

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter)
) **WC Docket No. 13-39**
Rural Call Completion)

COMPTEL’S COMMENTS ON MIDCONTINENT’S REQUEST FOR WAIVER

COMPTEL, through undersigned counsel, hereby submits its comments¹ on Midcontinent Communications’ (“Midcontinent”) request for a limited, temporary waiver of the Commission’s rural call completion reporting requirements.² Midcontinent is a small competitive provider of telephone, cable and Internet services to customers in Minnesota, North Dakota and South Dakota. Many of its customers are located in rural areas.³

Midcontinent’s Request for Waiver underscores the need for Commission reconsideration of its decision to change without notice or warning the definition of small carrier for purposes of exemption from the recordkeeping, data retention and reporting requirements adopted in the above captioned proceeding.⁴ In the Notice of Proposed Rulemaking, the Commission sought comment on whether to exempt from the onerous data retention and reporting requirements small

¹ Public Notice, “Wireline Competition Bureau Seeks Comment on Petitions for Waiver Filed in the Rural Call Completion Proceeding,” WC Docket No. 13-39, DA 14-577 (rel. May 1, 2014).

² Midcontinent Communications Request for Waiver filed January 23, 2014 in WC Docket No. 13-39.

³ *Id.* at i.

⁴ See COMPTEL’s Petition for Reconsideration filed in WC Docket No. 13-39 on January 16, 2014.

originating long distance providers with 100,000 or fewer total retail long distance *subscribers*.⁵ The final rule adopted by the Commission exempted providers making the initial call path choice for more than 100,000 retail *subscriber lines*.⁶ The Commission made this dramatic change without explanation and without providing an opportunity for affected parties to comment as the Administrative Procedure Act requires. 5 U.S.C. § 553.

As COMPTTEL demonstrated in its Petition for Reconsideration filed January 16, 2014, defining the small carrier exemption in terms of the number of subscriber lines rather than the number of subscribers increased the estimated number of providers subject to the recordkeeping, data retention and reporting requirements from 90 to 225.⁷ By failing to apprise long distance service providers with fewer than 100,000 subscribers but more than 100,000 subscriber lines that they may be subject to the costly and burdensome record keeping, data retention and reporting requirements, the Commission deprived them of any opportunity to submit comment on the formulation of the regulations by which they are now bound. Midcontinent asserts that it is one of those providers that was caught in the gap and supports its waiver request with information regarding the substantial financial burdens compliance with the rules will entail – information that it could have presented to the Commission before the final rules were adopted had it been given the opportunity.⁸ All small carriers that have less than 100,000 subscribers but

⁵ *In the Matter of Rural Call Completion*, WC Docket No. 13-39, Notice of Proposed Rulemaking, FCC 13-18, at ¶31 (rel. Feb. 7, 2013) (“NPRM”) and Proposed Rule 64.2107(a).

⁶ *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”) and Final Rule 64.2101(c).

⁷ COMPTTEL’s Petition for Reconsideration at 4-8.

⁸ Midcontinent Request for Waiver at ii, 3, 5-8.

more than 100,000 subscriber lines will incur similar costs but were denied the opportunity to present comments to the Commission on how burdensome and expensive compliance with the final rules will be. The Commission should take immediate action and grant COMPTTEL's unopposed Petition for Reconsideration. Reinstating the definition of small provider set forth in the NPRM on which the Commission actually solicited and received comments is the only way to proceed consistent with the Administrative Procedure Act and will substantially reduce the need for small providers to request waivers.

In the meantime, the Commission should look favorably upon requests by small providers, such as Midcontinent, for waiver of the recordkeeping and reporting requirements. Midcontinent describes the process it follows to monitor call completion and the steps it takes to address any problems that are discovered.⁹ In the absence of evidence that such efforts are insufficient to ensure satisfactory rural call completion rates, the waiver should be granted.

Respectfully submitted,

/s/

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⁹ *Id.* at 9-10