

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
2018 Biennial Review of Telecommunications	)	PS Docket No. 18-376
Regulations	)	
	)	

**COMMENTS OF  
THE UNITED STATES TELECOM ASSOCIATION**

USTelecom – the Broadband Association (USTelecom)<sup>1</sup> submits these comments in response to the Federal Communications Commission’s (Commission) invitation to provide comments on regulations administered by the Public Safety & Homeland Security Bureau (PSHSB) that should be repealed or modified as part of the 2018 biennial review. USTelecom has identified several areas that are ripe for reconsideration by the PSHSB. In particular, the Commission should streamline Part 4 reporting obligations to focus on the reporting of material outages and the costs and benefits associated with administrative process, and Part 12 reporting obligations to increase administrative efficiency.

**I. The Part 4 Reporting Process Should Be Significantly Streamlined and Harmonized for All Services.<sup>2</sup>**

Network reliability and resiliency is at the core of all of USTelecom members’ businesses; we understand the criticality of our networks and when an unfortunate instance occurs that disrupts

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<sup>1</sup> USTelecom is the premier trade association representing service providers and suppliers for the telecom industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications service to both urban and rural markets.

<sup>2</sup> See Comments of AT&T, PS Docket No. 15-80, ET Docket 04-35, PS Docket No. 11-82 at 13 (Aug. 26, 2016).

service, we are committed to restoring service as quickly as possible. The FCC's Part 4 process is a part of that restoration process and we have developed recommendations designed to make the process more efficient and meaningful. USTelecom recommends that the Commission eliminate as unnecessary the following regulations: 1) existing outage reporting regimes for services currently subject to a three-part system;<sup>3</sup> and 2) the submission of an initial report within 72 hours of discovery (to be replaced with only the submission of a final report subsequent to the event).<sup>4</sup>

**A. The Existing Outage Reporting Regime Should Be Modified to Establish a Two-Stage System and Only Require a Final Report.**

The Commission's three-part submission process is overly burdensome, forcing impacted companies to divert valuable personnel resources to report the event, rather than utilizing them to assist in efforts to restore service to consumers.<sup>5</sup> As noted previously by USTelecom, service providers only know minimal information upon filing an Initial Report – and even less is known within the first 120 minutes.<sup>6</sup> Moreover, the utility of filing a notification within 120 minutes of a reportable outage is highly questionable. Although service providers will move swiftly to address outages occurring on their networks, it is unclear what remedial or other helpful steps the Commission can (or even should) take at that early stage. Finally, as previously noted by USTelecom, the rule contradicts the spirit of the Executive Branch's effort to push regulatory

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<sup>3</sup> See Comments of USTelecom, PS Docket No. 15-80, ET Docket 04-35, PS Docket No. 11-82 at 8-10 (Aug. 26, 2016) (USTelecom Comments); See Comments of CenturyLink, PS Docket No. 15-80, ET Docket 04-35, PS Docket No. 11-82 at 20 (Aug. 26, 2016); See Verizon Ex Parte Letter, PS Docket No. 15-80, ET Docket 04-35, PS Docket No. 11-82 at 3 (Oct. 5, 2016).

<sup>4</sup> See Comments of AT&T, PS Docket No. 15-80, ET Docket 04-35, PS Docket No. 11-82 at 13 (Aug. 26, 2016).

<sup>5</sup> USTelecom Comments at 8.

<sup>6</sup> *Id.* at 9.

flexibility, simplification of reporting and compliance requirements, and reducing regulatory burdens on small businesses.<sup>7</sup>

The Commission should instead harmonize all outage reporting obligations for consistency with the existing outage reporting requirements for interconnected VoIP. Specifically, such reporting should consist of a two-part submission process: 1) notification of an outage within 24 hours of its discovery; and 2) a final report within 30 days of the outage being discovered. Such an approach satisfies the Commission's asserted needs to ensure adequate notice of the outage (accomplished with the first report) and subsequent receipt of detailed information on the source of the outage (accomplished with the final report).

**B. The Current Deadline for Notifications Applicable to Legacy Services Should Be Extended**

The Commission should also extend the current deadline for Notifications applicable to Legacy Services providers from 120 minutes to at least 24 hours (or maybe longer) for non-911 special facilities and from 120 minutes to 240 minutes for 911 special facilities.<sup>8</sup> When the Commission adopted the interconnected VoIP reporting rules in 2012 with their different reporting structure and deadlines, the Commission concluded that eliminating the Initial Report would “reduce the [VoIP] providers’ workloads” and that “[f]inal reports would still give the Commission the opportunity to obtain the full details within the same timeframe as it does so today.”<sup>9</sup>

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<sup>7</sup> *Id.* at 10.

<sup>8</sup> *See* Comments of AT&T, PS Docket No. 15-80, ET Docket 04-35, PS Docket No. 11-82 at 13 (Aug. 26, 2016).

<sup>9</sup> Report and Order, *Proposed Extension of Part 4 of the Commission’s Rules Regarding Outage Reporting to Interconnected Voice over Internet Protocol Service Providers and Broadband Internet Service Providers*, PS Docket No. 11-82, 27 FCC Rcd 2650, ¶ 96 (2012).

Those conclusions are equally applicable to non-VoIP providers; thus, there is no reason to retain the current cable, wireline, and wireless provider requirement to file Initial Reports. Similarly, the Commission justified a lengthier notification period for interconnected VoIP providers in 2012 because “data networks operate differently than voice networks, and the cause of some degradations of service may not be as clearly identifiable.”<sup>10</sup> The Commission has since acknowledged that the entire communications industry is migrating to IP-based networks<sup>11</sup> so, again, the Commission’s rationale supplied in 2012 should be extended to all other providers; the Commission should amend its rules to give all providers 24 hours to report non-911 special facility outages and 240 minutes to report outages potentially affecting a 911 special facility.<sup>12</sup>

## **II. Administrative Changes to the 911 Reliability Certification Process Are Necessary**

The Commission’s underlying 911 reliability rules, as implemented through the 2013 *911 Reliability Order*,<sup>13</sup> remain functional and useful in ensuring network reliability and resiliency. Yet the Bureau should consider whether administrative changes to the reporting structure are warranted five years after adoption. In particular, certifying the results of the diversity audit on an annual basis is no longer necessary given that the results do not change substantially from year-to-year. The initial effort to audit, reconsider diversity paths, and tag critical circuits for thousands of offices and aggregation points required substantial investment. Undoubtedly, the initial 2015 report required the largest underlying compliance effort and serves as a foundation of

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<sup>10</sup> *Id.* at ¶ 95.

<sup>11</sup> *See, e.g.*, Technology Transitions et al., GN Docket No. 13-5 et al., Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, 29 FCC Rcd 1433 (2014).

<sup>12</sup> *See*, 47 C.F.R. § 4.9(g).

<sup>13</sup> *Improving 911 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies*, Report and Order, 28 FCC Rcd 17476 (2013).

future resiliency designs and reporting. Now that the most significant upfront work is complete, the Commission could achieve its same reliability goals and lessen the burdens on reporting entities.

Accordingly, one administrative change that would significantly reduce burdens without changing the effect on resiliency would be to scale down the frequency of reporting to once every three years instead of annually.<sup>14</sup> Currently, companies must analyze and prepare very large data files for annual submission to the Commission but very little of the data changes from year to year after companies did their initial audit. For example, if in 2015 a circuit was examined, reconfigured to ensure diversity or other reasonable measure, and tagged as a critical circuit, it is unlikely that the network design of that circuit would change from one report to the next. Under the current reporting system covered providers are required to resubmit this information annually even if nothing changes; this is an inefficient use of provider resources and also inefficient for the Bureau staff charged with reviewing these very large submissions. Instead, an appropriate change would be to reduce the frequency of the submission to every three years. We note that changes to the frequency of the reporting schedule would not affect the responsibilities of the covered providers under the rules; it is purely an exercise of examining efficiencies in reporting that compliance.

Also, given that covered providers have already undertaken the largest effort to improve resiliency under the rules, there is little need for an ongoing corporate officer-level certification of compliance.<sup>15</sup> It is unclear as to what extra benefit this is providing; companies are responsible,

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<sup>14</sup> See 47 C.F.R. § 12.4(c) (requiring an annual certification).

<sup>15</sup> See 47 C.F.R. § 12.4(a)(3). This section defines a “certifying official” as a “corporate officer of a covered 911 service provider with supervisory and budgetary authority over network operations in all relevant service areas.”

with enforcement penalties for non-compliance, for compliance with the rules regardless of a corporate officer certification. Given that much of the information underlying the certification has become more static after the initial report, the corporate officer-level certification of the report is of even less utility. A simple administrative change eliminating the company certification would be an appropriate change five years later. To the extent the Commission believes it must maintain the certification, the Commission uses certifications or attestations in other public safety contexts without requiring an officer-level certification, which can be appropriate as director or other senior-level management personnel often are more intimately familiar with the subject matter.<sup>16</sup>

Respectfully submitted,

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<sup>16</sup> *See, e.g.*, 47 C.F.R. § 4.11 (“Notification and Initial and Final Communications Outage Reports shall be submitted by a person authorized by the communications provider to submit such reports to the Commission.”); *id.* at § 20.18(m)(4)(iii) (“The certification must be in the form of an affidavit signed by a director or officer of the carrier.”).

**APPENDIX**

**Rules Parts to Review for Repeal or Revision**

Part 4 – Disruptions to Communications

Part 12 – Resiliency, Redundancy and Reliability of Communications