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February 28, 2014

Mr. Leslie F. Smith  
Office of Managing Director  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

Re: Paperwork Reduction Act Comments  
OMB Control No. 3060-1186  
Rural Call Completion, WC Docket No. 13-39

Dear Mr. Smith:

COMPTTEL, through undersigned counsel, hereby responds to the Commission's request for comments<sup>1</sup> on the accuracy of the Commission's burden estimates for the information collection requirements set forth in the final rules adopted in the Rural Call Completion Report and Order.<sup>2</sup>

The Paperwork Reduction Act ("PRA") requires the Commission to provide "a specific, objectively supported estimate of burden" to the Office of Management and Budget ("OMB") when requesting approval for any new information collection requirement. 44 U.S.C. §3506(c)(1)(A)(iv). While the Commission has not yet submitted its request for approval of the

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<sup>1</sup> 78 Fed. Reg. 79448 (Dec. 30, 2013).

<sup>2</sup> *In the Matter of Rural Call Completion*, WC Docket No. 13-39, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-135 (rel. Nov. 8, 2013) ("Report and Order"). A number of parties have filed Petitions for Reconsideration of the final rules. See Petition Of USTelecom And ITTA for Reconsideration Or, In The Alternative, For Waiver Or Extension Of Time To Comply; Petition For Reconsideration Of Sprint Corp.; Transcom Enhanced Services, Inc. Motion For Reconsideration Of Report And Order And New Rule 64.2201(b); Carolina West Wireless, Inc. Petition For Reconsideration; and COMPTTEL Petition For Reconsideration, all filed January 16, 2014 in WC Docket No. 13-39.

information collection requirements in the final rules to OMB, it did publish an estimate of the burden of compliance in the Federal Register on December 30, 2013.<sup>3</sup> COMPTTEL submits that the Commission has significantly underestimated the burden that the information collection requirements adopted in the final rules will impose on providers and that its estimate is neither objectively supported nor supported by the record.<sup>4</sup>

### **The Commission Failed To Identify The Basis For Its Estimated Time of Response**

In the Supporting Statement filed with OMB on the proposed rules, the Commission estimated that the average response time per provider per report would be 16 hours.<sup>5</sup> The Commission did not describe precisely how it arrived at that estimate but did note that the “hourly burden on respondents may vary widely because of differences in size and organizational capacity.”<sup>6</sup> The final rules adopted by the Commission incorporate four new data points, in addition to the eight data points proposed in the NPRM, that carriers must record,

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<sup>3</sup> 78 Fed. Reg. 79448 (Dec. 30, 2013).

<sup>4</sup> In Comments filed in the rulemaking, COMPTTEL pointed out that while the proposed information collection requirements may confirm that a rural call completion problem exists, they will not resolve the problem. *See e.g.*, Comments of COMPTTEL filed in WC Docket No. 13-39 on May 13, 2013 and Reply Comments filed on June 10, 2013. Another commenter proposed that the Commission establish a safe harbor based on a provider’s participation in an industry-sponsored alert system that would alert providers to rural call completion problems and facilitate cooperative identification of the source of the problems and their resolution. *See* Comments of Hypercube on Further Notice of Proposed Rulemaking filed in WC Docket No. 13-39 on January 16, 2014 at 20-24; and February 14, 2014 Letter from Helen Disenhaus, counsel to Hypercube, to Marlene Dortch filed in WC Docket No. 13-39. COMPTTEL submits that encouraging all providers in a call path to cooperatively work toward resolving rural call completion issues would result in a much more productive and less burdensome use of providers’ time and resources than requiring the collection, retention and reporting of data that may do no more than confirm that a problem exists.

<sup>5</sup> *See* FCC Supporting Statement filed with the request for approval of new information collection based on rules proposed in *In the Matter of Rural Call Completion*, WC Docket No. 13-39, Notice of Proposed Rulemaking, FCC 13-18 (rel. Feb. 7, 2013) at 3, available at [http://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=201304-3060-011](http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201304-3060-011) (Supporting Statement).

<sup>6</sup> *Id.* The Commission estimated that the “burden may range from 1 to 3 man-days per response, and we use 2 man-days (16 man-hours) as the average,” but did not describe how it arrived at that estimate. *Id.*

retain and report.<sup>7</sup> Under the final rules, providers are required to record, retain and report signaling cause code information for each call that would indicate whether a particular call attempt was completed to the rural incumbent local exchange carrier (“ILEC”) but signaled as busy, ring no answer, or unassigned number and to identify calls that never reach their intended destination in addition to the information required by the proposed rules. Despite the additional information that must be recorded, retained and reported, the Commission has without explanation reduced the estimated average response time for the information collection requirements adopted in the final rules by 25 percent to 12 hours.<sup>8</sup> Moreover, the Commission failed to address or provide any estimate for the non-recurring man-hours that will have to be devoted to making the systems and software adjustments necessary to implement the data recording, retention and reporting requirements.

The Commission’s failure to provide a specific, objectively supported estimate of the time burden the information collection requirements will impose on providers is inconsistent with its obligations under the PRA.

**The Commission Failed To Provide A Reasonable Basis For  
Its Estimated Total Annual Cost Burden**

In its Supporting Statement filed with OMB with the proposed rules, the Commission candidly acknowledged that it “is difficult to provide a sound estimate of respondent’s cost without conducting a survey.”<sup>9</sup> Not only did the Commission not conduct a survey, it calculated estimated costs based on a number of assumptions that are not supported by the record. For example, in rejecting objections that the development, storage and personnel costs associated with the proposed six month retention were too burdensome, the Commission stated that a “number of potentially covered providers appear to already have in place the capability of complying with these rules.”<sup>10</sup> In support of this statement, the Commission cited the comments

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<sup>7</sup> Report and Order at ¶ 43.

<sup>8</sup> 78 Fed. Reg. 79449.

<sup>9</sup> Supporting Statement at 4.

<sup>10</sup> Report and Order at ¶ 64.

of only three providers,<sup>11</sup> one of which is required to collect and retain the information pursuant to the terms of a Consent Decree entered into with the Commission.<sup>12</sup> See *In the Matter of Level 3 Communications, LLC*, Order and Consent Decree, DA 371 (rel. March 12, 2013). Although the Commission cited to assertions in the record that most carriers do not currently retain the call detail information or retain only some of the information required by the rules,<sup>13</sup> it based its capital and start-up cost estimates for the proposed rules on the assumption that “most long-distance service providers [75 percent] already collect call data records with the specified information in a central repository.”<sup>14</sup> There is no reason to believe that the Commission altered this erroneous assumption in calculating the cost estimates for the final rules published in the Federal Register.

The Commission estimated that the total annual cost of the information collection *industry wide* will be \$793,750.<sup>15</sup> In contrast, members of the industry have estimated their own compliance costs to be considerably higher. For example, AT&T has estimated its compliance costs at \$3-\$5 million;<sup>16</sup> CenturyLink has estimated that it will spend \$7.5 to \$10.5 million in non-recurring costs and another \$2.8 to \$4.3 million in annual data storage costs;<sup>17</sup> and Sprint has estimated that it will spend \$6.8 million per year.<sup>18</sup> USTelecom and ITTA have asserted that their members estimate that it will take at least 18 to 24 months and cost the industry in excess of \$100 million to capture all of the call attempt information for intraLATA interexchange toll calls because “most [ILECs] (and their affiliated competitive LECs) lack the capability to collect and report call attempt data for . . . intraLATA interexchange/toll calls that

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<sup>11</sup> *Id.* n. 177.

<sup>12</sup> *In the Matter of Level 3 Communications, LLC*, Order and Consent Decree, DA 13-371 (rel. March 12, 2013).

<sup>13</sup> Report and Order at ¶ 42 and nns. 118, 119, citing comments of CTIA, COMPTTEL, Frontier and CenturyLink.

<sup>14</sup> Supporting Statement at 4.

<sup>15</sup> 78 Fed. Reg. 79449.

<sup>16</sup> October 23, 2013 letter of Brian J. Benison, AT&T, to Marlene H. Dortch filed in WC Docket No. 13-39.

<sup>17</sup> October 23, 2013 letter of John E. Benedict, CenturyLink, to Marlene H. Dortch, filed in WC Docket No. 13-39.

<sup>18</sup> Petition for Reconsideration of Sprint Corporation filed January 16, 2014 in WC Docket No. 13-39 at 7.

are either carried entirely over the originating LEC's network (that is, originated and terminated by the same carrier) or handed off by the originating LEC directly to the terminating LEC.”<sup>19</sup> The Commission's failure to adequately justify its estimate that the total annual cost burden of complying with the final rural call completion rules industrywide will be less than \$1 million is especially troubling given the conflicting evidence in the record.

Among the recommendations made by the Staff Working Group on FCC Process Reform was that the Commission should update its existing PRA guidance and training to focus on “the calculation of burden estimates” and “ensure that there are agency-wide standards or methods for calculating burden estimates in information collections.”<sup>20</sup> Consistent with this recommendation, COMPTTEL urges the Commission to take a harder look at and make upward adjustments to the calculations used to arrive at the burden estimates for compliance with the rural call completion data recording, retention and reporting requirements before requesting approval from OMB.

OMB is entitled to a more accurate estimate of the time and financial burdens that compliance will entail before conducting its PRA analysis.

Respectfully submitted,

/s/

Mary C. Albert

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<sup>19</sup> Petition of USTelecom and ITTA for Reconsideration Or In The Alternative, For Waiver or Extension of Time To Comply filed January 16, 2014 in WC Docket No. 13-39 at 1-2.

<sup>20</sup> Report on FCC Process Reform From The Staff Working Group Led By Diane Cornell at 31 (Feb. 14, 2014).