



David Collier
Area Manager
Regulatory

645 E. Plumb Lane, Rm. C142
PO Box 11010
Reno, NV 89520

775-333-3986 Phone
775-333-2364 Fax
david.collier@att.com

September 28, 2012

Carol Hulse
Oregon Public Utility Commission
550 Capitol St., NE
Suite 215
Salem, OR 97301

Re: AR 566 – Comments of AT&T

Dear Ms. Hulse:

Enclosed for filing in the above entitled matter, please find an original and three copies of AT&T's Comments.

If you have any questions, please do not hesitate to contact me.

Sincerely,



David Collier
Area Manager – Regulatory Relations

Attachment

cc: Service List plus original + 3 copies being sent via overnight mail

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 566

In the Matter of)
) **AT&T COMMENTS**
Amendments to OAR 860-032-0007 to)
Address Call Termination Issues)
)
)

AT&T Communications of the Pacific Northwest, Inc.¹ and TCG Joint Venture Holdings, Inc. d/b/a TCG Oregon (“AT&T”) respectfully submit these initial comments in response to the Notice of Proposed Rulemaking (“Notice”) and the Hearing Procedural Report.

I. Introduction

AT&T takes its obligation to its customers seriously and works hard to ensure that customers’ calls complete. AT&T does not condone the practice of intentionally not completing calls to areas with higher call termination charges. However, call completion issues are generally not constrained by state boundaries and, therefore, resolution of these issues must occur at the national level. In fact, as described in more detail below, there has been much attention to this issue within the last year from a national perspective. Oregon Commission Staff should be commended for its involvement in a number of these national efforts. AT&T believes that these national efforts should be given time to work before a state imposes its own state-

¹ On September 11, 2012, a request was filed with the Commission to transfer the certificate of authority for competitive services from AT&T Communications of the Pacific Northwest, Inc. to AT&T Corp. with an effective date on or around October 31, 2012, Docket CP-1539.

specific requirements. As such, AT&T opposes the enactment of state specific call completion at this time. If the Commission, nevertheless, decides to enact call completion rules in Oregon, the rules proposed in the Notice would need to be modified to avoid unintended consequences and to be limited to the stated purpose of addressing call completion issues.

II. State-Specific Call Termination Rules Are Not Needed

Numerous efforts have recently been taken at the Federal Communications Commission (“FCC”) and through national industry forums to address call completion issues. The Commission should allow time for these efforts to take effect before enacting state specific rules. If states begin enacting state-specific call completion rules, this may result in potentially conflicting regulatory requirements to address call completion which is generally handled by regional or national procedures. Devoting resources to complying with state specific rules may actually thwart actions to address this issue nationally. At this time the best use of Staff resources should be to remain engaged in national forums to address this issue, expedite any specific customer issues and encourage carriers to work together to resolve any issues, which Staff has already been doing.

A. FCC Actions

The FCC has recognized that call completion issues are a national problem which requires national action to resolve. Realizing that call completion issues are of particular concern in rural areas served by rate-of-return carriers where switched access rates can be higher, the FCC has taken significant steps to reduce incentives for avoiding call completion to these areas and re-emphasized the obligation of all carriers to complete calls to all areas.

First, on November 18, 2011, when the FCC issued its *ICC/USF Transformation Order*,² it reaffirmed its longstanding prohibition on call blocking. Specifically, the FCC reiterated that call blocking has the potential to degrade the reliability of the nation’s telecommunications network, stating that “the ubiquity and reliability of the nation’s telecommunications network is of paramount importance to the explicit goals of the Communications Act of 1934, as amended.”³ Noting that originating carriers have always had an obligation to complete calls, the FCC also clarified that the blocking prohibition was equally as applicable to VoIP traffic, carrying with it the same degradation of the telecommunications network and the same liabilities of blocking other traffic.⁴

In the *ICC/USF Transformation Order*, the FCC established a clear path for comprehensive reform of intercarrier compensation to a bill-and-keep methodology for all traffic. When fully implemented, the new bill-and-keep compensation method “will remove the primary incentives for the use of cost-saving practices that appear to be undermining the reliability of telephone service.”⁵

Second, recognizing that the incentives for call blocking and choking practices would not be immediately eliminated by the *ICC/USF Transformation Order*, on February 6, 2012, the FCC issued a *Declaratory Ruling*⁶ to set forth an unambiguous standard, stating:

² See *Connect America Fund*, WC Docket No. 10-90 et al, FCC 11-161, Report and order and Further Notice of Proposed Rulemaking, (rel. Nov. 18, 2011) (“*ICC/USF Transformation Order*”).

³ *ICC/USF Transformation Order* at ¶734.

⁴ *Id.*, at ¶¶973-974.

⁵ *Id.*, at ¶801. See also 47 C.F.R. §§51.907, 51.909.

⁶ See *Developing an Unified Intercarrier Compensation Regime, Establishing Just and Reasonable Rates for Local Exchange Carriers*, CC Docket No. 01-92, WC Docket No. 07-135, DA 12-154, *Declaratory Ruling*, (rel. February 6, 2012) (“*Declaratory Ruling*”).

[W]e clarify that a carrier that knows or should know that calls are not being completed to certain areas, and that engages in acts (or omissions) that allow or effectively allow these conditions to persist, may be liable for a violation of section 201 of the Act. We also emphasize that it may be a violation of section 202 to provide discriminatory service with respect to calls placed to rural areas.⁷

While being careful not to dictate how carriers must route traffic, the Commission emphasized that a variety of tools exist to assist carriers in meeting their obligations.⁸ The FCC noted that it would be a particular issue when “problems are brought to the carrier’s attention by customer, rate-of-return carriers serving rural areas, or others, and the carrier nevertheless fails to take corrective action that is within its power.”⁹ It should also be recognized that this was a declaratory ruling and, therefore, was considering a specific set of facts. The FCC has previously recognized that there are circumstances, albeit rare, when the FCC allows carriers to engage in call blocking.¹⁰ In addition, the FCC has specific rules that allow carriers to block some calls. For example, carriers support programs such as the Government Emergency Telecommunications Service (“GETS”) under the National Communications System (“NCS”) umbrella that require carriers to provide priority service to government users under certain circumstances which causes potential blocking or choking of service to other users.¹¹ In addition, there are necessary and legitimate network management practices that may require

⁷ *Declaratory Ruling*, ¶ 11.

⁸ Among the practices that the FCC identified are practices that are currently used by AT&T to manage its suppliers of termination services. For example, as noted by the FCC, AT&T prohibits looping and requires a vendor to return the call to AT&T if it is not able to complete the call.

⁹ *Declaratory Ruling*, ¶ 12.

¹⁰ *In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers, Call Blocking by Carriers*, Declaratory Ruling and Order, WC Docket No. 07-135 (rel. June 28, 2007), footnote 20.

¹¹ <http://www.ncs.gov>.

carriers to limit traffic for specific situations, including disasters.¹²

B. Industry Standard Bodies and Associations

The industry has also recently developed guidelines to address call completion issues. ATIS through the Next Generation Interconnection Interoperability Forum (NGIIF),¹³ on August 15, 2012 issued ATIS – 030106, ATIS Standard on *Intercarrier Call Completion/Call Termination Handbook* (“Handbook”).¹⁴ Although not legally binding, the ATIS standards are generally recognized as the ‘gold standard’ for industry best practices.

The Handbook is the result of an effort that has taken over one year to complete. In May 2011, the NGIIF became aware that some telecommunications customers were experiencing problems with phone service, relative to making or receiving calls, or with call quality. After discussing the issue informally at several meetings, the NGIIF recognized call completion/call termination as a formal issue and began an information gathering effort to create potential solutions that could provide more specific assistance to carriers. To facilitate this work effort the NGIIF scheduled workshops, met with rural carrier associations to update them on NGIIF efforts, and invited rural carriers to attend meetings/workshop, and conducted industry surveys.

¹² Carriers routinely limit traffic in mass calling situations (e.g. radio or TV call-ins) to prevent their network from being overwhelmed. Likewise, in disaster situations carriers may limit calling into affected areas to allow those in such areas to make outbound calls.

¹³ NGIIF examines issues associated with telecommunications network interconnection and interoperability. Specifically, NGIIF develops operational procedures that involve the network aspects of architecture, disaster preparedness, installation, maintenance, management, reliability, routing, security, and testing between network operators. The NGIIF also addresses issues that impact the interconnection of existing and next generation networks and facilitates the transition to emerging technologies.

¹⁴ See Press Release on the Handbook at <http://atis.org/PRESS/pressreleases2012/090412.html>.

Oregon Commission Staff also participated in a number of the workshops held to develop the Handbook.

The Handbook is available free of charge and can be downloaded via the ATIS Document Center.¹⁵ In addition, on October 5, 2012, ATIS will conduct a webinar to provide insight into the new Handbook.

C. Resolution Among Carriers

The best way to resolve call completion issues is for the carriers to work together to address issues that arise. With the advent of competition, number pooling and numbering porting, delivering a call from point A to point B is often a complex undertaking. Despite best efforts, at times calls may not complete due to a simple translation or routing issue and not due to an intentional action to not complete calls to rural areas. The FCC has provided IXC contact information to the rural carriers. This will allow rural carriers and IXCs to get together to work through issues. AT&T will provide the relevant contact information to any rural provider. In addition, the NGIIF has added additional fields for IXC contact information to the Service Provider Contact Directory (SPCD). This contact information may be used to report problems directly to the IXC for call completion/call termination issues that arise between carriers.

AT&T encourages rural carriers to document and refer to our attention any concerns regarding call completion issues. This documentation assists AT&T in performing a root cause analysis and to properly investigate the concern. Helpful information includes providing calling and called numbers, the time and date of the call, the disposition of the call, and other available

¹⁵ATIS Handbook available at <http://www.atis.org/docstore/product.aspx?id=26780>.

information. AT&T and the rural carrier can then work together to troubleshoot the issue which may include performing test calls.

D. National Efforts Should be Given Time to Work

The Oregon Commission should allow time for the national efforts that have been undertaken in the last year to work before it enacts state-specific rules. The ATIS Handbook which took over a year to develop only came out a little over one month ago. In addition, further conversations with the rural carrier associations continue at the national level to determine whether any additional efforts are required. Prior to enacting state-specific rules, staff should evaluate whether these national efforts have reduced the call completion incidents in Oregon.

III. Concern with Rules Proposed in Notice

The rules proposed in the Notice do not appear to be limited to call completion issues in areas with high call termination rates. For example, proposed Rule 16 provides the following:

Except as otherwise allowed under state or federal law, the certificate holder must not block, choke, reduce or restrict traffic in any way.

As written this rule is not limited to addressing call completion issues. Further, the rule does not take into account inadvertent human error that may occur in the completion of a call. As discussed above, with the advent of competition, number pooling and number porting, delivery of a call between two points is often a complex undertaking. Sometimes calls do not complete due to simple translation or routing errors, not because a least cost router was used that did not want to terminate calls to high cost areas. The proposed rule is written so broadly that unless a carrier can prove that its actions are expressly permitted under state or federal law the certificate holder may not block, choke, reduce or restrict traffic in any way. Any rule should recognize

that there are circumstances under which carriers need to engage in network management practices, such as in disaster situations limiting calls into affected areas in order to allow more outbound calling.

Rules 18, 19 and 20 are also examples of proposed rules that, as written, are not limited to call completion issues, the stated purpose of the Notice and, therefore, could have broader consequences.

AT&T has been involved in conversations with other industry members regarding an alternate proposed rule which are continuing and is still evaluating alternate proposals.

IV. Conclusion

Call completion issues are national issues that require national action to resolve. The FCC has already taken two significant actions to address call completion issues in the last year. In addition, ATIS has examined the issue and just over a month ago released a Handbook. Contact information has also been made available to rural carriers to allow carriers to work together to resolve any call completion issues which may arise despite adherence to best practices. The Commission should allow these initiatives time to work before implementing state-specific rules. If despite all of these national efforts, the Commission is to move forward with a state-specific rule, any such rule should be limited to specifically addressing call completion issues.

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Dated this 28th day of September, 2012

By Cynthia Manheim by Doc with permission

Cynthia Manheim

AT&T

PO Box 97061

Redmond, WA 98073-9761

Tel: 425.580.8112

Fax: 425.580.8652

Email: cindy.manheim@att.com

Attorney for AT&T Communications of the Pacific Northwest,
Inc. and TCG Joint Venture Holdings, Inc d/b/a TCG Oregon and
its subsidiaries

CERTIFICATE OF SERVICE
AR 566

I hereby certify that on the 28th day of September, 2012, I served the foregoing Petition to Intervene by AT&T in the above entitled docket on the following persons via U.S. Mail, by mailing a correct copy to them in a sealed envelope, with postage prepaid, addressed to them at the address shown below, or via email only if the service list indicates such persons waive paper service.

<p>Ron L. Trullinger (W) Manager–Oregon Regulatory CenturyLink 310 SW Park Ave 11th Fl. Portland, OR 97205 ron.trullinger@centurylink.com</p>	<p>William E. Hendricks (W) Attorney CenturyLink, Inc. 902 Wasco St A0412 Hood River, OR 97031 tre.hendricks@centurylink.com</p>	<p>G. Catriona McCracken (W) Legal Counsel/Staff Atty Citizens’ Utility Board of OR 610 SW Broadway, Ste 400 Portland, OR 97205 catriona@oregoncub.org</p>
<p>OPUC Dockets (W) Citizens’ Utility Board of OR 610 SW Broadway, Ste 400 Portland, OR 97205 dockets@oregoncub.org</p>	<p>Johanna Riemenschneider (W) PUC Staff - DOJ Business Activities Section 1162 Court St. NE Salem, OR 97301-4796 johanna.riemenschneider@doj.state.or.us</p>	<p>Jason W Jones (W) PUC Staff - DOJ Business Activities Section 1162 Court St. NE Salem, OR 97301-4796 jason.w.jones@state.or.us</p>
<p>Brant Wolf (W) Executive Vice President Oregon Telecom. Assn 777 13th St SE – STE 120 Salem, OR 97301-4038 bwolf@ota-telecom.org</p>	<p>Craig Phillips (W) Oregon Exchange Carrier Assn 1104 Main St., #300 Vancouver, WA 98660 cphillips@oeca.com</p>	<p>Richard A. Finnigan (W) Attorney at Law Law Office of Richard A. Finnigan 2112 Black Lake Blvd SW Olympia, WA 98512 rickfimm@localaccess.com</p>
<p>Malia Brock (W) Public Utility Commission of OR PO Box 2148 Salem, OR 97308 malia.brock@state.or.us</p>	<p>Charles L. Best (W) 1631 NE Broadway #538 Portland, OR 97232-1425 chuck@charleslbest.com</p>	<p>Cynthia Manheim (W) PO Box 97061 Redmond, WA 98052 cindy.manheim@att.com</p>
<p>Gregory T Diamond (W) Level 3 Communications 1505 5th Ave, Ste 501 Seattle, WA 98101 greg.diamond@level3.com</p>	<p>Lisa F Rackner (W) McDowell Rackner & Gibson PC 419 SW 11th Ave., Suite 400 Portland, OR 97205 dockets@mcd-law.com</p>	<p>Michael Dewey (W) OCTA 1249 Commercial St SE Salem, OR 97302 mdewey@oregoncable.com</p>
<p>Richard B Severy (W) Verizon 2775 Mitchell Dr, Bldg. 8-2 Walnut Creek, CA 94598 richard.b.severy@verizon.com</p>	<p>Lorraine A Kocen (W) Verizon California Inc 2523 W Hillcrest Dr, 2nd Fl Newbury Park, CA 91320 lorraine.kocen@verizon.com</p>	<p>Rudolph M Reyes (W) Verizon Corporate Counsel 201 Spear Street 7th Floor San Francisco, CA 94105 rudym.reyes@verizon.com</p>

Doug Cooley (W) Comcast Bus. Comm. LLC 1710 Salem Industrial Dr. NE Salem, OR 97303 doug_cooley@cable.comcast.com	Mark P. Trincherro (W) Davis Wright Tremaine LLP 1300 SW Fifth Ave Ste 2300 Portland, OR 97201-5682 marktrincherro@dwt.com	Phyllis Whitten (W) Frontier Communications 9260 E Stockton Blvd Elk Grove, CA 95624 phyllis.whitten@ftr.com
Renee Willer (W) Frontier Communications Northwest Inc. 20575 NW Von Neumann Dr Beaverton, OR 97006-6982 renee.willer@ftr.com	George Schreck (W) Integra Telecom 1201 NE Lloyd Blvd, STE 500 Portland, OR 97232 george.schreck@integratelecom.com	Douglas K Denney (W) Integra Telecom of Oregon Inc 1201 NE Lloyd Blvd, STE 500 Portland, OR 97232 dkdenney@integratelecom.com
Adam Lowney (W) McDowell Rackner & Gibson 419 SW 11 th Ave, Ste. 400 Portland, OR 97205 adam@mcd-law.com	Lyndall Nipps (W) tw Telecom of Oregon LLC 9665 Granite Ridge Dr. – Ste. 500 San Diego, CA 92123 lyndall.nipps@twtelecom.com	Marc M Carlton (W) Williams, Kastner & Gibbs PLLC 888 SW Fifth Ave, Ste. 600 Portland, OR 97204-2025 mcarlton@williamskastner.com
Mary Retka (W) mary.retka@centurylink.com	Roberta Vandhey (W) Star Route Fossil, OR 97830 robertav2@yahoo.com	Sommer Templet (W) Citizens' Utility Board of OR 610 SW Broadway, Ste 400 Portland, OR 97205 sommer@oregoncub.org
John T. Dillard (W) Monroe Telephone Co. PO Box 130 Monroe, OR 97456 jtdillard@monroetel.com	Novi Campbell (W) Pac-West Telecomm Inc. 4210 Coronado Ave. Stockton, CA 95204 ncampbell@pacwest.com	Jeff Crews (W) PriorityOne Telecommunications PO Box 1462 La Grande, OR 97850 jcrews@p1tel.com
Sharon Mullin (W) AT&T Services, Inc. 2003 Point Bluff Austin, TX 78746 slmullin@att.com	Fred Goodwin (W) Public Utility Commission of OR PO Box 2148 Salem, OR 97308 fred.goodwin@state.or.us	

(W) = Waive Paper Service


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DATED this 28th day of September, 2012

AT&T

By: 

David Collier
645 E. Plumb Lane, Rm C142
P.O. Box 11010
Reno, NV 89520
(775) 333-3986 (telephone)
(775) 333-2364 (facsimile)
david.collier@att.com