

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

**COMMENTS OF  
THE NATIONAL EXCHANGE CARRIER ASSOCIATION, Inc.;  
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION;  
ORGANIZATION FOR THE PROMOTION OF SMALL TELECOMMUNICATIONS  
COMPANIES; and the  
WESTERN TELECOMMUNICATIONS ALLIANCE**

AT&T Inc. (“AT&T”), on behalf of its affiliates, seeks a limited waiver of the Commission’s newly-adopted call signaling rules.<sup>1</sup> The above-named associations, representing

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<sup>1</sup> See Petition for Limited Waiver of AT&T, WC Docket No. 10-90, *et al.* (filed Dec. 29, 2012) (*Petition*); *Wireline Competition Bureau Seeks Comment on AT&T’s Petition for Limited Waiver of Call Signaling Rules*, Public Notice, DA 12-34 (rel. Jan. 10, 2012).

rural rate-of-return regulated local exchange carriers (“RLECs”)<sup>2</sup> do not oppose grant of the requested waiver on a limited and temporary basis, as described more fully below.

## I. INTRODUCTION

In its November 18, 2011 USF and ICC Reform Order,<sup>3</sup> the Commission amended its call signaling rules to require transmission of call signaling information on all traffic originating or terminating on the public switched telephone network (“PSTN”). In addition to rules requiring transmission of Calling Party Number (“CPN”) data on all calls, the Commission also imposed a requirement that the Charge Number (“CN”) be passed unaltered where it is different from the CPN.<sup>4</sup> The Order further makes clear that the CN field may only be used to contain a calling party’s charge number, and not contain or be populated with a number associated with an intermediate switch, platform, or gateway, or other number.<sup>5</sup>

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<sup>2</sup> The National Exchange Carrier Association, Inc. (NECA) is responsible for preparation of interstate access tariffs and administration of related revenue pools, and collection of certain high-cost loop data. See generally, 47 C.F.R. §§ 69.600 et seq.; MTS and WATS Market Structure, CC Docket No. 78-72, Phase I, Third Report and Order, 93 FCC 2d 241(1983). The National Telecommunications Cooperative Association (NTCA) is a national trade association representing more than 580 rural RoR regulated telecommunications providers. The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) is a national trade association representing approximately 460 small ILECs serving rural areas of the United States. The Western Telecommunications Alliance (WTA) is a trade association that represents over 250 small rural telecommunications companies operating in the 24 states west of the Mississippi River.

<sup>3</sup> *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service – Mobility Fund*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (*Order*).

<sup>4</sup> *Id.* ¶ 714.

<sup>5</sup> *Id.*

The Commission also amended its rules to require service providers still using Multi-Frequency (“MF”) signaling to pass the number of the calling party (or CN, if different) in the MF Automatic Number Identification (“ANI”) field.<sup>6</sup> This was intended to assure consistent treatment across signaling systems. The Commission was also concerned a categorical exclusion could create a disincentive to invest in IP technologies and invite additional opportunities for arbitrage.<sup>7</sup>

In seeking a limited waiver from the requirement to pass unaltered CN data on all calls, AT&T explains that certain customers in its legacy network (*i.e.*, customers purchasing PBX and Centrex services) typically have dedicated access to a toll switch. AT&T indicates that in these circumstances it populates the CN field with a number (which could be either a pseudo-NANP number or a private numbering plan number) for billing and service processing purposes. However, it does not transmit these numbers to terminating carriers because it claims “doing so could cause those carriers to drop calls,” and because AT&T’s interexchange switching platform cannot distinguish between pseudo-CNs and actual, NANP CN’s without costly and time-consuming upgrades.<sup>8</sup> AT&T states it does not populate the CN field for any calls that pass through these SS7 switches.<sup>9</sup>

AT&T also seeks a limited waiver of the rule requiring service providers using MF signaling to pass the number of the calling party (or CN, if different) in the MF ANI field, saying

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<sup>6</sup> *Id.* ¶ 716.

<sup>7</sup> *Id.*

<sup>8</sup> *Petition* at 4-5.

<sup>9</sup> AT&T claims it may not be technically feasible to modify its system as the “services at issue are provided over switching platforms (*i.e.*, Lucent 4ESS™ switches and Nortel switches) for which technical support may no longer be available from the manufacturer.” Moreover, retrofitting these switches to enable them to transmit meaningful CNs would be extremely costly and much of this equipment is already scheduled for retirement from the AT&T network in coming years. *Id.* at 5.

compliance with the rule is technically infeasible at this time on AT&T switching equipment using MF signaling.<sup>10</sup> AT&T states it uses MF signaling in two ways: in the legacy interexchange network and for operator services/directory assistance (“OS/DA”).<sup>11</sup> AT&T claims MF signaling was not designed in many instances to forward originating CN or CPN data to a terminating carrier in the MF ANI field, and specifically, this capability has never been part of Feature Group D standards.<sup>12</sup> AT&T claims technical solutions to come into compliance for MF signaling would require costly switch upgrades or replacement of legacy equipment, and that “AT&T will continue to consider technical solutions to come into compliance with the MF signaling mandate.”<sup>13</sup>

## **II. DISCUSSION.**

As AT&T correctly notes, the Commission declined to adopt a general “technical infeasibility” exception to its revised call signaling rules.<sup>14</sup> The Commission did indicate, however, that parties seeking limited exceptions or relief in connection with the call signaling rules may avail themselves of the Commission’s established waiver procedures.<sup>15</sup> While the Commission has stated on many previous occasions that waivers under section 1.3 of the rules

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<sup>10</sup> *Id.* at 6.

<sup>11</sup> *Id.* at 7.

<sup>12</sup> *Id.* at 6.

<sup>13</sup> *Id.* at 8.

<sup>14</sup> *Id.* at 3, citing *Order* ¶ 723.

<sup>15</sup> *See id.*

“will not be granted routinely,” it has frequently cited hardship, equity, and public policy considerations as reasons for granting requested waivers.<sup>16</sup>

The Associations understand the concerns expressed by AT&T regarding costs that may be associated with retrofitting or modifying its legacy PBX and Centrex switching systems and legacy switches that employ MF signaling. However, the Associations remain concerned that grants of waivers beyond such specific situations will merely perpetuate the problems that gave rise to the Commission’s adoption of new call signaling rules in the first place. Thus, the Commission must narrowly tailor any waivers to its call signaling rules to specific situations faced by individual carriers. For example, no waiver should be granted that would permit providers utilizing modern switches, particularly IP-enabled equipment or systems, to avoid compliance with the rules, as these facilities cannot be deemed “legacy” equipment.

Further, all waivers should include requirements to provide terminating carriers with information necessary to audit Percent Interstate Usage (“PIUs”) and/or call records. AT&T points out in this regard that it uses long-established and well-accepted industry practices (*e.g.*, auditable PIUs and other factors) to ensure proper settlements of intercarrier compensation with terminating carriers. Because an audit must be based on hard evidence, terminating carriers will

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<sup>16</sup> Traditional standards for grant of Commission waivers were reviewed in *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166. In its USF and ICC Reform Order, however, the Commission announced without explanation that it will apply far more stringent standards to petitions for waiver of rules limiting high-cost support levels, despite extensive showings such rules will have unintended and unreasonable impacts on RLECs and rural consumers. *See, e.g.*, Petition for Reconsideration and Clarification of NECA, OPASTCO and WTA, WC Docket No. 10-90, *et al.*, (filed Dec. 29, 2011) at 19-22 (*NECA, OPASTCO, WTA Petition*). It is critical the Commission apply uniform standards to parties seeking waivers of its rules. In the absence of a reasoned explanation for revising its standards, the Commission must continue to apply criteria previously developed under section 1.3 of its rules.

need some indicator in either the call signaling or in call records to determine the jurisdiction, and proper billing, of all calls.

Accordingly, any waiver granted in this proceeding should be contingent upon AT&T's publication of a list of the originating switches covered by this waiver to allow terminating carriers to identify calls that legitimately fall under this waiver from those that do not. Otherwise, sending carriers could claim any call transmitted without CPN or CN has originated in this fashion. It is critical the Commission ensure AT&T's waiver is limited to AT&T's published list of originating "legacy" switch locations that support such PBX and Centrex customers. Further, inasmuch as AT&T has indicated it plans to "investigate[] options to come into compliance where possible,"<sup>17</sup> the Commission should also require AT&T at a minimum to submit reports at six month intervals detailing the status of such efforts, and to consider terminating the waiver if it appears no progress is being made. For example, since it would not appear to be unduly burdensome to require AT&T to reprogram its own switches to include a valid CN for traffic originating from customers with legacy PBX and Centrex switches and to transmit the JIP of these switches, grant of a waiver should be conditioned on AT&T's bringing one-half of affected switches into compliance within one year, with the remainder completed in two years.

The Associations likewise understand the concerns expressed by AT&T over its inability to transmit accurate CPN and CN information from its legacy network equipment that utilizes MF signaling. Since it appears that only a few central offices continue to rely on MF signaling, grant of carrier-specific waivers of the type requested by AT&T are not likely to have a

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<sup>17</sup> *Petition* at 1, 8.

significant effect on phantom traffic and ICC billing.<sup>18</sup> Further, AT&T states it would continue to use the long-established, industry-accepted factoring methodology (presumably PIUs) that assures correct settlements for traffic terminated.<sup>19</sup> Here again, however, AT&T should be required to identify those originating switches that employ MF signaling from which terminating carriers can expect to see little to no CPN or CN information. This will facilitate any necessary audits of AT&T's PIUs and limit the ability to claim any call that is delivered without proper CPN or CN has originated in this fashion. AT&T should also be required to include in its six-month reports the status of efforts to upgrade such switches to SS7 capability.<sup>20</sup>

### **III. CONCLUSION.**

The Rural Associations do not oppose grant of a temporary waiver to AT&T that is limited in scope to a) AT&T's transmission of CN unaltered where it is different than CPN from AT&T's "legacy" non IP-enabled PBX and Centrex customers for services and equipment that is currently installed, and b) AT&T's transmission of the CPN or CN information in the MF ANI field for calls from legacy equipment using MF signaling and for operator services/directory

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<sup>18</sup> NECA member companies use SS7 signaling in about 99 percent of switches, and those that do not have very few access lines.


<sup>19</sup> *Petition* at 6-7.

<sup>20</sup> As an alternative to granting AT&T's waiver request, the Commission could instead adopt the Rural Associations' original suggestion for resolving disputes over unidentified traffic by placing financial responsibility for such traffic on the last carrier in the sending call stream. *See* Comments of NECA, NTCA, OPASTCO, WTA, ERTA, Rural Alliance, and Rural Broadband Alliance, WC Docket No. 10-90, *et al.* (filed Apr. 1, 2011) at 26-27. Under this approach, carriers such as AT&T with non-compliant end offices would have incentives to fix such problems where it is cost-effective to do so, or simply pay the highest applicable rate for traffic delivered without sufficient data. This would assure the entity responsible for failure to comply with the Commission's signaling rules would fairly bear the costs of such non-compliance instead of transferring those costs to terminating carriers. It would also significantly reduce upward pressure on the CAF ICC Support mechanism. *See NECA, OPASTCO, WTA Petition* at 39.

assistance calls. The waiver should be contingent upon AT&T's publication of a list of all originating legacy switch locations that would fall under this limited waiver so that terminating carriers can identify such calls. Further, as AT&T has indicated it intends to pursue compliance options, the Commission should require it to submit a report detailing the status of such efforts within six months of the rule's effective date. The waiver would also require AT&T to resolve problems with transmission of CN and/or JIP data from switches serving Centrex and PBX customers within two years.

Respectfully submitted,

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February 9, 2012

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Associations' Comments was served this 9<sup>th</sup> day of February, 2012 by electronic filing and e-mail to the persons listed below.

By: /s/ Elizabeth R. Newson  
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