

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Amendments to Part 4 of the Commission's Rules) PS Docket No. 15-80
Concerning Disruptions to Communications)
)
New Part 4 of the Commission's Rules Concerning) ET Docket No. 04-35
Disruptions to Communications)
)
The Proposed Extension of Part 4 of the) PS Docket No. 11-82
Commission's Rules Regarding Outage Reporting to)
Interconnected Voice over Internet Protocol)
Providers and Broadband Internet Service Providers)

To: The Commission

REPLY COMMENTS OF T-MOBILE USA, INC.

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To: The Commission

COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”)¹ respectfully submits these reply comments in the captioned proceeding.² T-Mobile continues to support efforts to ensure network reliability and resiliency, but opposes the imposition of additional, costly regulations that produce little, if any, benefits.

INTRODUCTION AND SUMMARY

The record compiled to date is consistent with the comments filed by T-Mobile. Specifically, the record demonstrates that (i) CMRS providers should not be subject to Broadband Internet Access Service (“BIAS”) outage reporting rules, (ii) the Federal Communications Commission (“Commission”) should not require “outage” reports for instances

¹ T-Mobile USA, Inc. is a wholly-owned subsidiary of T-Mobile US, Inc., a publicly traded company.

² *Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5817 (2016) (“*FNPRM*” or “*R&O*”).

when the Radio Access Network (“RAN”) is working at full capacity, (iii) distinct wireless outage reporting requirements are not necessary for rural areas, (iv) a two-step outage reporting process best serves the public interest, (v) outage data should continue to be treated as confidential and protected from disclosure, and (vi) cybersecurity reports should not be incorporated into the network outage reporting process. The Commission should act in accord with this record.

I. BIAS OUTAGE REPORTING RULES SHOULD NOT APPLY TO CMRS PROVIDERS BECAUSE THEY ARE UNNECESSARY

The Commission proposes new rules that would require BIAS providers to report outages.³ The record demonstrates that, if such rules are adopted, they should not apply to CMRS providers because BIAS outages are subsumed within the existing reporting regime applicable to CMRS providers.⁴ Separate BIAS requirements would, therefore, be duplicative, burdensome and unnecessary. Every commenter that addressed whether the BIAS rules should apply to CMRS opposed such a requirement.⁵ Commenters note that CMRS providers long have been subject to the Commission’s network outage reporting rules and that subjecting the CMRS industry to BIAS outage reporting will increase costs, cause confusion, and produce little if any benefits.⁶ As CTIA notes:

A new rule governing mobile BIAS outages is, in fact, unnecessary. Cell sites transmit BIAS along with voice, messaging and other data traffic over a mobile service provider’s radio access network to end users. When CMRS customers, a 9-1-1 special facility, or other special offices and facilities cannot receive service (including BIAS, which is now CMRS) because the

³ *FNPRM*, 31 FCC Rcd at 5856.

⁴ T-Mobile Comments at 4-7; AT&T Comments at 10; CTIA Comments at 2, 4-13; *see* Verizon Comments at 6.

⁵ *See* note 4 *supra*.

⁶ *Id.*

cell sites that serve them are not operating, that outage is reportable when it exceeds any of the reporting thresholds in . . . the wireless outage rule.⁷

T-Mobile reiterates that the proposed rules likely were never intended to apply to CMRS.⁸ As the record demonstrates, the proposed metrics for triggering BIAS outage reports are based on wireline network performance and do not work in the CMRS context.⁹ The cost-benefit analysis also fails to analyze the impact of the proposed BIAS outage rules in the CMRS context, and more generally underestimates the burdens associated with outage reporting.¹⁰

Based on the foregoing, if BIAS outage reporting requirements are adopted, the Commission should clarify that such requirements do not apply to the CMRS industry.

II. RADIO ACCESS NETWORK CAPACITY METRICS SHOULD NOT TRIGGER OUTAGE REPORTING

The Commission proposes to require CMRS carriers to file “outage” reports when networks are fully functional, but a predetermined number of cell sites are operating at full capacity for a specified period of time.¹¹ Commenters – including at least one public safety entity – generally oppose this proposal on the grounds that cell sites operating at full capacity do not equate to a network outage.¹² As the Boulder Regional Emergency Telephone Service Authority (“BRETSA”) states:

⁷ CTIA Comments at 5.

⁸ T-Mobile Comments at 5-7; *see* CTIA Comments at 2, 7-9.

⁹ T-Mobile Comments at 5; CTIA Comments at 7-9; Verizon Comments at 5 (“The 25 Mbps standard is relevant only to fixed, not mobile broadband services. . .”).

¹⁰ AT&T Comments at 7-8; CTIA Comments at 8.

¹¹ *FNPRM*, 31 FCC Rcd at 5887.

¹² T-Mobile Comments at 7-11; Alliance for Telecommunications Industry Solutions (“ATIS”) Comments at 15-16; AT&T Comments at 27-30; BRETSA Comments at 13-15; CTIA Comments at 13-17; Verizon Comments at 7.

[Wireless] providers should *not* be required to report instances in which network facilities are at capacity, but no calls have been blocked. It is inconsistent with market regulation for the Commission to second-guess provider network configurations and capacity. . . . BRE TSA understands that wireless devices and system antennas will vary their transmitter power as necessary to establish a connection. Thus if a single cell site or even multiple cell sites go down, user devices *may* be able to connect through the nearest cell sites which remain operational Thus an outage of one or even multiple cell sites may not prevent callers from reaching 9-1-1, depending on the area and network configuration.¹³

T-Mobile concurs. Long-standing precedent recognizes that market forces are sufficient to ensure high service quality and the proposal would require “outage” reporting when networks are operating as designed.¹⁴ T-Mobile thus remains opposed to this proposal and agrees with CTIA that the Commission should not “force carriers to file reports . . . when their networks are performing as designed, and . . . when cell sites are not only not ‘out,’ but are in fact fully operational Requiring carriers to report when networks are operating at 100 percent capacity, with no outage or disruption event, goes far beyond the purpose of the Part 4 rules and the rational for this rulemaking.”¹⁵

The record also demonstrates that this particular outage-reporting proposal cannot be justified under a proper cost-benefit analysis and would be inconsistent with various Executive

¹³ BRE TSA Comments at 13-15 (emphasis in original). BRE TSA also notes that the mobile nature of CMRS results in a higher volume of calls for a single emergency, which creates problems for PSAPs. “[T]he bursty nature of wireless calling . . . is not only capable of overwhelming designed network capacity, but also PSAP capacity For example, BRE TSA PSAPs have received in excess of 100 calls concerning a single accident on a major highway.” *Id.* at 13.

¹⁴ *See* T-Mobile Comments at 9-11 (citing precedent); *see* AT&T Comments at 6-7; BRE TSA Comments at 13-15; CTIA Comments at 13-17; Verizon Comments at 3 & n.6;

¹⁵ CTIA Comments at 13-14.

Orders and the principles embodied in the Paperwork Reduction Act.¹⁶ Accordingly, the Commission should not adopt this proposal.

III. THE COMMISSION SHOULD NOT ADOPT A DIFFERENT NETWORK OUTAGE REPORTING REGIME FOR RURAL AREAS

The Commission should refrain from adopting a different wireless network outage reporting regime for rural areas.¹⁷ First, T-Mobile agrees with those commenters urging the Commission to evaluate the success of the recently adopted amendments to its Part 4 outage reporting rules before adopting additional changes.¹⁸ The purported problem the rural outage reporting proposal is designed to address may not exist under the newly adopted wireless outage reporting regime.

Second, the newly adopted wireless reporting rules – which are tied to outages at macro cell sites – likely will eliminate any perceived under-reporting of outages in rural areas.¹⁹ Although rural cell sites generally may serve fewer customers than sites in urban areas, the new rules treat both types of sites as serving the same number of customers. As CTIA notes: “[u]nder this new rule, it is irrelevant whether a cell site experiencing an outage is in New York City or in a sparsely populated area – each counts equally. . . . [R]ural areas will see the same reporting for the same level of outages as urban areas. There is no rationale for a separate ‘rural’ rule and the separate reporting methodology it would require carriers to maintain.”²⁰

¹⁶ T-Mobile Comments at 12-15; CTIA Comments at 13-14.

¹⁷ See *FNPRM*, 31 FCC Rcd at 5889-91.

¹⁸ T-Mobile Comments at 17-19; AT&T Comments at 10, 31; Verizon Comments at 7-8.

¹⁹ T-Mobile Comments at 17-18; ATIS Comments at 16; AT&T Comments at 30; CTIA Comments at 17-18.

²⁰ CTIA Comments at 18.

IV. THE COMMISSION SHOULD ADOPT A UNIFORM TWO-STEP OUTAGE REPORTING PROCESS

Currently the network outage reporting rules contain two different reporting schedules: a two-step process for interconnected VoIP and a three-step process for other covered carriers.²¹ The Commission sought comment on adoption of a more uniform reporting process²² and the record demonstrates overwhelming support for a two-step process.²³

In response to the initial *NPRM* in this proceeding, a number of parties – including T-Mobile – urged the Commission to extend the two-step process to all covered services and eliminate the three-step process.²⁴ Parties noted that initial outage reports provide little benefit because they generally contain incomplete or inaccurate information as providers still are troubleshooting the scope and root cause of the outage.²⁵

Comments in response to the instant *FNPRM* generally echo those earlier concerns and oppose a uniform three-step outage reporting approach.²⁶ Such an approach diverts valuable resources from the outage resolution process.²⁷ As BRETSA notes:

²¹ See, e.g., 47 C.F.R. §§ 4.9(e) (three-step wireless process), (g) (two-step interconnected VoIP process).

²² *FNPRM*, 31 FCC Rcd at 5870, 5883.

²³ T-Mobile Comments at 15-16; ATIS Comments at 17-19; AT&T Comments at 13-16, 27; see American Cable Association (“ACA”) Comments at 26-30; CenturyLink Comments at 20-21; Comcast Comments at 23-27; Comtech Telecommunications Corp. Comments at 3-4; ITTA Comments at 14-16; NCTA Comments at 15-20; United States Telecom Association (“USTelecom”) Comments at 8-10.

²⁴ See, e.g., Reply Comments of T-Mobile USA, Inc., PS Docket No. 15-80, at 7-8 (filed July 31, 2015) (“T-Mobile Reply Comments”); ATIS Comments, PS Docket No. 15-80, at 4 (filed July 16, 2015); Sprint Comments at 5-6 (filed July 16, 2015).

²⁵ See, e.g., T-Mobile Reply Comments at 8; Reply Comments of CenturyLink, PS Docket No. 15-80, at 4-5 (filed July 31, 2015).

²⁶ T-Mobile Comments at 15-16; ATIS Comments at 17-19; AT&T Comments at 13-16, 27; see ACA Comments at 26-30; CenturyLink Comments at 20-21; Comcast Comments at 23-27;

[G]iven (i) the Commission’s recent assessment and negotiation of steep forfeitures as a result of 9-1-1 outages to “send a message,” and (ii) the perception that the Commission is particularly aggressive and draconian in its levying of forfeitures; Commission intervention is more likely to get senior management and legal counsel involved to mitigate potential regulatory liability, and to take up time of personnel who could be working to restore service to assure that accurate information is provided [to] the Commission regarding the outage, when the public interest demands that the focus be on restoration of service.²⁸

Another commenter also correctly notes: “[w]hen the Commission adopted interconnected VoIP reporting rules in 2012 with their different [two-step] 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. Of course, those conclusions are equally applicable to all services.’”²⁹

The record demonstrates that a uniform three-step reporting process cannot be justified under a cost-benefit analysis. Initial outage reports require substantial resources to prepare – personnel must review all available information and coordinate with management and legal counsel to ensure the information is accurate. Nevertheless, despite these best efforts, these initial reports – which would be eliminated under a two-step process – are based on information

Comtech Telecommunications Corp. Comments at 3-4; ITTA Comments at 14-16; NCTA Comments at 15-20; USTelecom Comments at 8-10.

²⁷ AT&T Comments at 15 (“Notifications and Initial Reports divert critical resources, including technical expertise, from restoration efforts in order to ensure compliance with an unnecessary and arbitrary regulatory deadline”); ACA Comments at 30 (noting that a three-part reporting process diverts resources from service restoration); CenturyLink Comments at 20-21; USTelecom Comments at 8-9.

²⁸ BRETSA Comments at 10.

²⁹ AT&T Comments at 13-14.

that generally changes as personnel continue to review information that becomes available after the initial reports are filed. These reports thus provide little benefit at substantial costs.

V. THE COMMISSION SHOULD TREAT OUTAGE INFORMATION AS CONFIDENTIAL AND PROTECTED FROM DISCLOSURE

T-Mobile urges the Commission to continue treating all outage information obtained from covered providers as confidential. The *Report and Order* reiterates the importance associated with treating outage reports as confidential due to the “likelihood of substantial competitive harm from disclosure of information in outage reports” and the potential harm to “national defense and public safety.”³⁰ Despite this recognition, however, the *FNPRM* makes a passing reference to potentially altering the “presumed confidentiality” historically afforded network outage reports to address “consumer expectations about transparency.”³¹

T-Mobile concurs with the substantial record opposing any reduction in confidentiality for outage information.³² As CTIA notes:

There are no grounds to reconsider the confidential treatment of outage reports based on the “evolution” of networks or consumer expectations. The Commission determined in the 2004 *Outage Reporting Order* that the potential consumer benefits of public disclosure of network outage information are “substantially outweighed by the potential harm to the public and national defense that might result from disclosure.” . . . Nothing in the development of broadband services, the evolution of networks, or the expectations of consumers alters that calculus.³³

For the foregoing reasons, the Commission should not lessen in any way the confidential nature of outage information.

³⁰ *R&O*, 31 FCC Rcd at 5848.

³¹ *FNPRM*, 31 FCC Rcd at 5876.

³² See ATIS Comments at 19-21; AT&T Comments at 21-25; Comcast Comments at 27-31; CTIA Comments at 18-21; ITTA Comments at 18-20; NCTA Comments at 23-25; USTelecom Comments at 15-16.

³³ CTIA Comments at 19-20.

VI. THE COMMISSION SHOULD NOT INCORPORATE CYBERSECURITY REPORTING INTO THE NETWORK OUTAGE RULES

The Commission proposes to incorporate cybersecurity issues into the network outage reporting rules,³⁴ but the commenters overwhelmingly oppose the concept.³⁵ T-Mobile agrees with commenters opposing the requirement and urging the Commission to instead work with other agencies and to continue fostering ongoing industry efforts to address cybersecurity.³⁶ Moreover, this proposal raises complex jurisdictional issues, but essentially was buried in the *FNPRM*. As noted in T-Mobile's comments, "the cyber reporting proposal is set forth in a few sentences in a *FNPRM* of nearly 100 pages. There is no separate heading providing the industry with any indication that such a proposal is being considered."³⁷ Thus, at a minimum, before considering any cyber reporting requirements the Commission should clearly notice the proposal to obtain a full record in response to the proposal.

CONCLUSION

T-Mobile continues to support efforts to ensure network reliability and resiliency, but opposes the imposition of additional, costly regulations that produce little, if any, benefits. In this regard, the record demonstrates that (i) CMRS providers should not be subject to BIAS outage reporting rules, (ii) the Commission should not require outage reports for call blocking, (iii) a two-step outage reporting process best serves the public interest, (iv) distinct wireless outage reporting requirements are not necessary for rural areas, (v) outage data should continue

³⁴ *FNPRM*, 31 FCC Rcd at 5869-70, 5883.

³⁵ T-Mobile Comments at 16-17; AT&T Comments at 16; ACA Comments at 30-31; CenturyLink Comments at 12-13; Comcast Comments at 32-35; CTIA Comments at 11; US Telecom Comments at 17-18; NCTA Comments at 25; USTelecom Comments at 17-19.

³⁶ T-Mobile Comments at 16-17; ATIS Comments at 8-9; CTIA Comments at 11; US Telecom Comments at 17-18.

³⁷ T-Mobile Comments at 17.

to be treated as confidential and protected from disclosure, and (vi) cybersecurity reports should not be incorporated into the network outage reporting process.

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