

November 5, 2018

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

*Re: GN Docket No. 15-206
Notice of Ex Parte Presentation*

Dear Ms. Dortch:

Pursuant to 47 C.F.R § 1.1206(b), the North American Submarine Cable Association (“NASCA”) notifies the Commission of an *ex parte* presentation in the above-referenced proceeding. On November 1, 2018, I, as counsel for NASCA, spoke by telephone with Zenji Nakazawa, Legal Advisor to Chairman Ajit Pai. During the meeting, we discussed NASCA’s petition for reconsideration of the submarine cable outage reporting requirements.¹ We discussed the reasons the adopted rules do not align with the realities of submarine cable systems, and the importance of modifying the submarine cable outage rules to address the needs of the submarine cable industry. We also discussed the importance of including on the record any concerns that other agencies have raised with the Commission as a basis for the submarine cable outage reporting requirements.

Providing a report within eight hours is not feasible for submarine cable systems. NASCA stressed that the requirement to report an outage in eight hours is not workable for submarine cable licensees; submarine cable operators need substantially more time to report an outage.² This requirement represents one of the greatest burdens of the outage reporting rules for NASCA members. Submarine cable outage reporting would not be an automated process. Operators need time to identify even the most basic information, such as where an outage occurred and what has caused the outage, and then to triage and address the outage. Requiring licensees to report within eight hours negatively impacts operators’ ability to resolve the outage.

¹ See Petition for Reconsideration of the North American Submarine Cable Association, GN Docket No. 15-206 (filed Sept. 7, 2016) (“Petition”); Supplement to Petition for Reconsideration, GN Docket No. 15-206 (filed Sept. 1, 2017) (“Supplement”).

² See Petition at 8.

Many submarine cable systems—including single operator, consortium, and joint build systems—have very small teams responsible for operations. In the event of an outage, operations personnel immediately begin diagnosing the cause and location of the fault. Diagnosing a problem, troubleshooting, and dispatching resources to address the outage fully occupy the time of the small operations team during the outage; they do not have time to file a report within eight hours. Senior management and outside regulatory counsel would need to coordinate with operations-level staff to have the necessary information. Requiring submarine cable operators to take time away from diagnosing the outage to report to the FCC will prolong the outage.

In addition, consortium and joint build systems will also face numerous challenges in coordinating with the other parties to the system to gather information, prepare, and approve an outage report. Among other things, consortium member licensees will have to coordinate with the system landing parties to receive the outage information, process information for reporting through the relevant committee responsible for compliance, and coordinate with counsel. An eight hour time for reporting is not feasible to coordinate among parties and to obtain the necessary information.

Submarine cables span the globe, cross numerous time zones, and land in multiple countries. If the outage happens overnight, on the weekend, or when key individuals of operations teams or senior management are traveling, sick, or otherwise unavailable, an eight hour (or shorter) timeframe is simply not possible. Having multiple days to report is necessary. For this reason, NASCA has requested four days to provide an initial report.³ Any shorter period to report the outage to the FCC would place an unreasonable burden on submarine cable operators and would delay response to the outage.

In addition to these concerns, it is crucial that the Commission maintain the language in the rules that any reporting timeframe begins after “determining an event is reportable.” Without this language, it will be even more difficult for licensees to comply with the outage reporting requirements.

The 30-minute threshold for determining an outage is reportable is arbitrary and will trigger unnecessary reporting. NASCA also explained why a 30-minute threshold for reporting should be modified. Imposing a 30-minute threshold is arbitrary and will include minor, insignificant outages. Imposing the time-consuming and expensive process of obtaining information about negligible outages that are resolved within a matter of hours does not have any policy justifications. In these instances, the burden outweighs the value of the information.

³ See Letter from Kent Bressie, Counsel for the North American Submarine Cable Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, Attachment at 1, GN Docket No. 15-206 (filed June 4, 2018).

Rather, raising the threshold to three or four hours⁴ will weed out those insignificant outages that are quickly resolved.

Licensees should not have to report planned outages, shunt faults, or power feed equipment failures. Along these lines, NASCA confirmed the value of including an exception to reporting for planned outages due to maintenance, shunt faults, and power feed equipment failures. NASCA noted that there is no justification for licensees to report planned outages, as submarine cable operators generally notify their affected customers (which are wholesale customers, not individual consumers) days in advance of any planned maintenance outages so they can make arrangements for alternate capacity where necessary. Cable operators give their customers as much advanced notice as possible—frequently from 10 to 14 days of advance notice—for planned outages. Further, many shunt faults and power feed equipment failures are quickly resolved and do not pose risks to connectivity or the system as a whole. Similar to the concerns of a 30-minute threshold, a reporting requirement that includes shunt faults and power feed equipment will unnecessarily trigger reporting for faults that are insignificant.

On the other hand, basing an exception to reporting on the ability to re-route traffic would not provide relief to a large number of submarine cable licensees. Many licensees have no insight into whether traffic is re-routed. They would effectively still have to report every outage because they would not be able to determine whether an outage has been re-routed. While some licensees may have insight into whether traffic is re-routed—and such an exception may provide some relief to those licensees—basing an exception to reporting on re-routing does not address the industry’s valid concerns related to the short time for providing an initial report and the low threshold for a reportable outage.

Finally, NASCA requested that the FCC facilitate a meeting between security agencies and NASCA members to discuss any concerns related to the security of submarine cables. NASCA also requested that the unclassified basis for the security agencies’ concerns be disclosed on the record. Given the absence of these concerns on the record, NASCA reiterates the point in its Petition that the Commission did not offer sufficient justification for the overly burdensome outage reporting requirements.⁵

⁴ *Id.*; Petition at 6-7.

⁵ *See* Petition at 14-15; Supplement at 2.

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Should you have any questions, please contact me by telephone at +1 202 730 1347 or by e-mail at slarson@hwglaw.com.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Susannah Larson", is written over a light gray rectangular background.

Susannah Larson

*Counsel for the
North American Submarine Cable Association*

cc: Zenji Nakazawa