

**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 TELECOMMUNICATIONS COOPERATIVE ASSOCIATION,
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL
TELECOMMUNICATIONS COMPANIES,
WESTERN TELECOMMUNICATIONS ALLIANCE, and
NATIONAL EXCHANGE CARRIER ASSOCIATION, Inc.
ON
HAWAIIAN TELCOM'S PETITION FOR LIMITED WAIVER OF THE
COMMISSION'S
CALL SIGNALING RULES**

Hawaiian Telcom, Inc. ("Hawaiian Telcom") seeks a limited waiver of the Commission's newly adopted call signaling rules for the circumstances described in its petition.¹ Hawaiian Telcom claims a waiver is necessary because it is not technically feasible and would be

¹ See Petition for Limited Waiver of Hawaiian Telcom, Inc., WC Docket No. 10-90, *et al.* (filed Mar. 1, 2012) (*Petition*).

extremely costly and burdensome for it to implement the new call signaling rules in certain circumstances affecting a limited amount of traffic.² Hawaiian Telcom explains that because it addresses these limited technical circumstances through standard carrier negotiations which properly identify and compensate for the jurisdictional nature of the traffic associated with such calls, grant of the waiver is consistent with the Commission's intent in creating the call signaling rules.³

The above-named Associations, representing rural rate-of-return regulated incumbent local exchange carriers ("RLECs"),⁴ do not oppose grant of the requested waiver for the two specified circumstances described in the petition, subject to certain conditions as described herein.

I. INTRODUCTION

In its November 18, 2011 USF and ICC Reform Order,⁵ the Commission amended its call signaling rules to require transmission of call signaling information on all traffic originating or

² *Id.* at 3-5.

³ *Id.* at 2.

⁴ The National Telecommunications Cooperative Association (NTCA) is a national trade association representing more than 580 rural rate-of-return 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. 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).

⁵ *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, FCC 11-161 (rel. Nov. 18, 2011) (*USF and ICC Reform Order or Order*).

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.⁶ The Order further made 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.⁷ 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.⁸

Hawaiian Telcom requests a waiver of the new call signaling rules for two specific circumstances it explains in its petition. First, Hawaiian Telcom indicates it transmits to other carriers the CPN that customers deliver to Hawaiian Telcom (notwithstanding the Private Branch Exchange and Centrex exception), but claims many of its SS7 switches do not have the ability to generate and pass the CN in this signaling field when it is different from the CPN.⁹ It explains that at the time many SS7-capable switches were designed and deployed in Hawaiian Telcom’s network, the applicable industry standard for intrastate traffic did not require the use of the CN field.¹⁰ It claims it would require costly and time-consuming modifications to address this issue, and would be technically infeasible to complete them, especially for switches that are no longer

⁶ *Id.* ¶ 714.

⁷ *Id.*

⁸ *Id.* ¶ 716. This was intended to ensure consistent treatment across signaling systems. The Commission was also concerned a categorical exclusion could create a disincentive to invest in Internet Protocol (“IP”) technologies and invite additional opportunities for arbitrage.

⁹ *Petition* at 3.

¹⁰ *Id.*

supported by the manufacturer.¹¹ Hawaiian Telcom argues that grant of a waiver is in the public interest because of the significant financial and operational burdens to fully implement the new rules, the limited amount of such traffic, and the relatively small benefit terminating carriers may obtain from receiving CN for all intrastate calls at this time.¹²

The second circumstance for which Hawaiian Telcom requests a waiver involves MF signaling. The carrier claims it faces a similar situation as Verizon: it is not technically feasible for it to pass CPN/CN in accordance with the MF signaling requirement for all PSTN-bound voice traffic traversing MF trunks.¹³ Hawaiian Telcom says this is true for its Operator Service/Directory Assistance (“OS/DA”) services and for intrastate traffic exchanges. It asserts that the MF equipment deployed in Hawaiian Telcom’s network was not designed to signal CPN or CN, and that because the industry standard for MF signaling does not specify this parameter for the ANI field, it therefore is not technically feasible to populate the ANI field in this manner.¹⁴ Hawaiian Telcom argues any replacement of MF facilities would impose a significant economic burden and divert resources away from broadband deployment, and upgrades of old technology will not provide terminating carriers with additional useful information to help them jurisdictionalize their traffic.¹⁵

II. DISCUSSION

The Commission indicated that parties seeking limited exceptions or relief in connection with the new call signaling rules may avail themselves of the Commission’s established waiver

¹¹ *Id.* at 4.

¹² *Id.*

¹³ *Id.* at 4-5.

¹⁴ *Id.* at 5.

¹⁵ *Id.*

procedures.¹⁶ While the Commission has stated on many previous occasions that waivers under section 1.3 of the rules “will not be granted routinely,” it has frequently cited hardship, equity, and public policy considerations as reasons for granting requested waivers.¹⁷

The Commission must be very mindful when considering waiver petitions of this type that they should be strictly limited in scope to a few instances involving older generation technology that is neither SS7 nor IP. Moreover, the Commission should require in each case that the switch locations falling under such waivers can be specifically identified. A waiver cannot be considered “limited” – and the Commission’s phantom traffic rules will be of little effect – if a waiver recipient has *carte blanche* to manipulate call signaling information at any given time in undetectable ways across its network.

Thus, consistent with comments filed with respect to similar waiver petitions filed recently by AT&T, CenturyLink, Verizon, and GCI, the Associations suggest that any waiver include requirements for Hawaiian Telcom to: (1) publish a list of switches covered by the waiver; (2) provide terminating carriers frequently (*i.e.*, monthly) with information necessary to audit PIUs and/or call records; and (3) submit reports at six month intervals detailing the status of Hawaiian

¹⁶ Order ¶ 723.

¹⁷ 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.*, at 19-22 (filed Dec. 29, 2011). 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.

Telcom's efforts to upgrade its network to come into compliance with the new call signaling rules.¹⁸

Hawaiian Telcom does not explain in its waiver request the nature and extent of the changes required to reprogram its SS7 switches to enable them to populate both the CPN and CN fields when the CN is different than the CPN, in order to comply with the Commission's call signaling rules. SS7 technology clearly provides the capability to transmit both numbers. Nor does Hawaiian Telcom indicate how many switches are implicated, or provide any estimate as to how long work to upgrade these switches would take. This portion of the waiver request, therefore, should only be granted to the extent that Hawaiian Telcom provides this further information and an estimate of the time required for it to bring its SS7 switches into compliance – and only after a reasonable opportunity is afforded for interested parties to validate and comment upon the information submitted by Hawaiian Telcom. As the Commission is aware, a large amount of toll phantom traffic arrives over trunk groups designated for local traffic, and without proper call signaling information carriers are unable to properly bill such calls.¹⁹

The Associations do not oppose Hawaiian Telcom's waiver request for MF signaling. While the Associations are aware of the technical limitations of MF signaling technologies, the ability to send calling party information, via the ANI, over an MF trunk group is common industry practice. However, because MF signaling can only transmit one number – the ANI – a waiver may be required for those cases where the CN is different than the CPN. Still, Hawaiian Telcom

¹⁸ See, e.g., Comments of NECA, NTCA, OPASTCO and WTA, WC Docket No. 10-90, *et al.*, at 5-7 (filed Feb. 9, 2012), Comments of NECA, NTCA, OPASTCO and WTA, WC Docket No. 10-90, *et al.*, at 6 (filed Feb. 29, 2012), Comments of NTCA, OPASTCO, WTA, and NECA, WC Docket No. 10-90, *et al.*, at 6 (filed Mar. 19, 2012); Comments of NTCA, OPASTCO, WTA, and NECA, WC Docket No. 10-90, *et al.*, at 6-7 (filed Apr. 2, 2012).

¹⁹ See Letter from Chad Duval, Moss Adams, to Marlene H. Dortch, FCC, WC Docket No. 10-90, Attach., 8 (filed June 23, 2012).

should be capable of sending one or the other over its MF trunks. The Associations accordingly do not oppose grant of a waiver to permit Hawaiian Telcom to send either the CN or CPN over such trunk groups, provided Hawaiian Telcom provides a list of those switch locations covered by such waiver.

III. CONCLUSION

The Associations do not oppose grant of that portion of Hawaiian Telcom's waiver request that covers MF signaling. However, the Commission should decline to grant waiver requests involving SS7 switches until such time as Hawaiian Telcom provides more detail regarding the specific circumstances why such a waiver is required and where it would apply. If granted, the waiver should be contingent upon Hawaiian Telcom's publication of a list of all legacy switch locations that would fall under this limited waiver so that terminating carriers can identify such calls. In addition, the Commission should require Hawaiian Telcom to provide terminating carriers frequently (*i.e.*, monthly) with information necessary to audit PIUs and/or call records, and submit reports at six month intervals detailing the status of Hawaiian Telcom's efforts to upgrade its network to come into compliance with the new call signaling rules.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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

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