

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Amendment of Part 4 of the Commission's Rules Concerning Disruptions to Communications)	PS Docket No. 15-80
)	
New Part 4 of the Commission's Rules Concerning Disruptions to Communications)	ET Docket No. 04-35
)	

**REPLY COMMENTS OF ITTA –
THE VOICE OF MID-SIZE COMMUNICATIONS COMPANIES**

**Genevieve Morelli
Micah M. Caldwell
ITTA
1101 Vermont Ave., NW
Suite 501
Washington, D.C. 20005**

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ITTA – The Voice of Mid-Size Communications Companies (“ITTA”) hereby submits its reply comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) March 30, 2015 Notice of Proposed Rulemaking (“*NPRM*”) seeking comment on proposals to improve its Part 4 network outage reporting rules.¹

I. INTRODUCTION AND SUMMARY

ITTA supports the Commission’s efforts to update its rules “to improve the quality and usefulness of the outage data the Commission receives.”² Given that the current rules “have served the Commission well for over a decade,”³ however, ITTA shares the concerns of other commenters that some of the Commission’s proposals are unnecessary and would frustrate the

¹ *In the Matter of Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications; New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, PS Docket No. 15-80, ET Docket No. 04-35, Notice of Proposed Rulemaking, Second Report and Order, and Order on Reconsideration, FCC 15-39 (rel. Mar. 30, 2015) (“*NPRM*”).

² *Id.* at ¶ 6.

³ *Id.* at ¶ 1.

Commission's objectives while doing nothing to further the reliability and resiliency of the nation's communications networks.

Thus, ITTA supports the changes suggested in the *NPRM* that would make the Commission's outage reporting requirements more effective and less burdensome. Specifically, we believe the Commission should move forward with its proposals to raise the reporting threshold for major transport facility outages⁴ and to narrow the scope of its outage reporting obligations relating to airports.⁵ Doing so would reduce burdens on reporting entities without compromising the efficacy of the outage data submitted to the Commission.

ITTA also believes there may be value in the Commission's proposal to share NORS data with state Commissions in furtherance of their public safety responsibilities, subject to stringent confidentiality protections and other appropriate measures, as explained in more detail below.⁶ In addition, we believe this proceeding presents an appropriate opportunity for the Commission to conform its outage reporting requirements for cable, wireline, and wireless providers with those of interconnected VoIP providers to achieve regulatory parity, reduce unnecessary reporting obligations, and generate better data for evaluating network resiliency.

However, ITTA believes that the Commission should refrain from adopting unnecessary proposals that would increase burdens on providers without producing any tangible public safety benefit. Therefore, the Commission should not move forward with its proposals to reduce the timeframe for reporting simplex events⁷ and to revise the definition of reportable outages to

⁴ *Id.* at ¶¶ 19-22.

⁵ *Id.* at ¶ 43.

⁶ *Id.* at ¶¶ 48-53.

⁷ *Id.* at ¶ 29.

include significant degradations in service that do not result in a complete loss of communication to PSAPs.⁸

In addition, the Commission should avoid expanding the scope of special offices and facilities to include entities that are enrolled in or eligible for the Telecommunications Service Priority (“TSP”) program.⁹ Because these proposals would increase providers’ reporting obligations without improving the quality or usefulness of the outage data the Commission receives, they are unwarranted and unnecessary to facilitate the Commission’s network reliability and public safety goals.

II. ITTA SUPPORTS COMMISSION PROPOSALS THAT WOULD IMPROVE THE QUALITY AND USEFULNESS OF OUTAGE REPORTING DATA

A. The Commission Should Increase the Major Transport Facility Outage Reporting Threshold

ITTA agrees with other commenters that the Commission should adopt its proposal to increase the reporting threshold for major transport facility outages to take into account the continued evolution of communications networks.¹⁰ As the Commission notes, bandwidth requirements have shifted most traffic to larger circuits and fiber facilities.¹¹ Therefore, the low level of the Commission’s current threshold (1,350 DS3 minutes) leads to over-reporting of “minor disruptions unlikely to have a significant impact on communications or jeopardize public

⁸ *Id.* at ¶ 12.

⁹ *Id.* at ¶¶ 38-41.

¹⁰ *See, e.g.*, Comments of CenturyLink, PS Docket No. 15-80, ET Docket No. 04-35 (filed July 16, 2015) (“CenturyLink Comments”), at 3-4; Comments of XO Communications, PS Docket No. 15-80, ET Docket No. 04-35 (filed July 16, 2015) (“XO Comments”), at 4-5; Comments of Sprint Corporation, PS Docket No. 15-80, ET Docket No. 04-35 (filed July 16, 2015) (“Sprint Comments”), at 6; Comments of COMPTTEL, PS Docket No. 15-80, ET Docket No. 04-35 (filed July 16, 2015) (“COMPTTEL Comments”), at 1-2; Comments of Verizon, PS Docket No. 15-80, ET Docket No. 04-35 (filed July 16, 2015) (“Verizon Comments”), at 2.

¹¹ *NPRM* at ¶ 19.

safety.”¹² ITTA supports the Commission’s proposal to increase the reporting threshold to 667 OC3 minutes at a minimum, and believes the threshold could be even higher so as to yield more targeted information on significant outages that are more likely to have a material impact on users.

There also may be merit to some of the proposals relating to major transport facility outages suggested by other commenters. For instance, Comcast supports increasing the reporting threshold to at least to 667 OC3 minutes, but recommends that the Commission adopt this change as an interim measure while it considers implementation of a bandwidth-based standard (e.g., a 1 GB outage that lasts for at least 30 minutes) that can be adjusted over time to reflect changes in technology and network architecture.¹³

Alternatively, AT&T recommends that the Commission scuttle the current reporting metric altogether because counting failed circuits of a given capacity does not adequately capture the effect on customers’ service or provide an accurate portrayal of network health.¹⁴ Rather than counting failed circuits, AT&T suggests that the Commission focus on the reporting of events that truly impact service, which are already captured by other outage reporting metrics, such as end office isolations, call blockages, and E911 failures.¹⁵ Should the Commission nonetheless maintain reporting based on failed transport capacity, AT&T suggests that the

¹² *Id.*

¹³ Comments of Comcast Corporation, PS Docket No. 15-80, ET Docket No. 04-35 (filed July 16, 2015) (“Comcast Comments”), at 5-7.

¹⁴ Comments of AT&T, PS Docket No. 15-80, ET Docket No. 04-35 (filed July 16, 2015) (“AT&T Comments”), at 10.

¹⁵ *Id.* at 10-11.

Commission permit carriers to report such outages on the basis of the working capacity of failed optical carrier circuits and that it set the threshold at the OC12 level, rather than the OC3 level.¹⁶

The Commission should consider these suggestions as it implements an updated reporting threshold “to account for changes in how networks are scaled and designed,” while “reduc[ing] reporting burdens” and “preserving the Commission’s ability to obtain critical information about communications reliability.”¹⁷

B. The Commission Should Narrow the Scope of Its Reporting Requirements Relating to Airports

ITTA agrees with other commenters that the Commission should adopt its proposal to narrow the scope of airports affected by its outage reporting requirements to include only those that are designated as “primary commercial service” airports.¹⁸ Doing so would focus outage reporting on events most likely to have a substantial public safety impact while eliminating unnecessary reporting of minor, non-critical occurrences.

Consistent with this objective, however, the Commission should provide additional guidance regarding its proposal to limit reportable outages “potentially affecting” an airport to include only those outages relating to critical communications.¹⁹ As the Commission observes, most of the reports filed in this category have concerned outages not significant enough to pose a substantial threat to public safety.²⁰ Thus, additional detail and specificity regarding the types of

¹⁶ *Id.* at 11-12. *See also* ATIS Comments at 7 (suggesting that the proposed 667 OC3 metric does not adequately reflect the evolving use of the network).

¹⁷ *NPRM* at ¶¶ 19, 22.

¹⁸ *See, e.g.*, CenturyLink Comments at 5-6; Sprint Comments at 9-10; Verizon Comments at 11.

¹⁹ *NPRM* at ¶¶ 42-44.

²⁰ *Id.* at ¶ 43.

communications captured by this rule would be useful to guard against unnecessary reporting of insignificant events.

C. The Commission Should Allow Sharing of Outage Reporting Data Subject to Appropriate Confidentiality Protections and Other Conditions

Like other commenters, ITTA does not object to the Commission’s proposal to grant states read-only access to portions of the Network Outage Reporting System (“NORS”) database pertaining to communications outages in their respective states, so long as stringent confidentiality protections and other measures are put in place.²¹

First, it is imperative that, at a minimum, states have in place confidentiality protections that meet or exceed those set forth in the federal Freedom of Information Act (“FOIA”) and that states certify they will keep the information in the reports confidential. Not only is NORS data competitively sensitive, but its disclosure also presents significant security risks.²² Therefore, states should be required to affirmatively request access to NORS data so providers are aware of who may be reviewing it, and states should be required to immediately notify providers of any confidentiality breach or unauthorized release. Second, the Commission must ensure that access is strictly limited to state public utility commission officials, not third parties, and any state use of the data must fall within the state’s traditional role of protecting public health and safety. Third, states that opt to receive NORS data should be required to eliminate any independent state outage reporting requirements to minimize the burden on providers of filing multiple reports due to overlapping federal and state obligations.²³

²¹ See, e.g., CenturyLink Comments at 4-5; XO Comments at 7-8; Verizon Comments at 12-13. See also Letter from Rebecca Murphy Thompson, Competitive Carriers Association, to Marlene H. Dortch, FCC, PS Docket No. 15-80, ET Docket No. 04-35 (filed July 16, 2015) (“CCA Letter”), at 4-5.

²² See *NPRM* at ¶ 51.

²³ See *id.* at ¶ 52.

The Commission may also want to consider implementing other protections, given the extremely sensitive nature of NORS data and that many of the additional safeguards suggested in the *NPRM*²⁴ garnered support from other commenters. These proposals include requiring personnel who obtain access to NORS data to undergo security training and to supply their identities to the FCC; terminating access and/or penalizing parties for breaches of confidentiality; creating an audit log to maintain records on what data was accessed, when, and by which parties; and invalidating inactive user accounts after a certain period of time to reduce security risks.²⁵

The Commission may also want to consider whether the federal FOIA statute is the appropriate benchmark for confidentiality and whether another standard might be more appropriate to ensure NORS data is given the highest level of protection from disclosure.²⁶ In sum, the Commission must establish meaningful, effective safeguards to ensure that state officials accessing NORS data protect its confidentiality and use it appropriately.

With respect to other federal agencies, ITTA does not oppose access to NORS data by the National Coordinating Center for Communications.²⁷ However, such access should be subject to the same conditions as data shared with state public utility commissions.

²⁴ *See id.* at ¶¶ 52-53.

²⁵ *See, e.g.*, Comments of CTIA – The Wireless Association, PS Docket No. 15-80, ET Docket No. 04-35 (filed July 16, 2015) (“CTIA Comments”), at 14-15; ATIS Comments at 12. *See also* Comments of the National Cable & Telecommunications Association, PS Docket No. 15-80, ET Docket No. 04-35 (filed July 16, 2015), at 3 (suggesting, among other things, that state officials be required to provide advance notice of, and a meaningful opportunity to comment on, any plan to use NORS data).

²⁶ *See, e.g.*, COMPTTEL Comments at 9-10; Sprint Comments at 12.

²⁷ *See NPRM* at ¶ 55.

D. The Commission Should Modify Its Outage Reporting Requirements to Ensure That They Are Consistent for All Providers

ITTA supports the suggestion by other commenters that the Commission should harmonize the outage reporting requirements of cable, wireline, and wireless providers with those of interconnected VoIP providers.²⁸ Under this proposal, the deadline for notifications, other than those for outages to 911 special facilities, would be extended from 240 minutes to 24 hours, and the deadline for notifications relating to 911 special facilities would be extended from 120 minutes to 240 minutes. Likewise, the obligation for some, but not all, providers to file initial reports within 72 hours of discovering an outage would be eliminated. Instead, providers would only be required to file final outage reports, consistent with the requirements for interconnected VoIP providers.

ITTA has long advocated for regulatory parity with respect to Commission requirements, and adopting a consistent approach for all affected providers would ensure that the Commission's rules do not distinguish among different types of providers based on technology. Moreover, taking this approach would simplify the reporting process, eliminate unnecessary reporting obligations, and lead to more accurate and meaningful reporting because it would give carriers additional time to determine whether a reportable outage has actually occurred and to evaluate its impact.

III. ITTA OPPOSES PROPOSALS THAT WOULD UNDERMINE THE COMMISSION'S STATED GOALS

A. The Commission Should Not Reduce the Reporting Timeframe Relating to Simplex Events

Given that simplex events should not even be reportable in the first place, ITTA joins other commenters in opposing the Commission's proposal to shorten the simplex reporting

²⁸ See ATIS Comments at 4; Sprint Comments at 5-6.

threshold from five days to 48 hours.²⁹ A simplex event occurs when a circuit fails and traffic is diverted to a backup circuit or protect path. Therefore, a simplex event is not an outage at all. Customers do not experience any disruption in or degradation of service. There is no direct impact on end users because the diversity built into the network works as intended to maintain connectivity. Thus, if the primary purpose of the Commission's outage reporting rules is to identify service disruptions that have a direct effect on the safety of life or property or on national security,³⁰ there is simply no logic to reducing the time period for reporting simplex events as the Commission proposes.

Adopting this proposal would drastically increase the number of reports providers would be required to file. Although the Commission estimates that the number of additional reports its proposal will generate is about 1,000 per year, this figure is significantly understated.³¹ AT&T alone could be required to file 1,000 additional reports each year if the Commission moves forward with its proposal.³² Verizon estimates that it would have to file hundreds of additional reports annually if the Commission implements the proposed change.³³

The Commission suggests that the timeframe should be shortened to be more consistent with industry best practices.³⁴ Although providers attempt to repair simplex outages as expeditiously as possible during low traffic periods, and often times within 24 to 48 hours, there are a number of intervening factors that may justifiably prevent them from doing so within a

²⁹ See, e.g., AT&T Comments at 12-16; COMPTTEL Comments at 2-4; CenturyLink Comments at 7-8; ATIS Comments at 7-8; XO Comments at 5-6.

³⁰ See *NPRM* at ¶ 11.

³¹ *Id.* at ¶ 30.

³² See AT&T Comments at 15.

³³ Verizon Comments at 10.

³⁴ *NPRM* at ¶ 28.

short timeframe (e.g., inclement weather, hazardous conditions, complicated repairs that require ordering additional equipment, etc.). Given these realities, there is no reason to believe that a lower reporting threshold would incentivize providers to repair simplex events more quickly.³⁵ All the Commission would achieve in adopting a shorter time period would be to require additional reporting and additional burdens for providers with no concurrent benefit. If anything, simplex reporting obligation should be further reduced, not amplified. The Commission's proposal is unwarranted, unnecessary, and should not be adopted.

B. The Commission Should Not Revise the Definition of Reportable Outages to Include Significant Degrations of Service

ITTA agrees with other commenters that the Commission should not revise its rules to require providers to report any network malfunction or higher-level issue that significantly degrades or prevents 911 calls from being completed, regardless of whether the PSAP is rendered completely unable to receive calls.³⁶ It is unclear how a provider would know when an outage results only in a partial loss of communications to a PSAP. Because the proposed rule is not contingent upon the inability of the PSAP to receive calls, it would be difficult, if not impossible, for providers to determine when a degradation event would need to be reported.

The proposed modification also would require providers to report events that are outside of their control and knowledge. Providers have no visibility into what is occurring in parts of the network that are owned and controlled by PSAPs or covered 911 service providers, so they would be unable to report whether a PSAP is experiencing an issue that significantly degrades or prevents 911 calls from being completed.

³⁵ See *id.* at ¶ 30.

³⁶ See, e.g., ATIS Comments at 5-6; CenturyLink Comments at 9-10; Verizon Comments at 2-5; CTIA Comments at 8-9; Sprint Comments at 3.

Moreover, the Commission has provided no justification for modifying the rule. In the past three years, the Commission has been made aware of “only a handful of events” that appear to have produced a “significant degradation” in communications to a PSAP without resulting in a complete loss of communications.³⁷ Indeed, the Commission posits that “as many as ten such events a year would be reportable” if it adopts the change it proposes.³⁸ Given the Commission’s acknowledgement that there is little (if any) public interest benefit to be gained by imposing the rule, the proposed change is unjustified.

As other commenters point out, however, imposing this standard could actually significantly *increase* the number of reports required to be filed, contrary to the Commission’s claims. Inundating the Commission with reports that indicate an E911 event has occurred even when the event does not result in the inability of a PSAP to receive calls would degrade the quality of data submitted to the Commission.³⁹ As a result, the data from NORS would be significantly less useful for assessing the reliability of 911 networks. There continues to be no justification for the rule change under this scenario because it would impose significant burdens on providers with no countervailing public safety benefit.

C. The Commission Should Not Classify TSP-Eligible or Enrolled Facilities as Special Offices and Facilities

ITTA agrees with other commenters that the Commission should refrain from classifying as “special offices and facilities” those facilities enrolled in or eligible for the TSP program.⁴⁰ Like other changes suggested in the *NPRM*, this proposal could significantly increase the number

³⁷ *NPRM* at ¶ 13.

³⁸ *Id.*

³⁹ *See, e.g.*, CenturyLink Comments at 10-11; Verizon Comments at 3; ATIS Comments at 6.

⁴⁰ *See, e.g.*, AT&T Comments at 18-21; Comcast Comments at 7-8; CTIA Comments at 11-13; CCA Letter at 4; ATIS Comments at 10; Sprint Comments at 9; Verizon Comments at 10-11.

of reports required to be submitted by providers with little or no corresponding public interest benefit.

The list of TSP-enrolled facilities includes a wide variety of entities, ranging from military installations and federal agencies to hospitals and local law enforcement facilities. There are potentially thousands of facilities that would meet the definition. The universe of covered facilities would expand even further if the Commission includes TSP-*eligible* entities in the definition. Given that providers have no way to reliably track which entities are eligible for the TSP program, this modification would make compliance exceedingly difficult. The Commission should refrain from adopting this approach because it would unjustifiably burden providers and lead to a deluge of additional reports that would not be useful to the Commission.

Indeed, the Commission’s proposal to define special offices and facilities to include TSP-enrolled or eligible facilities is highly questionable when the Commission concurrently is proposing to delete Section 4.13 of its rules – the basis for reporting requirements relating to such special offices and facilities – as obsolete.⁴¹

Section 4.13 requires providers to report “mission-critical” outages of special offices and facilities if the outage lasts more than 30 minutes.⁴² The Commission adopted this rule with the expectation that the National Communications System (“NCS”) would identify “major military installations” and “key government facilities” that would qualify as special offices and facilities which in turn would be required to self-identify to carriers “mission-critical” outages that should be reported to the Commission.⁴³ According to the Commission, before the NCS was eliminated in 2012, none of its member agencies ever identified which of their facilities should be deemed

⁴¹ *NPRM* at ¶ 41.

⁴² *See* 47 C.F.R. § 4.13(c).

⁴³ *See NPRM* at ¶ 38.

major military installations or key government facilities.⁴⁴ Nor, in the twenty years since the rule was adopted, did the NCS ever forward any outage reports to the Commission.⁴⁵

Thus, the Commission is correct to conclude that it should eliminate Section 4.13 of its rules. As experience has shown, the Commission's reporting requirements relating to special offices and facilities have little to no practical utility and elimination of these requirements would have zero impact on the Commission's ability obtain information about critical outages because the current rules were never implemented. Under the circumstances, there is no need for the Commission to try to fill any perceived void in its outage reporting rules by requiring providers to file reports for outages affecting facilities enrolled in or eligible for the TSP program.

⁴⁴ *Id.*

⁴⁵ *Id.* at ¶ 41.

IV. CONCLUSION

ITTA supports the Commission's efforts to improve its network outage reporting rules and urges the Commission to move forward with proposals in the *NPRM* relating to major transport facility outages, outages affecting airports, Part 4 information sharing, and other changes that would reduce burdens for providers and achieve tangible public safety benefits. By the same token, the Commission should reject proposals, such as those pertaining to simplex outage reporting, significant degradations of service, and outage reporting for special offices and facilities, that are unnecessary and would frustrate the Commission's goals while doing nothing to improve the quality and usefulness of the outage reporting data submitted to the Commission.

Respectfully submitted,

By: /s/ Micah M. Caldwell

Genevieve Morelli
Micah M. Caldwell
ITTA
1101 Vermont Ave., NW, Suite 501
Washington, D.C. 20005
(202) 898-1520
gmorelli@itta.us
mcaldwell@itta.us

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