

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

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

**REPLY COMMENTS OF THE
ALLIANCE FOR TELECOMMUNICATIONS INDUSTRY SOLUTIONS**

**THE ALLIANCE FOR
TELECOMMUNICATIONS
INDUSTRY SOLUTIONS**
On behalf of its **Network Reliability
Steering Committee and
Technical Subcommittee T1A1**

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June 24, 2004

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Summary

The Alliance for Telecommunications Industry Solutions (ATIS) urges the Commission to take into consideration numerous concerns raised by commenters in response to the proposed outage reporting requirements. ATIS notes that there is widespread support for the existing reporting process and the continued reliance on the cooperative efforts of the industry to develop Best Practices. ATIS urges the Commission to participate in the Network Reliability Steering Committee's (NRSC) Industry-Led Outage Reporting Initiative (ILORI) reporting program and provide a reasonable period of time for this process to work before imposing burdensome mandatory outage reporting requirements on communications providers.

ATIS notes that industry commenters have provided substantial constructive criticism of the proposed rules. These commenters explain that significant technical hurdles exist with regard to the proposed outage reporting thresholds. Therefore, if the Commission imposes mandatory outage reporting, ATIS urges the Commission to adopt the more reasonable and practical approach proposed by the industry through the NRSC/ILORI and ATIS Technical Subcommittee (T1A1).

Finally, ATIS notes that many commenters have expressed concerns regarding the Commission's proposed reporting process. If mandatory outage reporting is imposed, ATIS urges the Commission to modify the reporting process to promote the timely restoration of service, minimize burdens on communications providers and protect against the disclosure of sensitive outage data. For these same reasons, ATIS urges the Commission to work with state regulators to resolve inconsistencies between federal and state outage reporting requirements.

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**Reply Comments of the
Alliance for Telecommunications Industry Solutions**

The Alliance for Telecommunications Industry Solutions (ATIS), on behalf of its Network Reliability Steering Committee (NRSC) and Technical Subcommittee (T1A1), hereby submit these reply comments to the Federal Communications Commission's (Commission) *Notice of Proposed Rulemaking (NPRM)* in the above-referenced proceeding. In Section II of these reply comments, ATIS notes that there is widespread support from the communications industry for the existing reporting process and the continued reliance on the cooperative efforts of the industry to develop Best Practices. In Section III, ATIS urges the Commission to take into account the industry's objections to the Commission's proposed common metric for outage reporting and, if mandatory outage reporting is imposed, to instead adopt the more reasonable and practical approach proposed by the NRSC's Industry-Led Outage Reporting Initiative (ILORI) and T1A1. Finally, in Section IV, ATIS notes that many commenters have expressed concerns regarding the Commission's proposed reporting process. Therefore, if the Commission imposes mandatory outage reporting, ATIS urges the Commission to modify the reporting process to promote the timely restoration of service, minimize burdens on communications providers and protect against the disclosure of sensitive outage data.

I. Introduction

ATIS submitted comments in this proceeding on behalf of its NRSC and T1A1 industry committees to urge the Commission to recognize the strong commitment of the communications industry to provide reliable services to its customers. ATIS urged the Commission to support the voluntary industry efforts to promote reliability in communications networks through the NRSC/ILORI reporting process. If outage reporting is mandated, ATIS recommended that the Commission encourage industry cooperation by taking a reasoned approach to outage reporting that considers the technical feasibility of implementing the proposed reporting thresholds. ATIS also suggested changes to the proposed reporting process to reduce the burden on communications providers and to protect sensitive outage reporting data.

Over thirty parties submitted comments in response to the *NPRM*. The commenters included local service providers, satellite providers, mobile/cellular telephone providers, network equipment suppliers, communications associations and state/local regulators. ATIS notes as a general matter that there is a great deal of agreement among the various communications industry commenters. These commenters expressed concerns over the feasibility of virtually all of the Commission's outage reporting thresholds, as well as serious concerns regarding the proposed outage reporting process. Simply put, the comments make clear that the Commission's reporting requirements cannot be implemented as proposed. ATIS urges the Commission to work with the industry outside of an adversarial rulemaking proceeding to develop technically feasible, less burdensome methods of collecting outage reporting data.

II. There is Widespread Support Among Commenters for the NRSC/ILORI Voluntary Outage Reporting Program and the Voluntary Development of Best Practices

In its comments, ATIS noted that the real benefit of the existing reporting requirement is the cooperative analysis of the data and the studies performed by the industry in the NRSC. ATIS urged the Commission to continue the voluntary development of Best Practices by not imposing unnecessary regulatory mandates. Most commenters support ATIS' view that the voluntary reporting process should continue.

A. Commenters Agree that the Expansion of Mandatory Reporting Requirements is Unnecessary

The majority of commenters oppose the expansion of mandatory outage reporting requirements as an unwarranted burden on communications providers that is unnecessary to promote reliability in the provision of communications services. There are numerous reasons for this opposition.

First, there is no evidence that the existing reporting process has failed to provide adequate information about significant outages. BellSouth Corporation (BellSouth) remarks that it is not aware of, nor has the Commission documented, "any instance in which the Commission was unaware of a major event and thus unable to satisfy an information request from a stakeholder."¹ Second, as the United States Telecom Association (USTA) notes, it is not clear whether the proposed outage reporting requirements would generate "useful new information about outages involving wireline legacy equipment" or whether the financial resources required to comply with new requirements would be better spent preventing these outages.² Third, there is no evidence that the proposed mandatory outage reporting

¹ Comments of BellSouth Corporation at p. 7.

² Comments of the United States Telecom Association at p. 3.

requirements will reduce the number or duration of outages, promote faster service restoration or increase cooperation among carriers in the restoration of service. After all, the “long history of carriers assisting one another during times of crisis and service disruption, regardless of the source of the outage,” BellSouth notes, “is not a consequence of the Commission’s reporting requirements.”³ In fact, as explained more fully elsewhere in these comments, the proposed reporting requirements could have the effect of delaying the restoration of services in some cases.

Other commenters observe that the expansion of mandatory outage reporting requirements is not necessary in light of the competitive pressures that exist to provide reliable services. Sprint Corporation (Sprint) suggests that the Commission should not impose additional administrative burdens on a competitive industry that already has significant incentive to maintain network reliability because “[c]ompetition now serves as a much more effective agent for ensuring that networks operate on an efficient and reliable basis.”⁴ T-Mobile USA, Inc. (T-Mobile) notes that “over the past 12 years, the telecommunications market has been transformed from a monopoly to a robust competitive market...” and “[c]ompetitive carriers have a strong economic incentive to build and operate reliable networks because their self-interest is served by keeping the customers they acquire.”⁵ Nextel Communications, Inc. (Nextel) states that “[c]arriers, particularly wireless carriers competing for wireless consumers, have every incentive to react quickly, fix problems, and take the precautions necessary to prevent problems from recurring.”⁶ Cingular Wireless LLC

³ Comments of BellSouth Corporation at p. 4.

⁴ Comments of Sprint Corporation at p. 5, p. 3.

⁵ Comments of T-Mobile USA, Inc. at pp. 7-8.

⁶ Comments of Nextel Communications, Inc. at p. 3.

(Cingular) concludes “[n]o regulatory mandate is needed to spur wireless carriers to provide high-quality, disruption-free service to their customers.”⁷

Nor is the expansion of mandatory reporting necessary for the continued development of Best Practices, as some parties have mistakenly implied.⁸ As ATIS noted in its comments, Best Practices have been developed voluntarily by the industry, not in response to mandatory outage reporting, but to other industry concerns.⁹ ATIS agrees with Sprint that the Commission is “overstating the role of outage reporting in the creation of industry best practices and improved networks.”¹⁰ Commenters such as Cingular note that “the initial wireline industry best practices were developed by the NRC utilizing massive amounts of data that were provided *voluntarily* by wireline carriers.”¹¹ In fact, as T-Mobile states, the expansion of mandatory reporting could adversely impact the development of Best Practices by destroying the true public-private partnership and introducing a “we-them” arrangement of caution and suspicion.¹² USTA points out that Best Practices “can be created, enhanced, and implemented without further outage reporting regulation.”¹³

The proposed expansion of the reporting requirements would impose significant burdens on communications providers. There is little doubt that, contrary to the statements of the Commission in the *NPRM*,¹⁴ the proposed rules would significantly increase the number

⁷ Comments of Cingular Wireless LLC at p. 6.

⁸ See Comments of the Staff of the Kansas Corporation Commission at p. 2; Comments of the Connecticut Department of Public Utility Control at p. 7; Comments of the City of New York, National League of Cities, and National Association of Telecommunications Officers and Advisors at p. 4.

⁹ ATIS Comments at p. 9.

¹⁰ Comments of Sprint Corporation at p. 2.

¹¹ Comments of Cingular Wireless LLC at p. 4.

¹² Comments of T-Mobile USA, Inc. at p. 11.

¹³ Comments of the United States Telecom Association at p. 5.

¹⁴ *NPRM* at Appendix C, Section D.

of reportable incidents as well as the associated costs.¹⁵ BellSouth, for instance, estimates that, “under the Commission’s proposed rules, the number of outage reports filed annually by BellSouth could rise by more than 1000 percent, even though there was no change in network performance.”¹⁶ USTA states that its medium-sized carriers estimate at least a 30 percent increase in reporting and its largest members estimate even more dramatic increases.¹⁷ By sharply increasing the reporting requirements, Verizon anticipates that the Commission’s proposal would expand the number of outages reportable by Verizon from 19 to 25 (under the current rules) to 500 or more annually.¹⁸

The Rural Incumbent Local Exchange Carriers (Rural ILECs) raise an interesting point regarding the Commission’s own estimates of the burden of the proposed reporting rules. In the Rural ILECs Comments on the Initial Paperwork Reduction Act of 1995 Analysis, the Rural ILECs note that the Commission’s estimates of the recordkeeping burden of the new rules is the same as that for the existing rules.¹⁹ The Commission estimated that the new rules, like the existing rules, would involve fifty-two (52) respondents that would take an average of five (5) hours per response, with a total estimated paperwork burden of 1,040 hours per year.²⁰ ATIS agrees with Rural ILECs that these estimates are far too low given that the proposed rules would apply to roughly 3,000 communications service providers that previously were not subject to outage reporting requirements.²¹

¹⁵ Comments of Qwest Communications International Inc. at p. 4; Comments of SBC Communications at p. 2.

¹⁶ Comments of BellSouth Corporation at pp.2-3.

¹⁷ Comments of the United States Telecom Association at p. 8.

¹⁸ Comments of Verizon at p. 2.

¹⁹ Comments of the Rural Incumbent Local Exchange Carriers on the Initial Paperwork Reduction Act of 1995 Analysis at p. 3.

²⁰ *Id.*

²¹ *Id.* at p. 4.

B. There is Strong Support for the Industry-Led Outage Reporting Initiative

Instead of expanding mandatory reporting obligations, the industry strongly believes that voluntary cooperative efforts between public and private sectors will maintain the flexibility and adaptability that is needed to develop industry Best Practices.²² ATIS urges the Commission to consider the recommendations of the communications industry and recognize that the voluntary reporting program established by the NRSC/ILORI is a more effective and successful method of collecting and analyzing outage data than the proposed mandatory reporting requirements.

Lucent Technologies Inc. (Lucent) notes that the “industry-led effort to monitor and avoid network outages is likely to be much more flexible than any Commission mandated regulatory regime, and therefore more capable of remaining abreast of new technologies and new public safety and national security needs and considerations.”²³ AT&T Corp. (AT&T) agrees: “Information sharing, root cause analysis and reliability measures all contribute to maintaining and improving resiliency of the telecommunications capability throughout the country and are a proactive non-regulatory method of maintaining and improving the reliability platform of the communications networks.”²⁴ MCI, Inc. (MCI) acknowledges the success of the NRSC as a voluntary industry group in gathering and analyzing outage data and encourages “industry participation in these fora instead of imposing expanded mandatory reporting requirements.”²⁵ Qwest notes that “[t]he current voluntary regime is already

²² ATIS reiterates its opposition to any Commission-imposed mandate regarding Best Practices. As Verizon notes in its comments, such a mandate “would inhibit this evolutionary effort, because carriers would be reluctant to propose new criteria that would be expensive and difficult to implement in all offices throughout the country.” Comments of Verizon at p. 18.

²³ Comments of Lucent Technologies at p. 3.

²⁴ Comments of AT&T Corp. at p. 6.

²⁵ Comments of MCI, Inc. at p. 1.

effective while simultaneously being more comprehensive than the proposed mandatory reporting proposals contained in the *NPRM*.²⁶ CTIA- The Wireless Association (CTIA) supports this position and believes that the “approach taken in the *NPRM* is unnecessary given the level of detailed information that is flowing and will continue to flow from the completely revised and totally new Industry Led Outage Reporting Initiative (“ILORI”).²⁷ CTIA notes that the ILORI provides “a forum for industry experts to review outage data in a trusted environment to achieve early trend identification and capture key knowledge about the networks.”²⁸

C. The Voluntary Reporting Program Should Be Given Time to Prove Itself

Some commenters have recommended that the Commission defer the imposition of any new outage reporting rules to provide time for the voluntary reporting program to prove itself. T-Mobile and CTIA urge a collaborative effort between the Commission and the NRSC participants during which changes could be made to the voluntary program to better address the Commission’s concerns.²⁹ If, after the Commission has participated in the NRSC/ILORI reporting program for a reasonable period of time, the Commission still believes the voluntary program is deficient, it can impose mandatory outage reporting.³⁰

ATIS believes that this is an appropriate approach given the extremely short amount of time that the ILORI program has been in existence. The ILORI program was established

²⁶ Comments of Qwest Communications International Inc. at p. 3.

²⁷ Comments of CTIA – The Wireless Association at p. 4.

²⁸ *Id.* at p. 6.

²⁹ Comments of T-Mobile USA, Inc. at pp. 4-5; Comments of CTIA – The Wireless Association at p. 7.

³⁰ *Id.* ATIS notes that the Commission was invited to participate in the ILORI prior to the initiation of this rulemaking. The Commission thus far has failed to avail itself of the opportunity to gain a better understanding of the voluntary reporting process through active participation in NRSC/ ILORI. To the extent consistent with the Commission’s procedural rules regarding permit-but-disclose rulemaking proceedings, the NRSC/ILORI again urges the Commission to participate in this group.

earlier this year in response to the expert advice from the Commission's Federal Advisory Committee Act (FACA) Network Reliability and Interoperability Council (NRIC). This recommendation, made by NRIC VI Focus Group 2 – Network Reliability in December 2003, resulted in the establishment of the ILORI program in early 2004. However, as ATIS stated in its comments, the ILORI reporting program is not simply a continuation of the NRIC outage reporting trial, but a new reporting program designed to substantially improve the process developed in the NRIC trial. Unlike the NRIC reporting process, the ILORI program holds participants accountable for the submission of timely and accurate information, provides for the review of filed reports to ensure that important data fields are completed and includes reminders and other mechanisms to assure the submission of accurate, useful and complete reports.

ATIS urges the Commission to provide additional time for the voluntary reporting program to prove that it can provide accurate, timely and useful outage reporting data. Such an approach will serve many purposes. First, it will give the industry time to work with the Commission to address any concerns the Commission has with regard to voluntary reporting and, if necessary, to develop an improved reporting process. As the Commission recognized in the *NPRM*, the NRSC/ILORI has made improvements in the voluntary reporting process in order to increase both the quantity and quality of outage reports filed.³¹ These improvements are working – timely and accurate information is being provided. ATIS strongly urges the Commission to permit the continued development of this voluntary program and partner with

³¹ As ATIS noted in its comments, the improvements include the establishment of a web-based report submission template, the review of filed reports by industry experts to determine accuracy and completeness, reminder notifications regarding reporting deadlines, “escalation reminders” to more senior company representatives regarding missed or inaccurate filings and the protection of sensitive data to encourage full and complete reporting. ATIS Comments at p. 11.

the industry to more effectively promote the submission of accurate, timely outage reports as well as the continued development of appropriate Best Practices.

Second, deferring the adoption of additional outage reporting requirements will provide a more extensive track record on which to base any future mandatory requirements, if necessary. The numerous, detailed comments submitted in response to the *NPRM* demonstrate that the proposed reporting requirements are impractical or impossible to implement. The Commission should work with the industry to resolve any outstanding issues in a real-world setting before making final decisions regarding any potential changes to the outage reporting rules.

The additional time will also give the Commission's NRIC an opportunity to develop recommendations regarding outage reporting. As ATIS noted in its comments, NRIC VII is addressing some of the issues raised in this proceeding.³² NRIC VII Focus Group 1.C – Enhanced 911 Network Outages and Best Practices (Focus Group 1.C) is analyzing E911 outages in order to present recommendations on ways to reduce these outages and to improve the relevance of outage data for improving emergency communications. NRIC VII Focus Group 3.A – Network Best Practices (Focus Group 3.A) focuses on the efficacy of Best Practices that have been developed by the wireless industry. Providing additional time will allow the recommendations of NRIC VII to be developed and incorporated into any reporting requirements that may be established by the Commission in the future.

ATIS also strongly believes that the NRSC/ILORI voluntary reporting program will provide the “clear evidence” required by Department of Homeland Security that additional mandatory reporting requirements are not necessary. It will also provide an opportunity for

the industry to explore mechanisms that will “ensure robust sharing of complete and accurate network disruption information on a non-mandatory basis” and “support effective industry collaboration and appropriately safeguard the information.”³³

ATIS strongly believes that the voluntary reporting program can and will provide accurate and timely outage reporting data and promote reliability in communications networks. As Lucent notes, “given the appropriate opportunity, the widespread adoption of ILORI will lead to the gathering of better, more comprehensive, accurate, and targeted information, and will result in superior analysis of this information.”³⁴

III. There is Widespread Concern over the Commission’s Proposed Reporting Thresholds

As an initial matter, ATIS notes its support for further clarification of the term “outage.” As found in Section 4.5(a) of the Commission’s proposed rules, this term is defined “as a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider’s network.” ATIS agrees with commenters that this term requires further clarification. AT&T notes that the term “significant degradation” does not provide clear guidance as to what constitutes an “outage.” “For example, would there be a threshold bit error rate for a digital facility or would a carrier be responsible for reporting conditions that caused voice calls to be noisy?”³⁵ SBC explains that different service providers may interpret this term differently, leading to inconsistent outage reports.³⁶ In addition, Verizon

³² ATIS Comments at p. 29.

³³ Comments of the Department of Homeland Security at p. 10.

³⁴ Comments of Lucent Technologies at p. 2.

³⁵ Comments of AT&T Corp. at p. 10, n. 7.

³⁶ Comments of SBC Communications at pp. 7-8. *See also* Comments of Verizon at p. 12.

notes that “a line may be fully serviceable for voice but not for data or video, so that whether an outage is reportable would depend upon the customer’s use of the line.”³⁷

In its comments, ATIS disagreed with the Commission’s proposed common metric for outage reporting and recommended an alternative performance measurement that more accurately reflects the technical differences among communications networks and carriers.

ATIS’ proposal, based on the work of the NRSC/ILORI and T1A1, was the following performance measurement for outage reporting:

For those communications providers that have the ability to use blocked call counts, an outage would be reported if it: (1) lasts for thirty (30) or more minutes; (2) generates 90,000 blocked calls based on real-time traffic data; and (3) involves a survivable element. If real-time traffic data is unavailable, then a communications provider would report an outage if it: (1) lasts for thirty (30) or more minutes; (2) affects 30,000 calls based on historic traffic data; and (3) involves a survivable element.

For those communications providers that do not have the ability to identify blocked call data, an outage would be reportable if it: (1) lasts for thirty (30) or more minutes and affects 30,000 or more "lines in service," or lasts for at least six hours and affects less than 30,000 “lines in service”; and (2) involves a survivable element.

A. There is Strong Support for the Adoption of Industry’s Performance Measurement for Outages Affecting Wireline Communications

For outages affecting wireline communications (both voice and IXC/LEC tandem, outages), ATIS recommended adoption of the industry-developed performance measurement outlined above, noting that the compliance with the Commission’s proposed common metric would be burdensome, if not impossible, for many communications providers. Among the issues raised by ATIS in response to the Commission’s proposed threshold was the technical infeasibility of the Commission’s proposal to define the number of end-users as the number of

³⁷ Comments of Verizon at p. 12.

“assigned telephone numbers,” which is the sum of the “assigned numbers” and “administrative numbers.”³⁸

Numerous commenters joined ATIS in noting the serious technical problems raised by the Commission’s proposed reliance on the number of “end-users” in determining outage thresholds for wireline communications. These technical problems include the fact that the number of “end-users” may be impossible to determine because carriers have no way of knowing how many assigned telephone numbers a customer is using.³⁹ Sprint notes that “wireline customers usually regard the number of end users at a particular location as confidential. Certainly, Sprint’s large business and government customers do not provide it such information, which, in any event, is likely to change on almost a daily and perhaps even an hourly basis.”⁴⁰ General Communication, Inc. questions how a carrier would be able to ascertain the exact number of end users that receive service at a particular business or government entity because this information is not routinely tracked with respect to certain services nor is it typically specified in a sales contract.⁴¹ As such, the requirements as proposed by the Commission to count users would create “an increased, if not impossible, burden on the carrier...”⁴²

Verizon notes that “many customers subscribe to blocks of numbers that they activate only as needed, such as when the number of stations behind a PBX is increased, or that they

³⁸ *NPRM* at ¶33.

³⁹ *See, e.g.*, Comments of the United States Telecom Association at p. 17; Comments of MCI, Inc. at p. 2; Comments of Sprint Corporation at pp. 9-10; Comments of General Communication, Inc. at pp. 2-3; Comments of Verizon at pp. 9-10.

⁴⁰ Comments of Sprint Corporation at p. 9.

⁴¹ Comments of General Communication, Inc. at pp. 2-3.

⁴² *Id.* at p. 3.

retain to prevent other customers from using certain telephone numbers.”⁴³ Therefore, it “has no way of knowing how many numbers the customer is actually using – it can only measure the number of lines and trunks that it delivers from its switch to the customer’s premises.”⁴⁴ WilTel Communications, LLC notes that IXC’s that provide services to resellers face a similar technical hurdle. These carriers will not know the number of assigned telephone numbers unless resellers share this information.⁴⁵ The Department of Homeland Security (DHS) questions whether “the proposed ‘common metric’ of 30-minute/900,000-user minutes is either suitable or appropriate to apply on a uniform basis across all segments” and urges the Commission to consider the “specific technical guidance from industry group analysis.”⁴⁶

Many commenters agree with ATIS that it is preferable to base outage reporting thresholds on the number of access lines.⁴⁷ SBC notes that information on the number of lines in service is readily available and “can be obtained from switch data records and downloaded in ‘real time.’”⁴⁸ Verizon states that basing the reporting threshold on the number of “lines affected” would “give the Commission the data it needs to monitor accurately significant outages without forcing carriers to redesign their reporting systems.”⁴⁹

ATIS strongly disagrees with the Staff of the Kansas Corporation Commission’s comment that the current and proposed reporting thresholds are “too high” and that consideration be given to reducing the number of potentially affected users from 30,000 to no

⁴³ Comments of Verizon at p. 9.

⁴⁴ *Id.* at pp. 9-10.

⁴⁵ Comments of WilTel Communications, LLC at pp. 7-8.

⁴⁶ Comments of the Department of Homeland Security at p. 3, p. 17.

⁴⁷ *See, e.g.*, Comments of BellSouth Corporation at p. 6; Comments of Independent Telephone & Telecommunications Alliance at p. 5; Comments of Qwest Communications International Inc. at p. 6.

⁴⁹ Comments of Verizon at p. 11.

more than 5,000, for a threshold of at most 150,000 user minutes.⁵⁰ This recommendation, which the Kansas Corporation Commission acknowledges is not based on any empirical data, would dramatically increase the number of reportable incidents and the associated manpower and financial burdens on communications providers. In addition, this proposal would not result in better outage reporting data as the reduced reporting thresholds would likely flood the Commission with reports regarding small outages that neither the industry nor the Commission would have the resources to analyze.

While ATIS in its comments agreed with the Commission that the term "blocked calls" was not currently well defined under the existing rules, it disagreed with the Commission's proposal that blocked call counts include both originating and terminating calls. Commenters support ATIS' position on this matter. Qwest, for instance, notes that the Commission's recommendation will result in a single call being counted twice.⁵¹ Sprint notes "[t]here is simply no justification for such count doubling which would necessarily increase the reporting burdens imposed upon carriers and would lead to inaccurate reporting."⁵² Therefore, ATIS restates its recommendation that providers determine the number of blocked calls based on the Tandem Peg Count measurement and only incoming or outgoing calls should be counted in a tandem.

ATIS also disagreed with the Commission's proposal that three times the actual number of carried calls for the same day of the week and the same time of day be used as a surrogate for outages that prevent the counting of blocked calls. Industry commenters agree. General Communication, Inc. states that the requirement to multiply the historical number by

⁵⁰ Comments of the Staff of the Kansas Corporation Commission at pp. 1-2.

⁵¹ Comments of Qwest Communications International Inc. at p. 8.

⁵² Comments of Sprint Corporation at p. 16.

three “is arbitrary.”⁵³ Verizon notes that “[e]ven if a caller would try repeatedly to place a call upon receiving a network busy signal, as the Commission assumes, if the outage had not occurred there would still be only one completed call, so the effect of the outage is to block just those calls that would have been completed if the outage had not occurred.”⁵⁴ ATIS therefore urges the Commission to provide that, if real-time data is not available for either incoming or outgoing traffic, historical call data should be used as a more accurate replacement for the missing measurement.

B. Commenters Have Raised Serious Concerns with the Commission’s Proposed DS3 Outage Reporting Requirements

In the *NPRM*, the Commission proposed to require the reporting of all outages of at least thirty (30) minutes that potentially affect at least 1350 DS3 minutes on “working DS3s,” defined as those carrying some type of traffic at the time of the failure.⁵⁵ ATIS, in its comments, recommended an alternative reporting threshold under which a DS3 outage would be reportable if it:

- (1) lasts for thirty (30) minutes or more, affects forty-eight (48) working DS3s or more, does not switch to protect mode within a service provider’s network and the service provider owns, operates and maintains the electronic terminal equipment at both end points; or
- (2) lasts for six (6) hours or more, affects at least twenty-four (24) (but less than forty-eight (48)) working DS3s, does not switch to protect mode within a service provider’s network and the service provider owns, operates and maintains the electronic terminal equipment at both end points.⁵⁶

ATIS notes that there is support for this alternative reporting threshold among commenters.⁵⁷ ATIS believes that this alternative would address many of the problems that

⁵³ Comment of General Communication, Inc. at p. 4.

⁵⁴ Comments Verizon at p. 15.

⁵⁵ *NPRM* at ¶47.

⁵⁶ ATIS Comments at p. 22.

⁵⁷ See Comments of BellSouth Corporation at pp. 23-24; Comments of Qwest Communications International

commenters have identified with the Commission's proposed DS3 outage threshold. Qwest, for instance, states that the proposed reporting threshold for DS3 minutes "would result in an unreasonably high number of reportable incidents without producing public interest benefits commensurate with the burden."⁵⁸ Qwest also notes that the Commission's proposal "fails to account for the fact that many outages falling within the scope of the proposed new requirement would not result in any service impact for end users (e.g., where traffic bound for a failed OC48 is re-routed to another trunk)."⁵⁹ SBC notes that the proposed threshold is based on outdated data and would capture outages that are not significant by today's standards.⁶⁰ USTA notes that the resources required to report on outages of special services would be "enormous."⁶¹

ATIS agrees with Verizon that DS3 outages may occur for reasons that are outside the control of carriers. For example, customer DS3s may be unintentionally removed from service because of "power failures on the customer's premises, human error, failure of customer premises equipment, or maintenance activities that are not caused by any failure of the service provider's network. In other cases, customers intentionally turn off their facilities on weekends or vacations to save power or may abandon their equipment in place and go out of business or move their offices without notifying the service provider."⁶² ATIS urges the Commission to clarify that these service disruptions would not fall within the Commission's

Inc. at pp. 12-13; Comments of SBC Communications at pp. 9-10; Comments of the United States Telecom Association at p. 23; Comments of Verizon at p. 20.

⁵⁸ Comments of Qwest Communications International Inc. at p. 13.

⁵⁹ *Id.*

⁶⁰ Comments of SBC Communications at p. 9.

⁶¹ Comments of the United States Telecom Association at p. 22.

⁶² Comments of Verizon at p. 19.

definition of “outage” as they are not “the result of failure or degradation in the performance of a communications provider’s network.”⁶³

ATIS supports BellSouth’s proposal to clarify the term “working DS3s” to maintain consistency in reporting throughout the industry. A working DS3 “should be defined as one that has more than 10% of the DS0s in use, i.e., 67 DS0s. Loading of less than 67 DS0s should be considered non-working.”⁶⁴ This clarification is reasonable and will reduce unnecessary reporting burdens on communications providers.

ATIS also agrees with BellSouth that disruption reporting for DS3s should be limited to infrastructure circuits, and specifically exclude those circuits that are partly under control of the customer. The restoration of non-infrastructure circuits cannot be done unilaterally by the carrier. Customer decisions – to choose to defer restoration until working hours, for instance – impact service restoration.⁶⁵ ATIS therefore supports the limitation of DS3 outage reporting to infrastructure circuits.

For similar reasons, ATIS opposes Nextel’s proposal for the reporting of T-1 outages.⁶⁶ Outages affecting T-1 lines are generally addressed in business contracts. Service Level Agreements (SLAs) generally specify each party’s responsibilities for maintenance, repair and redundancy. Providing for outage reporting down to the T-1 level would also dramatically increase the number of reportable incidents and substantially increase the associated costs to carriers.

⁶³ See Section 4.5(a) of the Commission’s proposed rules.

⁶⁴ Comments of BellSouth Corporation at p. 24.

⁶⁵ *Id.*

⁶⁶ Comments of Nextel Communications, Inc. at p. 11.

C. Commenters Agree that the Proposed SS7 Outage Reporting Threshold Is Technically Infeasible

In the *NPRM*, the Commission proposes to require the reporting of Signaling System 7 outages based on the number of lost or blocked ISDN User Part (ISUP) messages.⁶⁷ In its comments, ATIS disagreed with this proposal, noting that signaling transfer points (STPs) and end offices do not capture ISUP messages as the existing equipment was never intended for this purpose.

Many commenters raised similar technical issues with the proposed SS7 outage reporting threshold. BellSouth explains that there is an average of five ISUP messages associated with a single, completed phone call in the US, and total of 26 ISUP message types that can be generated when a call is made.⁶⁸ When a call uses additional functionality such as local portability or Advance Intelligent Network (AIN), additional messages are generated for a single call. Therefore, the number of blocked or lost ISUP messages has no established correlation to the number of blocked calls.⁶⁹ Qwest agrees and notes that, not only would it be impossible to implement because providers do not have the ability to collect ISUPs, the number of ISUPs simply does not correlate in any meaningful way with the number of call attempts failed.⁷⁰ In addition, as noted by commenters such as Sprint and SBC, the cost of retrofitting SS7 equipment to comply with the proposed threshold would be significant and would far outweigh the perceived benefit of SS7 reporting.⁷¹

If the Commission imposes mandatory outage reporting, ATIS urges the Commission to provide for the reporting of SS7 outages based on the performance measurement

⁶⁷ *NPRM* at ¶49.

⁶⁸ Comments of BellSouth Corporation at p. 26.

⁶⁹ *Id.*

⁷⁰ Comments of Qwest Communications International Inc. at p. 14.

established by NRSC/ILORI/T1A1. Under this measurement, the party responsible for reporting outages meeting the threshold would be determined by whether the services are provided by the network operator or a third party. The service provider would be responsible for reporting SS7 outages that meet the industry's performance measurement if the outage is within a service provider's network and the service provider is responsible for providing SS7 at both end points. If a third party is providing SS7 services, then that party must report an outage upon notification from the impacted carrier that the reporting threshold has been met.

D. There Is Widespread Support among Commenters for a More Reasonable Requirement for Outages Affecting Airports

In its comments, ATIS opposed the Commission's proposal to require the reporting of outages affecting all airports, instead suggesting that the Commission require reporting for those airports defined by the Federal Aviation Administration as large, medium and small passenger hub airports.⁷² ATIS notes that many commenters raised significant concerns with the Commission's proposal on this matter, characterizing the proposed airport reporting requirement as "excessive," "overly broad" and "unnecessary."⁷³ The majority of these commenters also supported ATIS' proposal to limit airport reporting to the large, medium and small passenger hub airports.⁷⁴

⁷¹ Comments of Sprint Corporation at p. 22; Comments of SBC Communications at p. 11.

⁷² ATIS Comments at pp. 24-26.

⁷³ See Comments of BellSouth Corporation at pp. 14-15; Comments of the United States Telecom Association at pp. 12-13; Comments of General Communication, Inc. at pp. 6-7; Comments of Rural ILECs at pp. 7-8; Comments of Sprint Corporation at p. 25; Comments of AT&T Corp. at pp. 17-18; Comments of Qwest Communications International Inc. at pp. 15-16; Comments of SBC Communications at pp. 11-12; Comments of Verizon at pp. 15-17.

⁷⁴ See Comments of BellSouth Corporation at pp. 14-15; Comments of the United States Telecom Association at pp. 12-13; Comments of AT&T Corp. at pp. 17-18; Comments of Qwest Communications International Inc. at pp. 15-16; Comments of SBC Communications at pp. 11-12; Comments of Verizon at pp. 15-17.

E. Commenters Have Raised Concerns with the Commission's Proposed Outage Reporting Requirements for 911 Facilities

The Commission proposed that the reporting of outages affecting 911 calls (including associated name, identification, and location data) would include: (1) isolation of one or more Public Service Answering Points (PSAPs) for at least 30 minutes duration; (2) the loss of call processing capabilities in one or more E911 tandems for at least 30 minutes duration; or (3) isolation of one or more end office switches or host/remote clusters for at least 30 minutes duration.⁷⁵

ATIS agrees with the concerns raised by commenters regarding the Commission's proposed 911 reporting threshold based on the proposed definition of "911 special facilities" outages. Section 4.5(e) of the Commission's proposed rules defines an outage that potentially affects a 911 special facility as one that "affects the ability of a communications provider to complete 911 calls." Commenters such as Verizon, Qwest and the Rural ILECs note that this definition could be read too broadly to require outage reporting if even one customer loses 911 service for thirty minutes.⁷⁶ Verizon states that this rule could be understood "to require a report *every* time a protector trips in a lightning storm or a drop wire is cut to a single customer premises, if service is not restored within 30 minutes, because the customer would be unable to dial 911."⁷⁷ Verizon notes that this would require "tens of millions of 911 outage reports to be filed every year industry-wide that have no bearing on network reliability."⁷⁸

⁷⁵ *NPRM* at ¶25.

⁷⁶ *See* Comments of Verizon at p. 13; Comments of Qwest Communications International Inc. at p. 17; Comments of Rural ILECs at pp. 8-9.

⁷⁷ Comments of Verizon at p. 13.

⁷⁸ *Id.* It is interesting to note that even commenters that are in favor of reducing the 911 reporting threshold recognize "that requiring a separate report for every single-call 911 outage may not be feasible..." Comments of the City of New York, National League of Cities, and National Association of Telecommunications Officers and Advisors at p. 13.

ATIS strongly opposes the recommendation made jointly by the City of New York, National League of Cities and the National Association of Telecommunications Officers and Advisors that the Commission adopt “more aggressive reporting rules, such as requiring that a 15-minute, rather than a 30-minute, outage will trigger reporting.”⁷⁹ While ATIS recognizes the need to protect public safety communications, it notes that reducing the threshold to 15 minutes would be extremely burdensome on communications providers. ATIS recommends that the Commission balance the perceived benefits of outage data with the burden of the reporting requirements and reject this proposal.

If mandatory outage reporting is imposed, ATIS urges the Commission to adopt the alternative 911 outage reporting threshold suggested by ATIS in its comments:

- (1) PSAP outages affecting less than 30,000 users would be reportable if: (a) the outage is caused by a failure in the communications provider’s network; (b) no reroute was available; and (c) the outage lasts six (6) hours or more;
- (2) PSAP outages affecting 30,000 or more users would be reportable if: (a) the outage is caused by a failure in the communications provider’s network; (b) no reroute was available; and (c) the outage lasts for thirty (30) minutes or more;
- (3) The loss of all call processing capabilities in one or more E911 tandems/selective router for at least thirty (30) minutes duration would be reportable; or
- (4) The isolation of one or more end office switches or host/remote clusters would be reportable if: (a) the outage caused 30,000 or more subscribers to be isolated from 911 for thirty (30) minutes or more; or (b) the outage caused less than 30,000 subscribers to be isolated from 911 for six (6) hours or more.

⁷⁹ Comments of the City of New York, National League of Cities, and National Association of Telecommunications Officers and Advisors at p. 13.

IV. If Mandatory Outage Reporting is Imposed, The Commission Should Adopt the Reasonable Outage Reporting Processes Proposed by NRSC/ILORI and T1A1

A. Commenters Have Raised Significant Concerns with the Commission's Proposed Reporting Process

In the *NPRM*, the Commission proposed a two (2) step process that provides the filing of an Initial Report within 120 minutes of the carrier's first knowledge that a reporting threshold has been met, and a Final Report within thirty (30) days of the Initial Report.⁸⁰ In response, ATIS recommended that a three-step reporting process be adopted if outage reporting is mandated. This process would require the prompt notification of an outage, promote accuracy and completeness in initial reports and eliminate unnecessary burdens on communications providers.

Step One -- Notification. Within 120 minutes of a provider's knowledge of an outage, a provider must notify the Commission of the outage. Given the extremely short timeframe for the filing of this notification, the Commission should not require the notification to be accompanied by the attestation referenced in proposed section 4.11 of the proposed rules.⁸¹

Step Two – Initial Report. Within seventy-two (72) hours of the outage, the provider would be required to submit an Initial Report. This report would provide more information on the extent of the incident, such as the impact of the event, the resolution (if available) and the known causes. As full and complete information on the incident may not be available at this point, the Initial Report should not need to include the Commission's proposed attestation.

Step Three – Final Report. Within thirty (30) days of the outage, the carrier would submit a Final Report providing all necessary information about the incident, its cause and resolution. The Final Report would include the proposed attestation specified in proposed section 4.11 of the Commission's rules.

Commenters voiced strong objections to the Commission's proposed reporting timeframe. Many commenters identified the same problem: requiring the completion of a

⁸⁰ *NPRM* at ¶30.

⁸¹ Proposed Section 4.11 of the Commission's rules would require Initial Reports to be "attested by the person submitting the report that he/she has read the report prior to submitting it and on oath deposes and states that the information contained therein is true, correct, and accurate to the best of his/her knowledge and belief..."

detailed outage report within the first 120 minutes of the discovery of a reportable outage could take valuable manpower away from the restoration of service.⁸² As Nextel notes, the Commission “must provide an adequate timeframe that allows carriers to initially deploy resources where they are most needed in the early stages of a network outage: namely, in isolating the cause(s) of the outage and fixing it.”⁸³ Verizon adds that, “[i]ronically, the Commission’s proposal to require a detailed initial report in 120 minutes would have the perverse effect of *delaying* future restoration efforts, because it would require telecommunications companies to divert resources to immediate reporting of outages rather than to restoring service to their customers.”⁸⁴

There was also widespread support for ATIS’ proposal that the communications providers submit an initial report within seventy-two (72) hours of the discovery of the incident. Cingular Wireless notes that the three-day deadline will allow carriers to devote scarce resources to restoring service and permit carriers to conduct a more thorough investigation prior to filing an initial outage report.⁸⁵ Sprint notes that a three-day window would enable carriers to gather all of the necessary data that are unlikely to reside in a single database so as to file accurate initial reports.⁸⁶

B. Sensitive Outage Reporting Data Must Be Protected

In its comments, ATIS strongly urged the Commission to ensure that sensitive outage reporting data is protected against public disclosure. ATIS noted that the protection of this

⁸² See, e.g., Comments of T-Mobile USA, Inc. at p. 19; Comments of Verizon at p. 6; Comments of Qwest Communications International Inc. at p. 19, Comments of CTIA – The Wireless Association at p. 15, Comments of General Communication, Inc. at p. 5.

⁸³ Comments of Nextel Communications, Inc. at pp. 5-6.

⁸⁴ Comments of Verizon at p. 6.

⁸⁵ Comments of Cingular Wireless LLC at pp. 17-18.

⁸⁶ Comments of Sprint Corporation at p. 18.

data would prevent access to sensitive outage data by those who could misuse it. Many commenters echoed ATIS' concerns.

The Department of Homeland Security (DHS) expresses serious concerns regarding the public disclosure of outage reporting data. DHS states that it “firmly believes that any expansion of the outage reporting rule adopted by the Commission must be accompanied by appropriate measures to safeguard reporting data to the maximum extent consistent with applicable information access laws.” Without such protection, “the errant disclosure to an adversary of this information concerning even a single event may present a grave risk to the infrastructure.”⁸⁷ Therefore, DHS notes that “[s]afeguarding this information – especially the location, root cause, provider and other sensitive information – should be a paramount consideration in the final rules adopted by the Commission.”⁸⁸

The communications industry commenters also identify the real and substantial threat that may be posed by the public disclosure of sensitive outage data. MCI notes that releasing sensitive data to the public could permit “terrorists, hackers, or other miscreants...to compromise or even bring down a telecommunications network.”⁸⁹ AT&T agrees and urges the Commission not to impose any additional mandatory reporting requirements unless and until it can ensure that mandatory data is fully protected from disclosure in the public domain.⁹⁰ Globalstar, LLC recommends that, if the Commission desires to obtain detailed information on outages, it should “ensure that the outage reports are delivered to the Commission in a secure and confidential fashion, that the data on the outages are maintained

⁸⁷ Comments of the Department of Homeland Security at p. 14.

⁸⁸ *Id.* at p. 15.

⁸⁹ Comments of MCI, Inc. at p. 6.

⁹⁰ Comments of AT&T Corporation at p. 30.

in storage in a secure format and location, and that any additional release of information is provided in a configuration that does not compromise the security and reliability of the affected network and potentially affected networks.”⁹¹ T-Mobile worries that “[t]he compilation and centralization of information on network outages, together with the root cause analyses and the location of failing elements, could provide a roadmap or ‘how to’ manual to those who would like to damage the nation’s critical telecommunications infrastructure.”⁹²

ATIS strongly disagrees with the suggestion made jointly by the City of New York, National League of Cities and National Association of Telecommunications Officers and Advisors that making outage and reliability information publicly available would be beneficial as “an additional economic incentive to make the investments required to improve the reliability of their networks.”⁹³ As explained elsewhere in these comments, the telecommunications industry is generally competitive. Therefore, regardless of the public availability of data or the mandatory or voluntary nature of the reporting requirement, communications providers will have an incentive to create reliable networks in which to effectively compete. Providers will seek to minimize network outages as these outages will result in lower revenues and increased customer dissatisfaction.

Finally, ATIS agrees with T-Mobile that, if the Commission decides to impose mandatory outage reporting as proposed in the *NPRM*, the Commission should reverse its

⁹¹ Comments of Globalstar, LLC at p. 7.

⁹² Comments of T-Mobile USA, Inc. at p. 12.

⁹³ Comments of the City of New York, National League of Cities, and National Association of Telecommunications Officers and Advisors at p. 10.

1992 decision concerning the confidential treatment of such reports under the Freedom of Information Act.⁹⁴

C. The Proposed Electronic Template Must Be Tailored to Promote the Submission of Accurate and Usable Outage Reporting Data

In its comments, ATIS recommended a number of modifications to the Commission's proposed electronic outage reporting template to promote the filing of accurate and usable outage data and eliminate unnecessary burdens on filers. ATIS' recommendations included:

- 1) "Absence of Physical or Logical Separation" Field. ATIS recommended that the Commission not include a separate field in the proposed template regarding diversity and redundancy.
- 2) "Root Cause(s)" Field. ATIS recommended that the template field entitled "Root Cause(s)" be changed to "Root Cause" (singular) and a new field be added to the electronic template to request information on relevant "Contributing Cause(s)."
- 3) Printing/Saving Reports. ATIS proposed that users be able to print or download copies of filed reports, as well as receipts acknowledging the submission of these reports.
- 4) Informal Withdrawal of Notifications. ATIS recommended the Commission establish informal mechanisms to withdraw, or mark as withdrawn, an outage notification.
- 5) Formal Retraction of Initial Reports. ATIS urged the Commission to continue to allow the submission of formal retraction letters for Initial Reports.
- 6) Data Security. ATIS recommended that the Commission clarify its procedures to protect sensitive data provided and to maintain secure backup copies
- 7) "Best Practice Used" Field. ATIS suggested the elimination of the template field entitled "Best Practices Used."
- 8) Initial/Final Report Indicator. ATIS recommended the addition of a field for users to indicate whether they are filing Initial Reports or Final Reports or, alternatively, the establishment of a different template for the filing of these two reports.

Other parties have suggested additional changes to the electronic template. As a general matter, ATIS believes that any collection of data must be carefully tailored to balance the need for the specific outage data with the burdens imposed on communications providers. The Commission has acknowledged that the collection of this data is intended "to prevent future disruptions that could otherwise occur from similar causes" as well as to "assess trends

⁹⁴ Comments of T-Mobile USA, Inc. at p. 18.

in wireline reliability and determine the extent to which our policies need modification.”⁹⁵

Therefore, the Commission should carefully examine proposals for additional fields/information to determine whether this information is necessary to prevent future outages or to assess trends and whether the benefits of the additional information outweigh the burden on communications providers.

Based on this evaluation, ATIS supports the proposals made by BellSouth that the electronic template be modified to: (1) include a field to designate the appropriate time zone (for example, EST, PST, etc.) in which the outage occurred; (2) include additional instructions to explain more clearly the demarcation point for “inside” versus “outside;” and (3) ensure the confidentiality of all names, telephone numbers, email addresses and postal addresses provided in an outage report to preserve the privacy of those serving as contacts.⁹⁶ These proposals would not substantially increase the burden on the filers yet would provide additional clarity to the outage reports, promote more accurate and useful information and protect sensitive data from public disclosure.

However, ATIS opposes the suggestion made by the Kansas Corporation Commission that additional fields be added to collect additional information on failed equipment and Telecommunications Service Priority (TSP).⁹⁷ ATIS does not believe that this information is necessary to the prevention of outages or the analysis of trends. Moreover, the additional fields would impose significant additional burdens on filers. For these same reasons, ATIS strongly objects to the recommendation of the Kansas Corporation Commission that the

⁹⁵ *NPRM* at ¶¶3-4.

⁹⁶ Comments of BellSouth Corporation at p. 35, p. 37.

⁹⁷ Comments of the Staff of the Kansas Corporation Commission at pp. 4-5.

Commission give consideration to a further expansion of the electronic reporting process to include Quality of Service information.⁹⁸

D. The Commission Should Work with State Regulators to Resolve Inconsistencies between Federal and State Outage Reporting Requirements

ATIS strongly believes that the most reasonable approach to outage reporting is a voluntary process that encourages cooperation between regulators and the communications industry. However, if mandatory reporting requirements are imposed, ATIS urges the Commission to work with state regulators to resolve inconsistencies between state and federal outage reporting requirements. ATIS believes that the Commission could alleviate substantial burdens on communications providers and reduce the costs associated with outage reporting by establishing a single national outage reporting framework.

ATIS would support the establishment of a central repository for outage reporting information, as suggested by USTA, as long as this repository addresses the industry's security concerns.⁹⁹ As USTA notes, a centralized database/repository could reduce some of the burden of the new rules.¹⁰⁰ However, ATIS recommends that any such centralized database or repository include strong protections against unauthorized access or disclosure to unauthorized personnel. ATIS also believes that information maintained in this repository/database should be protected against disclosure under the Freedom of Information Act.

⁹⁸ *Id.* at p. 5.

⁹⁹ Comments of the United States Telecom Association at p. 11.

¹⁰⁰ *Id.*

V. Conclusion

Given the widespread support for the existing reporting process and the continued reliance on the cooperative efforts of the industry to develop Best Practices, ATIS urges the Commission to encourage the timely reporting of accurate outage data via the voluntary program developed by NRSC/ILORI based on the recommendations of industry experts from the Commission's NRIC. If the Commission were to adopt new rules, ATIS urges that the Commission take into account the industry's objections to the proposed reporting thresholds. ATIS recommends that the Commission adopt the more reasonable and practical thresholds developed by the NRSC/ILORI and T1A1. ATIS also urges the Commission to modify the reporting process to promote the timely restoration of service, minimize burdens on communications providers and protect against the disclosure of sensitive outage data.

THEREFORE, THE PREMISES CONSIDERED, ATIS respectfully submits these
reply comments to the Commission's *Notice of Proposed Rulemaking* in this proceeding.

Respectfully submitted by:

The Alliance for Telecommunications
Industry Solutions on behalf of its
Network Reliability Steering
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June 24, 2004