistance services provided was not required where technically infeasible); *Facilitating the Deployment of Text-to-911 and other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, PS Docket Nos. 11-153, 10-255, Order on Reconsideration, 28 FCC Rcd 14422, 14425, para. 8 (2013) (reconsidering a requirement where "under the current technical standard developed for SMS-based texting to 911" it was technically infeasible for a certain bounce-back message to be originated). Requirements imposed on telecommunications relay services have also been routinely waived where compliance is technically infeasible. See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 22 FCC Rcd 21869 (Consumer and Gov't Affairs Bur. 2007) (waiving certain mandatory minimum standards where compliance was technically infeasible); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Services*, CG Docket No. 03-123, WC Docket No. 05-196, Memorandum Opinion and Order, 29 FCC Rcd 7971 (Wireline Comp. Bur. & Consumer and Gov't Affairs Bur. 2014) (waiving the same standards).

49. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach
Chief
Wireline Competition Bureau