

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

*In the Matter of*

Improving Outage Reporting for Submarine  
Cables and Enhancing Submarine Cable Outage  
Data

GN Docket No. 15-206

**MOTION TO SUPPLEMENT PETITION FOR RECONSIDERATION**

On September 7, 2016, the North American Submarine Cable Association (“NASCA”) petitioned the Commission to reconsider its prospective submarine cable outage reporting rules.<sup>1</sup> The Commission adopted these rules on July 12, 2016, but they have not yet become effective. Indeed, the Commission has not yet submitted them for review by the White House Office of Management and Budget. Pursuant to 47 C.F.R. § 1.429(d), NASCA respectfully requests leave to file this supplement based on new facts and circumstances that have arisen since NASCA filed its original Petition.<sup>2</sup>

In its original Petition, NASCA explained that the reporting requirements are fundamentally flawed. They attempt to solve an underreporting problem that does not exist by

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<sup>1</sup> Petition for Reconsideration of the North American Submarine Cable Association, GN Docket No. 15-206 (filed Sept. 7, 2016) (“Petition”); *Improving Outage Reporting for Submarine Cables and Enhanced Submarine Cable Outage Data*, Report and Order, 31 FCC Rcd. 7947 (2016) (“*Outage Reporting R&O*”); 81 Fed. Reg. 80,054 (Nov. 15, 2016).

<sup>2</sup> See, e.g., *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations*, Memorandum Opinion and Order, 23 FCC Rcd. 86, 89 ¶ 8 (2008) (finding that “we believe that reporting new facts that may affect the outcome of this proceeding constitutes good cause for permitting the late filing.”).

imposing an elaborate new reporting mechanism to track at most four to five incidents each year. Compliance with these rules would inappropriately divert operator efforts away from restoration of service and repair activities—costs ignored in the *Outage Reporting R&O*'s cost-benefit analysis. NASCA's supplement urges the Commission to reconsider and rescind the prospective rules entirely due to a number of intervening developments. NASCA believes that good cause exists for the Commission to accept this supplement.

First, the further passage of time confirms the absence of outages or underreporting of any such outages—and that the rules remain a solution in search of a problem. The sole specific vulnerability identified in the *Outage Reporting R&O*—the potential for a blackout of the Commonwealth of the Northern Mariana Islands (“CNMI”) due to an outage on the sole submarine cable connecting the CNMI to Guam, one of the few routes lacking connectivity via additional submarine cables—no longer exists. Since the Commission issued the *Outage Reporting R&O*, the Commission licensed, and DOCOMO Pacific has since built, the new ATISA submarine cable system on the Guam-CNMI route, providing geographically-diverse capacity that greatly reduces the chances of a repeat blackout in the CNMI.<sup>3</sup> NASCA notes that it took the Commission 341 days from the date of application filing to license ATISA due to delays with the national security review conducted by the Team Telecom agencies—for a licensee that was already a party to a network security agreement with those agencies. NASCA believes that the Commission's efforts would be better directed toward reforming its licensing processes and imposing deadlines for application reviews than in creating new paperwork burdens for licensees—paperwork that only adds to the costs of new infrastructure.

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<sup>3</sup> See *Actions Taken Under Cable Landing License Act*, Public Notice, 32 FCC Rcd. 1436 (2017); *Docomo announces Atisa cable completed*, Pacific Daily News (July 14, 2017), [www.guampdn.com/story/money/2017/06/14/docomo-announces-atisa-cable-completed/395197001/](http://www.guampdn.com/story/money/2017/06/14/docomo-announces-atisa-cable-completed/395197001/).

Second, based on NASCA members' experiences in preparing to implement the Commission's submarine cable outage report rules, NASCA has determined that an outage definition based on customer impact is unworkable. NASCA had advocated for such a customer-impact limitation in its Petition, as a means of limiting the overbroad scope in the prospective rules' outage definition, its capturing of mundane events, and burdening of operators. In practice, however, submarine cable operators lack access to information about end-to-end communications that would enable them to make such a customer impact determination.

Third, the prospective rules adopted in the *Outage Reporting R&O*—which contained a deeply flawed cost-benefit analysis—are further inconsistent with the Commission's current approach to such analyses and the Executive Branch's current policy with respect to burdensome new regulations. Although the Executive Branch's approach would not directly impact independent agencies like the Commission, it signals increased scrutiny by the Office of Management and Budget ("OMB"), which must approve the Commission's rules. As explained in NASCA's supplement, the outage reporting rules duplicate existing efforts and depend on a fundamentally flawed cost-benefit analysis. The rules are unlikely, therefore, to survive OMB's review under the Paperwork Reduction Act in their current form and must be either rescinded or significantly revised. NASCA urges the Commission to reconsider the submarine cable outage reporting rules in light of these more stringent thresholds for new regulation.

Commission grant of NASCA's motion would serve the public interest. As described in the attached supplement, the outage reporting rules in their current form threaten to waste taxpayer dollars and industry resources on duplicative efforts that address only a handful of outage incidents each year. Now is the time to reconsider this mandate, before more resources are expended.

For these reasons, NASCA respectfully requests that the Commission accept the attached supplement to NASCA's petition for reconsideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kent D. Bressie". The signature is fluid and cursive, with a horizontal line extending to the right.

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