

New Part 4 of the Commission's Rules Concerning Disruptions to Communications

SUPPORTING STATEMENT

A. Justification:

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The information collection is necessary for the following reasons:

- (1) It enables the Commission to achieve its statutory objectives of ensuring the reliability and security of the nation's telecommunications networks for the purposes of public safety and the national defense and security, including homeland security. If less frequent reporting were required, outages having a detrimental effect on the public and outages and incidents that could provide valuable network reliability information could escape FCC monitoring efforts.
- (2) In addition, some of the information collected could constitute "Critical Infrastructure Information," as defined in 6 U.S.C. 131, which would be shared with the Department of Homeland Security in furtherance of its missions to protect the United States from terrorist activity and to otherwise protect domestic security. Less frequent reporting could jeopardize the ability of the Commission and DHS to meet their respective legal duties to the American people.

Thus, on August 4, 2004, the Commission adopted a *Report and Order*, In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications, ET Docket No. 04-35, FCC 04-188. This proceeding was initiated to extend the requirements for reporting communications disruptions to providers of wireless and satellite communications. Currently communications disruption reporting requirements apply to all other telecommunications carriers.¹ Generally, the outage-reporting requirements also apply to affiliated and non-affiliated entities that maintain or provide communications networks or services used by the provider in offering communications. Excluded from the requirements are those equipment manufacturers or vendors that do not maintain or provide communications networks or services used by communications providers in offering communications. "Outage" 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. The outage reports would be filed as follows:

- (1) Not later than 120 minutes after discovering the outage, the provider shall submit electronically a "bare-bones" "Notification" to the Commission.
- (2) Not later than 72 hours after discovering the outage, the provider shall submit electronically a more detailed "Initial Communications Outage Report" to the Commission.

¹ The current information collection requirements were adopted by the FCC's *Order on Reconsideration* in CC Docket No. 91-273, FCC Number 94-417, released October 30, 1995, that amended 47 CFR Section 63.100 of the Commission's rules. The FCC's *Report and Order* in ET Docket No. 04-35, FCC 04-188, modifies and supersedes these information collection requirements.

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- (3) Not later than thirty days after discovering the outage, the provider shall submit electronically a "Final Communications Outage Report" to the Commission.

The Notification and the Initial and Final reports shall comply with all of the requirements of 47 CFR Section 4.11. The reports enable the Commission to monitor developments affecting telecommunications reliability and security; to facilitate improvements in telecommunications reliability and security; and to serve as a source of information for the public.

47 CFR Section 4.9 of the Commission's rules generally requires all communications providers to electronically notify the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that:

- (1) potentially affects at least 900,000 user minutes of telephony or paging service;
- (2) affects at least 1,350 DS3 minutes;
- (3) potentially affects any special offices and facilities (in accordance with paragraphs (a) - (d) of section 4.5); or
- (4) potentially affects a 911 special facility (as defined in paragraph (e) of 47 CFR section 4.5), in which case they also shall notify, as soon as possible by telephone or other electronic means, any official who has been designated by the management of the affected 911 facility as the provider's contact person for communications outages at that facility, and they shall convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on callers to that facility. (DS3 minutes and user minutes are defined in paragraphs (d) and (e) of 47 CFR section 4.7.)

In the case of wireless communications, criterion (1), above, is replaced by the criteria that the outage of at least 30 minutes duration is of a Mobile Switching Center (MSC) or potentially affects at least 900,000 user minutes of either telephony and associated data (2nd generation or lower) service (a concentration ratio of 8 is applied for outages of a switch) or paging service. For providers of paging service solely, however, instead of criteria (1) – (3), above, the applicable criterion is that there is a failure of a switch for at least 30 minutes duration potentially affects at least 900,000 user-minutes.

The collection of information is authorized under Sections 1, 4(i), 4(j), 4(o), 218, 219, 230, 256, 301, 302(a), 303(f), 303(g), 303(j), 303(r), 403, 621(b)(3), and 621(d) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 154(o), 218, 219, 230, 256, 301, 302(a), 303(f), 303(g), 303(j), 303(r), 403, 621(b)(3), and 621(d).

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

This information collection will be used to report Outages for Wireline Communications, Paging and Wireless Communications, Cable Circuit Switched Telephony and Satellite Communications.

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The Commission's Office of Engineering and Technology (OET) receives the notifications, initial reports, and final reports through electronic filing over the Internet. In cases where special offices and facilities (other than 911 offices and facilities) are affected, any reports from the National Communications System (NCS) are submitted within 120 minutes of an outage to the Commission's Duty Officer, on duty 24 hours a day in the FCC's Communications and Crisis Management Center in Washington, DC.

If OET did not receive the information in the reports for analysis and further investigation, the Commission would have considerable difficulty determining the state of network reliability and security. It would depend on delayed, incomplete and second-hand analysis as a basis for recommending any future Commission action that might be needed to encourage carriers to enhance their reliability and security efforts. It would have difficulty determining the implementation and efficacy of its own and industry's present and future recommendations for enhancing reliability and security. Furthermore, it would be less able to spot reliability and security weaknesses as they begin to appear in the rapidly changing networks.

Thus, the reporting requirement facilitates FCC monitoring of the reliability and security of service being provided and enables it to take swift remedial action as required. The reporting requirement is also essential to the FCC's mission of ensuring that the public is protected from major disruptions to telephone services.

Information required in the notification includes:

- (1) the name of the reporting entity;
- (2) the date and time of onset of the outage;
- (3) a brief description of the problem;
- (4) the particular services affected;
- (5) the geographic area affected by the outage; and
- (6) a contact name and contact telephone number by which the Commission's technical staff may contact the reporting entity.

The initial and final reports shall contain the information required in Part 4 of the Commission's rules. The initial report shall contain all pertinent information then available on the outage and shall be submitted in good faith. The final report shall contain all pertinent information on the outage, including any information that was not contained in, or that has changed from that provided in, the initial report.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The notification and the initial and final Communications Outage Reports are to be submitted electronically to the Commission. "Submitted electronically" refers to submission of the information using Commission-approved Web-based outage report templates.

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If there are technical impediments to using the Web-based system during the notification stage, then a written notification to the Commission by email, FAX, or courier may be used; such notification shall contain the information required above.

All notifications, as well as all initial and final Communications Outage Reports, whether in tangible or electronic form, shall be addressed to the Chief, Office of Engineering & Technology, Federal Communications Commission, Washington, D.C. 20554. (However, all hand-delivered Notifications and Initial and Final Communications Outage Reports shall be addressed to the Federal Communications Commission, Office of the Secretary, Attention: Edmond J. Thomas, Chief, Office of Engineering & Technology, 236 Massachusetts Ave., N.E., Suite 110, Washington, D.C. 20002.) Electronic filing shall be effectuated in accordance with procedures that are specified by the Commission by public notice.

Information collected has been used by the Commission staff to determine weaknesses in reliability and to formulate new tasks for the Network Reliability and Interoperability Council (NRIC), a Federal Advisory Committee formed by the Commission to advise it on matters of network reliability. The information also will be shared with the Department of Homeland Security.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

The reporting requirement is not duplicated elsewhere. The quarterly quality of service reporting requirement (approved under OMB Control No. 3060-0395) and the semiannual quality of service reporting requirement compel subject carriers to file reports indicating periods of switch downtime, trunk blockage, service quality complaints, dial tone response, and customer satisfaction, as well as to file annual reports regarding infrastructure development. Those service quality reports do not provide the Commission with sufficiently timely or specific information regarding service disruptions. Nor do those reports require common carriers to evaluate and report the apparent or known causes of service disruptions or the steps taken to restore service and to prevent further outages.

Outage reports pertaining to national security and emergency preparedness filed by the carriers with the National Coordinating Center will not fulfill our needs to enhance service reliability. There is no source of contemporary 911 reporting data elsewhere available to the Commission. In addition the Part 25 reporting requirements pertinent to satellite communications providers and operators (*e.g.*, OMB Control Nos. 3060-0447, 3060-0539, 3060-1007, and pending 3060-1013) do not provide the Commission with sufficiently timely or specific information regarding service disruptions. Nor do those reports require satellite communication providers or operators to evaluate and report the apparent or known causes of service disruptions or the steps taken to restore service and to prevent further outages.

The reporting requirement has been carefully designed to require the reporting of only the data needed for the Commission to achieve its objectives of assuring the reliability and security of the nation's telecommunications networks for the purposes of public safety and the national defense and security, including homeland security. If less frequent reporting were required, outages having a detrimental effect on the public and outages and incidents that could provide valuable network reliability information could escape FCC monitoring efforts.

New Part 4 of the Commission's Rules Concerning Disruptions to Communications**5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

The reporting requirement is limited to those services where outages have raised the greatest concerns. The collection has been carefully designed to require the reporting of the data needed for the Commission to achieve its objectives as stated in item 1 above.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If less frequent reporting were required, outages having a detrimental effect on the public and outages and incidents that could provide valuable network reliability information could escape FCC monitoring efforts. In addition, some of the data collected could constitute "Critical Infrastructure Information," as defined in 6 U.S.C. 131, which would be shared with the Department of Homeland Security in furtherance of its missions to protect the United States from terrorist activity and to otherwise protect domestic security. Less frequent reporting could jeopardize these vital Federal programs and activities.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

This collection of information is consistent with the guidelines delineated in the instructions in that this will not be a general collection of information where carriers would be required to prepare a form at specific intervals, or to prepare a written response in less than 30 days after receipt of a form or request.

The respondents may submit reports to the Commission more than once a quarter, because the frequency of outages for each carrier cannot be predicted, but reporting is only required as actual outages occasion the need for reports. There is no periodic reporting requirement. The requirement is "occasional."

The benefits derived from the occasional reporting requirement, for which there is substantial need, are explained in the preceding paragraph. The carriers themselves customarily gather the data for their own purposes, so providing it to the Commission will not be burdensome.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information prior to submission to OMB.

-Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The *Notice of Proposed Rulemaking* in this proceeding requested comment on the entire reporting schemata, including frequency and contents of reports, the reporting elements, an illustrative template, and the ease with which compliance with these reporting requirements can be achieved. In addition, the Commission's staff and various Commissioners' offices met with representatives of potentially affected carriers prior to adopting the reporting requirements addressed herein. Subsequent to the adoption of this *Report and Order* on August 4, 2004, Commission personnel

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have responded to inquiries from representatives of carriers, manufacturers, users of telecommunications services, and other portions of the Federal government concerning the reporting requirements described herein. In addition, the Commission's staff regularly consults with the members of the focus groups that support the work of the Network Reliability and Interoperability Council (NRIC).

NRICs working groups consider the contents of reported outages and, when pertinent to their assigned responsibilities, make appropriate recommendations. The membership of the NRC and its focus groups includes representatives of virtually every major telecommunications carrier in the United States. Consultations with carriers will proceed on a regular basis, as well as with the NRIC and the Network Reliability Steering Committee. NRIC meetings are attended by FCC staff and FCC Commissioners.

The Commission placed a Notice in the *Federal Register* pursuant to 5 CFR Section 1320.8, *See* 69 FR 15761, March 26, 2004. A copy is attached. The Commission did not receive any comments following publication of the Notice.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift to respondents has been or will be made.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

A presumption of confidentiality is being offered to respondents. It is expected that the information filings will be shared only with the Department of Homeland Security, and, under appropriate confidential disclosure provisions. Other persons seeking disclosure must follow the procedures delineated in 47 CFR Sections 0.457 and 0.459 of the Commission's rules.

11. Provide additional justification for any questions of a sensitive nature.

The information to be collected could contain "Critical Infrastructure Information," as defined in 6 U.S.C. 131, which would be shared with the Department of Homeland Security in furtherance of its missions to protect the United States from terrorist activity and to otherwise protect domestic security. Such information is protected from routine FOIA disclosure. The information could also contain trade secrets which likewise are protected from routine FOIA disclosure.¹²

12. Provide estimates of the hour burden of the collection of information. The statement should: indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance.

Total reporting costs to the respondents will be:

Total Number of Respondents: 52 carriers

Frequency of response: On occasion reporting requirements

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Total Number of Responses Annually:

We estimate that each carrier will file approximately 4 reports per year:

52 carriers x 4 reports/annually = **208 responses**

Total Annual Hourly Burden:

52 carriers x 4 reports/carrier/annually x 5 hours/report = **1040 hours.**

Method of estimation of burden: We anticipate that reporting entities will ordinarily not need more than 15 minutes to file a Notification with the Commission. A more detailed initial report will be required to be filed electronically 72 hours after the outage was discovered. At this point, much more information will ordinarily be available and restoration efforts will likely be either complete or well on the way to completion.

The information that we seek is of the type that the reporting entity will routinely gather as part of its outage diagnosis and restoration efforts. We anticipate that reporting entities will ordinarily not need more than 45 minutes to complete and submit the initial report to the Commission. The initial report will contain all available information and must be submitted in good faith. < or = 1 HOUR

The final report is required to be filed electronically 30 days after the outage was discovered. At this point, complete information will, in almost all cases, be available and the final report must contain this information and be submitted with an attestation to its accuracy and completeness. We anticipate that reporting entities will ordinarily not need more than 2 hours to complete and submit electronically the final report to the Commission.

These time estimates include the actual time needed for data entry and submission but do not include the time taken for data gathering and analysis. Also excluded is idle time (for example, any time in which partially completed information is waiting in an in-box for further review), which we find cannot fairly be counted as a reporting burden. Since most companies routinely collect information on major failures, it is difficult to estimate precisely how much additional time for data gathering and analysis, if any, will be required to comply with the revised rule.

In any event, we estimate that for the great majority of outages the total additional time so required will be significantly less than two (2) hours. Thus, the final report will generally not require more than 4 hours in total time.

In making all of our time estimates, we have taken into account that all filings are to be made electronically, through a "fill in the blank" template, thereby minimizing the burden on all reporting entities. In sum, we estimate the total time needed to file all reports pertinent to each outage that meets or exceeds the threshold criteria to be substantially less than **5 hours** (the Notification + the Initial Report + Final Report):

15 minutes + 45 minutes + 2 to 4 hours = 5 hours maximum, and most likely little more than 3 hours.

Although we anticipate that more than the 2003 yearly total of 126 outage reports will be filed annually, we estimate that the total number of reports from all reporting sources combined will be substantially less than 1,000 annually.

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Similarly, we anticipate that more than the 2003 yearly total of 17 respondents will file outage reports annually, an increase of perhaps 50% - 100%, but we deem it highly unlikely that the number of respondents will increase to more than 52, which is unchanged since prior approval. We also anticipate, as we had in the past, that the 52 respondents will each report 4 outages annually.

(5) Estimates of annualized cost to respondents for the hour burdens for collection of information: \$30,000. Annualized costs are based on the reporting levels estimated in the *Report and Order*:

It is estimated that the respondents would spend \$30,000 per year because of the total yearly number of outage reports. This estimate is based on the assumptions that the 52 respondents file reports for 4 outages annually, using 5 hours per outage for preparing notification, initial and final reports. This results in an overall time estimate for report preparation of 1040 hours annually:

$$52 \text{ respondents} \times 4 \text{ reports annually/respondent} \times 5 \text{ hours/report} = 1040 \text{ hours}$$

We then estimate that each report will be prepared by a full-time employee who works 2080 hours annually and receives a yearly salary of \$60,000:

Next, we compute that 1040 hours equals 0.5 working years and, therefore, \$30,000 in salary will be used for report preparation:

$$2080 \text{ hours annual work time} / 1040 \text{ hours/report yearly} = 0.5 \text{ work years}$$

$$\$60,000 \times 0.5 \text{ working years} = \$30,000$$

Total Annual "In House" Costs: = \$30,000.

13. Provide estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in items 12 and 14).

The following represents the Commission's estimate of the annual cost burden to respondents or recordkeeping resulting from the collection of information:

- (a) Total capital and start up cost component (annualized over its useful life): \$0.00. The requirement does not require the purchase of additional equipment.
- (b) Total operation and maintenance and purchase of services: \$0.00. The requirement will not result in additional operating and maintenance expenses, other than the hourly cost outlined above.
- (c) Total annualized cost requested: **\$0.00**

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14. Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expenses that would not have been incurred without this collection of information.

"We estimate that the total annual cost to the Federal Government, based on the salaries of an engineer (GS-15 step 5), an engineer (GS-14 step 5), an attorney (GS-15 step 10), an attorney (GS-14 step 5), and a technical information specialist (GS-9 step 5). Each spends approximately ¼ (520 hours) of their work time each year on the information collected:

Attorney GS-15 step 10 at \$57.52/hr wage.	$\$57.52 \times 520 =$	\$29,910.40
Engineer GS-15 step 5 at \$47.87/hr wage.	$\$47.87 \times 520 =$	\$24,892.40
Engineer GS-14 step 5 at \$40.70/hr wage.	$\$40.70 \times 520 =$	\$21,164.00
Attorney GS-14 step 5 at \$40.70/hr wage.	$\$40.70 \times 520 =$	\$21,164.00
Information Specialist GS-9 step 5 at \$20.92/hr wage.	$\$20.92 \times 520 =$	<u>\$10,878.40</u>
		\$108,009.20

30 % Overhead = \$32,402.76

Total Annual Cost to the Federal Government: \$140,411.96

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB Form 83-I.

The Commission notes that there are no adjustments to the number of respondents, the total annual hourly burden, and total annual cost burdens for respondents. The cost to the Federal Government has increased because to the Commission now adds 30% for the estimated overhead costs. We note that the total number of responses annually was reported incorrectly in the previous submission.

Thus, we are only changing the way the information will be submitted to the Commission, (by a template and electronically filed). We anticipate no increase in the number of reports or additional costs. In the last year (2003), the Commission received 126 outage reports. Therefore, our estimate of reporting costs has been borne out and will continue to be valid for the foreseeable future.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

The FCC does not plan to publish the results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Commission does not intend to seek approval not to display the expiration date of the information collection from OMB.

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The Commission notes that the NPRM had reported \$41,600 as the estimated total annual costs to respondents, but we have since determined that there will be no such total annual costs. Otherwise, there are no other exceptions to the Certification Statement in Item 19.

B. Collections of Information Employment Statistical Methods:

This information collection does not employ any statistical methods.