

Calendar No. 276

113TH CONGRESS }
1st Session }

SENATE

{ REPORT
113-130

A RESOLUTION EXPRESSING THE SENSE OF
THE SENATE THAT TELEPHONE SERVICE
MUST BE IMPROVED IN RURAL AREAS
OF THE UNITED STATES AND THAT NO
ENTITY MAY UNREASONABLY
DISCRIMINATE AGAINST TELEPHONE
USERS IN THOSE AREAS

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. Res. 157



DECEMBER 19, 2013.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. Res. 157]

The Committee on Commerce, Science, and Transportation, to which was referred the Senate resolution (S. Res. 157) a resolution expressing the sense of the Senate that telephone service must be improved in rural areas of the United States and that no entity may unreasonably discriminate against telephone users in those areas, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the resolution (as amended) do pass.

PURPOSE OF THE RESOLUTION

The purpose of S. Res. 157, as reported, is to express the sense of the Senate that telephone service must be improved in rural areas of the United States and that no entity may unreasonably discriminate against communications service in those areas. It also calls upon the Federal Communications Commission (FCC) to aggressively enforce violations of its rules to discourage such unreasonable discrimination.

BACKGROUND AND NEEDS

In order for a long distance or wireless carrier to complete one of its subscriber's calls, the carrier must deliver the call to the exchange serving the called party. The physical process of delivering the call to the exchange is called "routing," and the charge paid by the long distance company to the local carrier is called an "access charge." These charges help pay for the cost of rural networks.

Carriers often have multiple ways to route a call to its destination. In order to reduce access charges, some carriers have contracted with third-party “least-cost routing” service providers. These providers connect calls to their destination at the lowest cost possible. Although many of these contracts include performance parameters, it appears that all too frequently those performance levels are not being met and a portion of calls are never connected.

Recurring complaints indicate that rural consumers are having significant problems receiving long distance or wireless calls on their landline telephones. According to trade associations that represent rate-of-return carriers in rural areas, consumer complaints related to call completion problems have increased dramatically in recent years. According to data filed by the National Telecommunications Cooperative Association (NTCA) with the FCC in 2011, 80 percent of rural carriers responding to one survey reported problems. In addition, NTCA data indicated that reports from rural subscribers who had problems receiving calls increased by over 2,000 percent in the twelve-month period from April 2010 to March 2011.

In February 2012, the FCC issued a declaratory ruling making clear that rural call routing practices that lead to call termination and call quality problems could be a violation of the Communications Act of 1934, as amended (Act). Specifically, the FCC concluded that such call routing practices may constitute unjust and unreasonable practices in violation of the Act and may violate a carrier’s section 202 duty to refrain from unjust or unreasonable discrimination in practices, facilities, or services. The FCC also emphasized that, under section 217 of the Act, carriers are responsible for the actions of their agents or other persons acting for or employed by the carriers.

Despite this action, studies prepared by the National Exchange Carrier Association (NECA) suggest that rural call completion problems did not abate and may have grown. As a result, the FCC released a Notice of Proposed Rulemaking (NPRM) on February 7, 2013, exploring the issues surrounding call completion. The NPRM seeks more detailed calling information from long-distance voice and Voice-over-Internet Protocol (VoIP) providers that could help isolate and address rural call completion problems. In addition, the FCC’s Enforcement Bureau is investigating several long-distance providers for call completion problems. For example, in March 2013, the FCC announced a consent decree with Level 3 Communications relating to the company’s call completion practices, pursuant to which Level 3 agreed to pay an almost \$1 million voluntary contribution to the FCC and to abide by certain “verifiable” call completion standards and record-keeping obligations.

NTCA and other groups have argued that call completion problems compromise the integrity and reliability of the public-switched telephone network and threaten the public safety, homeland security, consumer welfare, and economic well-being in rural America.

LEGISLATIVE HISTORY

In the 113th Congress, Senator Klobuchar introduced S. Res. 157 on May 23, 2013. The bill was co-sponsored by Senators Baldwin, Boozman, Boxer, Cantwell, Enzi, Fischer, Franken, Grassley, Har-

kin, Hoeven, Tim Johnson, Leahy, Merkley, Pryor, Roberts, Sanders, Tester, and Thune.

The Committee held an executive session on July 30, 2013, during which S. Res. 157 was considered. Senator Klobuchar submitted an amendment making technical changes to S. Res. 157, which was adopted by voice vote. S. Res. 157, as amended, was reported favorably by the Committee.

ESTIMATED COSTS

The Committee states that, in its opinion, paragraph 11(a) of rule XXVI of the Standing Rules of the Senate does not apply to this resolution.

REGULATORY IMPACT STATEMENT

The Committee states that, in its opinion, paragraph 11(b) of rule XXVI of the Standing Rules of the Senate does not apply to this resolution.

SECTION-BY-SECTION ANALYSIS

S. Res. 157 expresses the sense of the Senate that telephone service must be improved in rural areas of the United States and that no entity may unreasonably discriminate against telephone users in those areas.

S. Res. 157 includes documentation of the scope of the call completion problems in rural America. Specifically, evidence collected by the NECA indicates the following: (1) call completion problems increased by 41 percent between March and September of 2012; (2) 6.4 percent of calls to rural areas failed, compared to 0.5 percent of calls to urban areas; and (3) 11 percent of calls to rural areas suffered from poor quality or were delayed, compared to 5 percent of calls in urban areas. It also recounts the steps the FCC has taken to date to combat the call completion problem, including its Declaratory Ruling in February 2012.

S. Res. 157 also states that the FCC's actions to combat call completion problems have not significantly decreased the incidence of problems, and that some States are reporting increases in call completion issues as of April 2013. Finally, S. Res. 157 notes that call completion issues affect public safety and economic activity in rural areas.

Given the foregoing, S. Res. 157 would resolve that it is the sense of the Senate that—

(1) all providers must appropriately complete calls to all areas of the United States, regardless of the technology used by providers;

(2) no entity may unreasonably discriminate against communications service in rural areas of the United States; and

(3) the Federal Communications Commission should—

(A) aggressively pursue those that violate the rules of the Federal Communications Commission and create these problems, and impose swift and meaningful enforcement actions to discourage—

(i) practices leading to telephone calls not being completed in rural areas of the United States; and

(ii) unreasonable discrimination against communications service in rural areas of the United States; and
(B) move forward with clear, comprehensive, and enforceable actions to establish a robust and definitive solution to stop discrimination against communications service in rural areas of the United States.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

