



Jacque Lopez
Assistant to
Richard B. Severy and
Rudy Reyes

Legal Department
2535 W. Hillcrest Dr., CAM21LB
Newbury Park, CA 91320
Phone 805-499-6179
Fax 805-498-5617
jacque.lopez@verizon.com

VIA EMAIL AND FEDERAL EXPRESS

May 29, 2012

Public Utilities Commission of Oregon
Attention: Filing Center
550 Capitol Street NE, Ste 215
Salem, OR 97301-2551

RE: UM-1547 – Verizon’s Reply Comments

Dear Filing Center:

Enclosed for filing in the above-referenced matter are the original and five (5) copies of Verizon’s Reply Comments and the certificate of service.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Jacque Lopez".

JACQUE LOPEZ
Assistant to
Richard B. Severy

Enclosures
cc: See Service List – UM-1547

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1547

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	VERIZON'S REPLY COMMENTS
OREGON STAFF)	
)	
<u>Investigation of Call Termination Issues</u>)	

VERIZON'S REPLY COMMENTS

MCI Communications Services, Inc. d/b/a Verizon Business Services and MCImetro Access Transmission Services LLC d/b/a Verizon Access (together, "Verizon") hereby reply to the comments and recommendations of the Commission's communications and consumer complaint staff ("Staff") in the above-referenced proceeding. Pursuant to the Administrative Law Judge's Prehearing Conference Memorandum issued April 4, 2012, Verizon also discusses the Federal Communications Commission's ("FCC's") activities and efforts to address call termination issues on a national level.

As explained below, the FCC has been actively engaged in a comprehensive examination of call termination issues over the past year. Verizon urges the Commission to align itself with those ongoing activities and not to take steps that could undermine efforts to achieve a workable, nationwide approach.

I. Staff Report and Recommendations

The Staff report provides anecdotal evidence of call termination problems, wherein some customers have not received long distance voice calls and facsimile transmissions, or the calls suffered from technical degradation (*e.g.*, dead air, long call set up times, and poor quality). Staff at 1-4. Staff describes its investigation into these issues but acknowledges that it is difficult

to determine the source of such problems. *Id.* at 3. Staff expresses its view that the root cause likely “lies within the very complex and cost-sensitive nature of the telecommunications business,” in particular, the high rates charged by local exchange carriers (“LECs”) to terminate calls in rural areas -- which can be 15 times more than Qwest/CenturyLink charges to terminate an interexchange call in Oregon¹ -- coupled with the ways in which some interexchange carriers (“IXCs”) route traffic in order to minimize their costs of terminating calls. *Id.* at 4-5. Staff suggests that “some least cost routing software include algorithms that interfere with or even prevent the termination of calls into rural areas in order to avoid paying the higher termination charges” (*id.* at 5), but does not present any facts to substantiate this assertion. Staff also points out that an increasing number of long distance calls are being handled by Voice over Internet Protocol (“VoIP”) providers. Because some local exchange carriers convert VoIP-originated calls to TDM before completing them to their customers, Staff asserts that this has “created additional opportunities for carriers to arbitrage termination fees.” *Id.* at 5.

Notably, Staff does not provide any facts showing that arbitrage or cost avoidance have actually contributed to the anecdotal incidents of call termination problems it has identified in Oregon. Moreover, the only actual network and equipment testing Staff describes (*id.* at 3) did not appear to establish either of these possible causes as a source of the problems encountered by the customer. The Commission should not adopt rules or requirements in Oregon absent a more explicit, fact-based demonstration that any purported “solution” is appropriately targeted at resolving actual, identifiable causes of problems experienced by customers. Establishing rules or policies that do not address or solve a specific, known problem is unlikely to succeed in

¹ Staff at 4 (Qwest’s average termination rate was reported to be \$0.00491, while Monroe Telephone Company’s corresponding rate was \$0.0765).

improving the situation and will only add a new layer of regulatory requirements that serve no purpose and may have unintended and undesired impacts.

Based on its investigation, Staff sets forth four possible options for the Commission to consider. Under Option A, the Commission would support and participate in ongoing efforts at the federal level aimed at addressing call termination issues on a nationwide basis. Staff does not consider this approach sufficient by itself, however, because Staff believes the FCC's policies for eliminating incentives for arbitrage will not be fully implemented for several years and Staff favors having the Commission exercise its own authority over call termination problems within Oregon. *Id.* at 9.

Based on Staff's assumption that high call termination rates are the "primary motivation" for least cost routing arrangements, Staff also suggests that the Commission could urge LECs in rural areas to lower their terminating access rates. *Id.* While this Option B would directly address what Staff views to be a primary cause of call termination problems, Staff speculates that pursuing this option would cause LECs to raise their rates for other services, and create financial problems for the companies.² In making this claim, Staff did not appear to factor in new FCC-approved recovery mechanisms and the FCC's expectation that its extensive package of intercarrier compensation and universal service reforms will result in revenue predictability and certainty that will help facilitate access by rural carriers to capital and efficient network investment.³

² Staff characterizes the potential financial consequences as "disastrous" (Staff at 9), but does not provide any facts or evaluation of the specific impacts upon the rural LECs that have complained of call termination problems if they were to lower their terminating access rates more quickly than required by the FCC. The Commission should not decline to pursue this policy option based on such unsupported claims. In any event, if high termination rates are a source of purported call termination problems, the LECs bear some responsibility for taking steps to mitigate this causative factor within their control.

³ See, e.g., *Connect America Fund*, WC Docket No. 10-90, *et al*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17633 (2011), at ¶¶ 36, 291.

Options C and D address specific rulemaking approaches the Commission might take. Staff suggests that existing service quality rules might be amended to include new requirements such as call termination rates and call blockage/failure standards. However, Staff believes “it would be extremely difficult” to develop the types of rules contemplated by Option C, and thus does not recommend this approach.⁴

Under Option D, the Commission would amend its certification rules to incorporate policies that mirror those the FCC has implemented for interstate services. Staff suggests including provisions that would 1) prohibit service providers from subjecting any person, class of person or locality to any undue or unreasonable prejudice or disadvantage; 2) prohibit blocking, choking, reducing or restricting traffic in any way; and 3) make service providers responsible for acts, omissions or failures of their agents or others acting on behalf of the carrier. *Id.* Staff favors this Option D, characterizing it as “the most straightforward and administratively efficient way to address the call termination problem.” *Id.* However, Staff has not yet prepared specific draft rules for the parties or the Commission to consider.⁵ Thus, it is premature to conclude that this option is an appropriate approach to pursue.

II. The FCC Is Actively Addressing Call Termination Problems

The Commission should evaluate Staff’s recommendations in light of substantial ongoing efforts at the federal level to address call termination issues in a comprehensive manner. For the past year, the FCC has been working with a number of interest groups, including industry

⁴ *Id.* at 10. As part of its investigation, Staff requested information about calls “that failed to complete.” There are many situations in which calls do not complete that have no bearing on the types of problems that are the subject of this proceeding. For example, calls do not complete when the user’s line is busy, or if the telephone rings, but no one answers it (because the customer is not at home or for other reasons). Many customers rely on Caller ID features to screen incoming calls and to avoid answering calls from certain telephone numbers, organizations and individuals. These situations are very common. Thus, reviewing call completion rates or the number of calls that “failed to complete” is not, by itself, a reliable means of pinpointing actual incidents of call termination problems in rural areas.

⁵ See Staff Motion for Extension of Time to Circulate Proposed Rule, filed April 30, 2012.

associations of rural local exchange carriers (some of which have Oregon LECs as members), NARUC and individual state regulatory commissions, interexchange carriers and other service providers, and the Alliance for Telecommunications Industry Solutions (“ATIS”), an organization that develops technical and operational standards for the telecommunications industry. During that time the FCC has taken several significant steps to identify and remedy the source of call completion problems in rural areas.

In September 2011, the FCC established a Rural Call Completion Task Force to investigate and address the failure to connect calls, and delays in completing calls, to rural customers. The task force is an intra-agency working group that involves staff from the FCC’s Wireline Competition, Enforcement, and Public Safety and Homeland Security Bureaus. The task force conducted its first Rural Call Completion Workshop last October, and invited participants from across the industry. The task force continues to interact with service providers to better understand the problems and develop solutions – and to essentially mediate specific call completion issues on behalf of RLECs that raise concerns about particular customer experiences. For example, during April and May of this year, the task force has been communicating with individual carriers about specific call termination troubles that have been brought to its attention, and requested that the carriers involved provide detailed explanations. The task force has also established a website as a vehicle for collecting information when problems occur.⁶

The FCC has also increased its coordination with ATIS. ATIS is “a global standards development and technical planning organization that develops technical and operations standards” for communications and other technologies. One of its committees, the Next Generation Interconnection Interoperability Forum, “examines issues associated with

⁶ During the past year, some carriers have also established dedicated processes for rural LECs to use to report problems directly to the carriers.

telecommunications network interconnection and interoperability, and the exchange of information concerning network architecture, management, testing and operations, and facilities.”⁷ At the FCC’s request, ATIS has been investigating and evaluating call termination issues, and trying to determine whether there are technical or standards-based solutions that could mitigate the problems. Among other things, the FCC has asked ATIS to provide information on any work it has done in connection with the development of industry best practices for managing intermediate service providers.

In recent months, the FCC has issued two important decisions that focus directly on call completion issues. In November 2011, the FCC announced its reform of the intercarrier compensation regime and established a framework for immediately reducing, and ultimately phasing out, interstate and intrastate terminating access charges.⁸ The first reductions in intrastate access charges are to take place soon, on July 1, 2012. By that date, all rate-of-return carriers, including rural LECs in Oregon, must reduce their intrastate terminating access rates halfway to their interstate rate levels. *See* 47 C.F.R. § 51.909(b). To the extent high termination fees in rural areas and opportunities for arbitrage may have contributed to call termination problems, these reforms will reduce and, in time, eliminate any such incentives, and they should be allowed to work before deciding whether new state requirements are justified.

The FCC’s order also established clear pricing policies applicable to the termination of VoIP-PSTN traffic. This is traffic that is exchanged between a LEC and another telecommunications carrier in Time Division Multiplexing, or TDM, format that originates and/or terminates in Internet Protocol (IP) format. As of December 29, 2011, interstate

⁷ *See* Letter from Thomas Goode, ATIS General Counsel, to James Arden Barnett, Jr., Chief, Public Safety and Homeland Security Bureau, FCC (and others), October 7, 2011.

⁸ *Connect America Fund, supra.*

terminating access charges apply to all such traffic.⁹ Thus, to the extent the Staff report expresses concern that “legal confusion” regarding the appropriate treatment of VoIP traffic (Staff at 5) may have had implications for call termination issues, that concern has now been alleviated in light of the FCC’s rules setting compensation for VoIP traffic.¹⁰

The second major development was the FCC’s issuance of a Declaratory Ruling reminding carriers of the FCC’s longstanding prohibition on carriers blocking, choking, reducing or restricting traffic in any way.¹¹ The ruling makes clear that providing discriminatory service with respect to calls placed to rural areas, degrading service to certain areas, and other practices that lead to call termination and call quality problems, may constitute unjust and unreasonable practices in violation of the federal Communications Act.¹² The Declaratory Ruling also explained that carriers are liable for the acts, omissions or failures of their agents or others acting on their behalf. Finally, the FCC reminded carriers of its enforcement authority and the carriers’ potential liability if they engage in practices prohibited by the Act or FCC rules.¹³ Indeed, the FCC has reported that its Enforcement Bureau has ongoing investigations into the causes and

⁹ *Connect America Fund, supra*, at ¶ 944; *see also Connect America Fund*, WC Docket No. 10-90, *et al.*, Second Order on Reconsideration (released April 25, 2012), at ¶ 28; 47 C.F.R. § 51.913(a)(1).

¹⁰ The FCC’s order also addressed other policies that relate directly to call termination issues. The FCC emphasized that call blocking has the potential to degrade the reliability of the nation’s telecommunications network and reiterated its prohibition on call blocking of all types of traffic, including VoIP-PSTN traffic, as a means of avoiding unreasonable intercarrier compensation charges. *Id.* at ¶¶ 734, 973-974. In addition, the FCC adopted new rules that bar carriers and VoIP service providers from altering call signaling information, including calling number information, transmitted in a call, to ensure that the signaling information reaches terminating carriers and provides accurate caller ID for call recipients. *Id.* at ¶¶ 714, 717, 719.

¹¹ *In the Matter of Developing a Unified Intercarrier Compensation Regime and Establishing Just and Reasonable Rates for Local Exchange Carriers*, Declaratory Ruling, CC Docket No. 01-92 and WC Docket No. 07-135, DA 12-154 (released February 6, 2012) at ¶¶ 9-11.

¹² *Id.* at ¶¶ 11-14.

¹³ *Id.* at ¶ 16.

practices behind these problems, and is actively assessing whether those practices violate any FCC regulations.

III. The Commission Should Support the FCC's Efforts to Resolve Rural Call Completion Problems in a Comprehensive Manner

The recent decisions and ongoing actions by the FCC described above will provide both short and long-term solutions. Accordingly, Verizon urges the Commission to focus on supporting these multi-faceted efforts instead of considering state-specific measures at this time. In particular, the Commission should devote its efforts to ensuring compliance with the FCC's new intercarrier compensation regime, by actively reviewing and monitoring pricing changes that will take effect, initially by July 1, 2012, and at subsequent stages in the multi-year transition to bill-and-keep arrangements. The new intercarrier pricing policies are intended to remove financial incentives for service providers to engage in practices that may undermine the reliability of service in rural communities. Thus, successful and timely implementation of the FCC's pricing rules will go a long way to resolving the underlying causes of completion issues, to the extent they exist in some areas. In addition, as suggested in Option A, the Commission should support action by the FCC to enforce the rules and policies set forth in its Declaratory Ruling. Rather than proceed independently, the Commission should encourage the FCC, NARUC and other organizations that have been engaged in these issues for some time to focus on real problems and drive realistic solutions on a national level.

Verizon recommends that the Commission not pursue Options C or D at this time. Because some of the FCC's policies and rules described above are only now being implemented, the Commission should defer taking any action until experience shows how successful they are at remedying the underlying problems. In addition, many of the policies established and being addressed at the federal level will apply on a nationwide basis. Similarly, if technical or

standards-based solutions are developed through ATIS, the FCC or some other forum, telecommunications carriers may implement them throughout their regional or nationwide networks. Adoption of state-specific rules could potentially conflict with or undermine the establishment of a uniform policy framework. State-specific requirements could also interfere with carriers' ability to implement technical solutions in a consistent and efficient manner. Indeed, given the interconnected and inter-operational character of telecommunications networks, it is likely that requirements imposed in Oregon to address purely "intrastate" traffic issues could complicate the ability of carriers to efficiently manage networks engineered to handle both interstate and intrastate traffic.

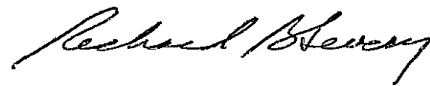
Because Staff has not yet issued specific draft rules, it is difficult to address in the abstract the merits or efficacy of possible proposals, or to determine whether they might create such conflicts or impose unnecessary burdens on service providers. Accordingly, Verizon reserves the right to comment on any specific proposals once they are issued. The Staff report does not address the complex jurisdictional issues that will likely arise if the Commission attempts to develop rules in this area. Staff provides anecdotal examples of call termination problems that involve interstate communications, and acknowledges that it is difficult to trace the origins and cause of these problems.¹⁴ However, Staff has not explained how any new rules would be carefully tailored so as to apply only to intrastate communications that are within the Commission's jurisdiction. This is critical because the Commission does not have the authority to resolve issues or take enforcement action in connection with interstate traffic. Even when calls are destined for customers in Oregon, the Commission has no authority to act if the calls are

¹⁴ See, e.g., Staff at 3 (describing a situation in which calls from a California business did not reach a local subscriber in Oregon and technical tests showed that the calls did not reach the Eugene tandem that would ordinarily be involved in terminating traffic to the customer's location).

originated in other states. This is why a national policy framework is the best approach to resolving these types of issues.

For these reasons, it would be prudent for the Commission not to undertake an independent rulemaking in Oregon, but to actively support the FCC's ongoing efforts to address call termination issues in a comprehensive manner.

Respectfully submitted,



Richard B. Severy
Assistant General Counsel
Verizon
2775 Mitchell Drive, Bldg 8-2
Walnut Creek, CA 94598
Phone: (925) 951-2034
Fax: (925) 951-2788
richard.b.severy@verizon.com

Rudolph M. Reyes
Assistant General Counsel
Verizon West Region
201 Spear Street, Room 729
San Francisco, CA 94105
Phone: [\(415\) 228-1465](tel:(415)228-1465)
Fax: [\(415\) 228-1276](tel:(415)228-1276)
rudy.reyes@verizon.com

May 29, 2012

Attorneys for Verizon

CERTIFICATE OF SERVICE
UM 1547

I hereby certify that: I am over the age of eighteen years and not a party to the within entitled action; my business address is 2535 W. Hillcrest Drive, Newbury Park, CA 91320; I have this day served a copy of the foregoing, **VERIZON'S REPLY COMMENTS** by electronic mail to those who have provided an e-mail address and by U.S. Mail to those who have not, on the service list.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 29th day of May, 2012 at Newbury Park, California.



JACQUE LOPEZ

Service List: UM 1547

**SERVICE LIST
UM 1547**

NAME	ADDRESS AND EMAIL ADDRESS
CHARLES L BEST ATTORNEY AT LAW	1631 NE BROADWAY #538 PORTLAND OR 97232-1425 chuck@charleslbest.com
AT&T	
CYNTHIA MANHEIM	PO BOX 97061 REDMOND WA 98052 cindy.manheim@att.com
AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST INC	
DAVID COLLIER	645 E PLUMB LN PO BOX 11010 RENO NV 89502 david.collier@att.com
CENTURYLINK	
RON L TRULLINGER MANAGER - OREGON REGULATORY	310 SW PARK AVE 11TH FL PORTLAND OR 97205 ron.trullinger@centurylink.com
CENTURYLINK, INC.	
WILLIAM E HENDRICKS ATTORNEY	902 WASCO ST A0412 HOOD RIVER OR 97031 tre.hendricks@centurylink.com
CITIZENS' UTILITY BOARD OF OREGON	
OPUC DOCKETS	610 SW BROADWAY, STE 400 PORTLAND OR 97205 dockets@oregoncub.org
G. CATRIONA MCCRACKEN	610 SW BROADWAY, STE 400 PORTLAND OR 97205 catriona@oregoncub.org
COMCAST BUSINESS COMMUNICATIONS LLC	
DOUG COOLEY	1710 SALEM INDUSTRIAL DRIVE NE SALEM OR 97303 doug_cooley@cable.comcast.com
DAVIS WRIGHT TREMAINE LLP	
MARK P TRINCHERO	1300 SW FIFTH AVE STE 2300 PORTLAND OR 97201-5682 marktrinchero@dwt.com
FRONTIER COMMUNICATIONS	
PHYLLIS WHITTEN	9260 E STOCKTON BLVD ELK GROVE CA 95624 phyllis.whitten@ftr.com

**FRONTIER COMMUNICATIONS NORTHWEST
INC**

RENEE WILLER

20575 NW VON NEUMANN DR
BEAVERTON OR 97006-6982
renee.willer@ftr.com

LAW OFFICE OF RICHARD A FINNIGAN

RICHARD A FINNIGAN

2112 BLACK LAKE BLVD SW
OLYMPIA WA 98512
rickfinn@localaccess.com

LEVEL 3 COMMUNICATIONS LLC

GREGORY DIAMOND

1505 5TH AVE STE 501
SEATTLE WA 98101
greg.diamond@level3.com

MCDOWELL RACKNER & GIBSON PC

LISA F RACKNER

419 SW 11TH AVE., SUITE 400
PORTLAND OR 97205
dockets@mcd-law.com

OCTA

MICHAEL DEWEY

1249 COMMERCIAL ST SE
SALEM OR 97302
mdewey@oregoncable.com

OREGON EXCHANGE CARRIER ASSN

CRAIG PHILLIPS

1104 MAIN ST., #300
VANCOUVER WA 98660
cphillips@oeca.com

OREGON TELECOMMUNICATIONS ASSN

BRANT WOLF

777 13TH ST SE - STE 120
SALEM OR 97301-4038
bwolf@ota-telecom.org

PUBLIC UTILITY COMMISSION OF OREGON

MALIA BROCK

PO BOX 2148
SALEM OR 97308
malia.brock@state.or.us

PUC STAFF - DEPARTMENT OF JUSTICE

JOHANNA RIEMENSCHNEIDER

BUSINESS ACTIVITIES SECTION
1162 COURT ST NE
SALEM OR 97301-4796
johanna.riemenschneider@doj.state.or.us

PUC STAFF--DEPARTMENT OF JUSTICE

JASON W JONES

BUSINESS ACTIVITIES SECTION
1162 COURT ST NE
SALEM OR 97301-4096
jason.w.jones@state.or.us

VERIZON

RICHARD B SEVERY

2775 MITCHELL DR, BLDG. 8-2
WALNUT CREEK CA 94598
richard.b.severy@verizon.com

VERIZON CALIFORNIA INC

LORRAINE A KOCEN

2523 W HILLCREST DR, 2ND FL
NEWBURY PARK CA 91320
lorraine.kocen@verizon.com

VERIZON CORPORATE COUNSEL

RUDOLPH M REYES

201 SPEAR STREET 7TH FLOOR
SANFRANCISCO CA 94105
rudy.reyes@verizon.com

WILLIAMS, KASTNER & GIBBS PLLC

MARC M CARLTON

888 SW FIFTH AVE, STE. 600
PORTLAND OR 97204-2025
mcarlton@williamskastner.com