

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| 2010 Biennial Review of |) | PS Docket No. 10-270 |
| Regulations Administered by the |) | |
| Public Safety and Homeland Security |) | |
| Bureau |) | |
| _____ |) | |

COMMENTS

The Alliance for Telecommunications Industry Solutions (ATIS), on behalf of its Network Reliability Steering Committee (NRSC), hereby submits these comments in response to the Federal Communications Commission’s (Commission) request for public comment as part of its 2010 biennial review of its regulations.¹ ATIS notes that, as part of this review, the Commission is focusing in particular on its data collection requirements. ATIS’ comments relate specifically to the Commission’s data collection requirements pertaining to the reporting of communications outages pursuant to Part 4 of the Commission’s Rules.² As explained more fully below, ATIS recommends that the Commission modify Section 4.9 of its rules to require initial Notifications within 120 minutes only for outages related to vandalism or terrorism, those impacting special facilities (such as airports or 911/E911 facilities), or Signaling System 7 (SS7) isolations.

¹ *Public Notice*, FCC 10-204, released December 30, 2010.

² These comments are consistent with ATIS’ September 23, 2009, correspondence to Paul de Sa, Chief of the Commission’s Office of Strategic Planning and Policy Analysis, in response to the Commission’s internal review of its data collection, processing, analyses and dissemination systems and processes.

I. Background

ATIS is a global standards development and technical planning organization that leads, develops and promotes worldwide technical and operations standards for information, entertainment and communications technologies. ATIS' diverse membership includes key stakeholders from the information and communications technologies industry –wireless and wireline service providers, equipment manufacturers, competitive local exchange carriers, providers of commercial mobile radio services, broadband providers, software developers, consumer electronics companies, public safety agencies, digital rights management companies, and internet service providers. Nearly 600 industry subject matter experts work collaboratively in ATIS' 17 open industry committees, which develop standards, specifications, best practices, guidelines and other approaches as deemed essential to communications networks' operation and continued evolution.

Formed in 1993 at the recommendation of the first Network Reliability and Interoperability Council, the ATIS NRSC strives to improve network reliability by providing timely consensus-based technical and operational expert guidance to all segments of the public communications industry. The NRSC addresses network reliability improvement opportunities in an open environment and advises the communications industry through the development of standards, technical requirements, technical reports, bulletins, best practices, and annual reports. The NRSC is comprised of industry experts with primary responsibility for examining, responding to and preventing outages for communications companies. These subject matter experts are the experts on communications reliability and outage reporting.

II. Discussion

Section 11 of the Communications Act requires the Commission to review its regulations on a biennial basis to determine whether any regulations are “no longer necessary in the public interest as a result of meaningful economic competition between providers...”³ As explained below, ATIS believes that there are data collection requirements in Part 4 of the Commission’s rules that are no longer necessary and which should be modified or repealed.

The ATIS NRSC is not proposing that all outage reporting obligations be eliminated. ATIS recognizes that the Commission has a valid need to collect information about communications outages and notes that the industry has been providing this information on either a voluntary or mandatory basis for almost 20 years. Such reporting began in April of 1992, when the Commission requested that wireline exchange and interexchange service providers report outages that lasted at least 30 minutes and potentially affected at least 50,000 customers. Subsequently, the criteria for reporting was expanded at the recommendation of the industry to include outages affecting at least 30,000 customers as well as outages affecting 911 emergency call centers, major airports, nuclear power plants, and key government facilities. The report rules later evolved to include other events such as fire-related incidents potentially affecting 1,000 or more lines, and to require that final reports include root-cause analysis and a review of how “Best Practices” could have prevented or mitigated the impact of such events.⁴

In 2004, the Commission established new rules pertaining to communications outage reporting.⁵ These new rules expanded mandatory outage reporting to new types of carriers, such

³ 47 USC 161

⁴ In the Matter of Notification by Common Carriers of Service Disruptions, CC Docket No. 91-273, *Report and Order*, 7 FCC Rcd 2010 (1992); *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 8 FCC Rcd 8511 (1993); *Second Report and Order*, 9 FCC Rcd 3911 (1994); *Order on Reconsideration of Second Report and Order*, 10 FCC Rcd 11764 (1995).

⁵ In the Matter New Part 4 of the Commission’s Rules Concerning Disruptions to Communications, ET Docket No. 04-35, 19 FCC Rcd 16830 (2004).

as wireless, satellite and paging service providers. The rules also included new reporting thresholds and applied the outage reporting rules to additional elements of communications systems. Finally, the new rules established a three-step outage process to be used for the reporting of all communications outages: (1) a Notification must be filed with the Commission within 120 minutes of an event that potentially meets the Commission’s reporting threshold; (2) an Initial Report must be filed within 72 hours of an outage; and (3) a Final Report must be filed within 30 days.⁶

ATIS believes that the three-step outage reporting process in Section 4.9 of the Commission’s rules should be modified. This obligation imposes a significant burden in terms of resources of communications providers without corresponding benefits to the public. When the Commission adopted its three stage outage reporting process, it noted that the filing of initial Notifications would be “helpful in determining whether an immediate response is required (e.g., terrorist attacks or systemic failures) and whether patterns of outages are emerging (e.g., phased terrorist attacks) that warrant further coordination or other action.”⁷ The Commission also stated that the requirement to file Notifications within 120 minutes “will also not impose any significant burden on the provider’s restorative efforts.”⁸ Both of these statements have proven inaccurate.

First, ATIS does not believe that the 120 minute Notification obligation, as it currently is written, would necessarily provide immediately available information applicable to homeland security and public safety situations. The sheer number of reportable incidents under the Commission’s rules and the need for service providers to err on the side of “overreporting”

⁶ 47 CFR ¶4.9.

⁷ *Report and Order* at ¶69

⁸ *Id.* at ¶75.

rather than risk missing Commission-mandated reporting timeframes and possible enforcement means that useful information specifically related to public safety and homeland security may be masked by the sheer volume of less significant reports filed under this requirement.

Second, the 120 minute reporting obligation does impose a significant burden on service providers that can interfere with the providers' main focus during the first minutes of an outage - identifying the source and scope of the outage and restoring service. The burden of the reporting rules, including the 120 minute reporting obligation, greatly exceeded Commission estimates that were made when the new reporting rules were adopted in 2004. In fact, the Commission recently updated its estimates to acknowledge a "significant increase of 10,100 hours in total annual burden."⁹ The new reporting burden of 19,738 hours cannot be seen as anything but a significant burden to the industry.¹⁰

NRSC notes that, even the revised estimates provided by the FCC may significantly underestimate the actual burden or the reporting obligations. Based on statements made by the FCC at a recent NRSC meeting, the FCC's NORS database contains approximately 50,000 final reports.¹¹ As the NORS system was not implemented until January 3, 2005, this total reflects an approximate annual burden of nearly 10,000 reports, significantly more than the 139 "responses" recently estimated by the FCC.¹² ATIS respectfully suggests the estimates may need to be clarified or revised. For instance, based on an estimate of 139 responses and a total annual

⁹ *Notice of Public Information Collection Being Reviewed by the Federal Communications Commission (PRA Notice)*, 75 Fed Reg 199 at p. 63474 (Oct. 15, 2010).

¹⁰ As ATIS has previously noted, the total number of reports for a single carrier may be 5,000 or more, with the total reporting burden of the reports exceeding five (5) hours. The total outage reporting burden, while varying greatly between carriers of different types and sizes, can total between 5,000 to 54,000 hours per year, at a cost of between \$300,000 and \$5 million. *See* Letter from ATIS NRSC to Paul de Sa, Chief of the Commission's Office of Strategic Planning and Policy Analysis (Sept. 23, 2009).

¹¹ December 8, 2010, NRSC Meeting Notes (available at the ATIS NRSC website). This number does not appear to include the number of notifications that were filed and subsequently withdrawn.

¹² *PRA Notice* at p. 63474.

reporting burden of 19,738 hours, it would appear that each report would have an associated burden of 142 hours; this estimate is not accurate.

ATIS therefore recommends that the Commission modify this regulation to limit the 120 minute Notification requirement only to outages related to vandalism or terrorism, those impacting special facilities (such as airports or 911/E911 facilities), or SS7 isolations. These types of outages warrant immediate notification because of their potential impact on public-safety and/or homeland security. For other outages, the NRSC believes that a different timeframe should be considered.

Finally, ATIS notes that there may be other opportunities to streamline or eliminate data collection processes related to outage reporting, including obligations associated with certain types of DS3 outage and outages related to planned maintenance. ATIS and its NRSC have appreciated the opportunity to collaborate with the Commission on reliability issues in the past and look forward to future collaboration and dialogue, including the discussion of other appropriate changes to streamline the Commission's outage reporting rules.

III. Conclusion

ATIS believes that the three stage reporting requirement in Section 4.9 of the Commission's rules should be modified because the current rule is no longer necessary in the public interest. Specifically, ATIS recommends that the Commission modify Section 4.9 require initial Notifications within 120 minutes only for outages related to vandalism or terrorism, or impacting special facilities (such as airports or 911/E911 facilities) or SS7 isolations.

Respectfully submitted,

ATIS

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