

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

In the Matter of)
)
Improving Outage Reporting for Submarine) MD Docket No. 15-206
Cables and Enhancing Submarine Cable)
Outage Data)

JOINT REPLY COMMENTS OF SUBMARINE CABLE COALITION

The Submarine Cable Coalition (“Coalition”), composed of Columbus Networks USA, Inc., GlobeNet Cabos Submarinos America, Inc., GU Holdings Inc., and Servicio di Telecomunicacion di Aruba N.V. (“SETAR”), submits the following Joint Reply Comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM”) proposing to extend mandatory outage reporting requirements to submarine cable operators in the above-captioned docket.

I. COMMENTERS AGREE THAT THE OUTAGE REPORTING REQUIREMENTS PROPOSED BY THE COMMISSION ARE IMPRACTICABLE.

While industry commenters in this proceeding do not oppose reporting requirements, they overwhelmingly demonstrate that the Commission’s proposed submarine cable outage reporting requirements require modification in order to be consistent with the technical and operational realities of the submarine cable industry. The North American Submarine Cable Association (“NASCA”), for example, correctly notes that the Commission’s proposal fails to “account for how submarine cable operators operate, respond to faults, and are licensed by the Commission.”¹

¹ *Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data*, FCC 15-119, Comments of NASCA at 17 (filed Dec. 3, 2015) (“NASCA Comments”).

As AT&T Services, Inc. (“AT&T”) points out, many of the impacted submarine cables are jointly-owned consortium cables “in which U.S. and foreign operators share the substantial costs of constructing and operating” the system.² The Commission should adopt reporting requirements that reflect the consensus of experienced industry participants and account for the unique circumstances faced by submarine cable operators as opposed to terrestrial systems.

A. Rerouted Traffic Should Not be Subject to the Reporting Obligation

Commenters agree that rerouted traffic or planned outages should not trigger outage reporting obligations. Virtually all submarine cable systems build in network redundancies or satellite back-up routes to protect against cable outages that result in transmission losses.³ Requiring submarine cable licensees to take on the additional time and expense of timely completing three-step reports for supposed “outages” that licensees have already dedicated resources to guard against through rerouting or redundancies, and which do not actually result in any service disruption, does little to advance the Commission’s goal of protecting communications critical to our nation’s economy and national security. In the event that the Commission nevertheless determines that it is, in fact, necessary to collect this type of information, outages that do not result in transmission losses either because the traffic has been rerouted or because it represents a planned outage, should not be subject to the same reporting thresholds as unplanned outages that sever voice or data services for U.S. residents, businesses or

² *Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data*, FCC 15-119, Comments of AT&T Services Inc. at 4 (filed Dec. 3, 2015) (“AT&T Comments”).

³ See AT&T Comments at 5; NASCA Comments at 5; *Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data*, FCC 15-119, Comments of Submarine Cable Coalition at 6 (filed Dec. 3, 2015) (“Coalition Comments”).

government entities.⁴ In this case, the Commission should adopt a much more flexible reporting requirement, requiring significantly less information than the Commission's proposal for unplanned outages and only requiring one filing (as opposed to three reports).

B. Additional Flexibility is Required as to the Timing and Substance of Reports

AT&T, NASCA, and the Coalition concur that "modifications should be made regarding the proposed timing and contents of the outage reports to allow licensees a reasonable opportunity to file in a timely manner."⁵ In particular, the Coalition maintains that the proposed 120-minute requirement for the initial notification of an outage is insufficient and will lead to excessive and inaccurate reporting. As AT&T and NASCA also note, the limited information available to licensees at the time an outage is discovered is likely not adequate to determine a root cause, precise location, or anticipated outage duration.⁶ To avoid wasted effort and the submission of inaccurate information, therefore, the initial notification and interim reports should be required, at a minimum, 48 hours after the triggering event occurs, and the Coalition agrees with AT&T that a 72-hour reporting timeframe would be more realistic.⁷ As noted by the Coalition, it should also be permissible for licensees to amend or supplement a final report where information is corrected or only later emerges, as AT&T illustrates.⁸ Finally, the Coalition agrees with commenters that the Commission significantly underestimates the overall costs of the proposed three-tiered reporting model and urges the Commission—in addition to making

⁴ See Coalition Comments at 4.

⁵ AT&T Comments at 16. See also Coalition Comments at 6-9; NASCA Comments at 16-21.

⁶ See NASCA Comments at 19-20; AT&T Comments at 16-17.

⁷ See NASCA Comments at 20; Coalition Comments at 8; AT&T Comments at 18.

⁸ See AT&T Comments at 20; Coalition Comments at 8.

sensible substantive changes—to revise its cost estimate in line with NASCA’s recommendations.⁹

C. The Responsible Licensee Reporting Model Is Impractical as Applied to International Consortia

The Coalition disagrees with the idea of designating a single “Responsible Licensee” to file outage reports and subjecting all licensees on a given cable to joint liability in the event of an enforcement action.¹⁰ As the Coalition emphasized, any administrative efficiencies gained at the Commission from a single report per outage would be offset by licensees having to expend resources to police the Responsible Licensee to ensure that reporting requirements are being met.¹¹ Moreover, all licensees may not experience outages equally and therefore may not be affected or have liability for a particular outage.¹² The Coalition agrees with NASCA that the Commission should therefore allow the members of each submarine cable system to determine how best to allocate reporting responsibilities, which may involve more than one responsible party per system, and maintains that parties that do not experience a disruption sufficient to trigger a reportable outage should not be held jointly and severally liable for any forfeitures that might result from a failure to report by other members of the consortium.¹³

⁹ See NASCA Comments at 22 *et seq.*

¹⁰ See AT&T Comments at 8-10.

¹¹ Coalition Comments at 10.

¹² See NASCA Comments at 17-18; Coalition Comments at 10.

¹³ NASCA Comments at 35.

II. THE COALITION URGES THE COMMISSION TO ADOPT A TECHNOLOGY-BASED DEFINITION OF “OUTAGE”

The Coalition agrees with NASCA and AT&T that the Commission’s proposed definition of a reportable disruption for submarine cables is unworkable.¹⁴ The proposed definition is too broad and could yield excessive reporting that far exceeds the approximately 50 aggregate annual reportable events anticipated by the Commission. Moreover, the proposed definition does not properly focus on what the Commission indicates it wants licensees to report (*i.e.*, significant degradations in the performance of a cable as a whole, including cable cuts or other catastrophic events). NASCA proposes that the Commission adopt a definition of “outage” that references the impact on customers.¹⁵ AT&T proposes to redefine a reportable “capacity loss” as the “loss of any fiber pair on a cable segment” and proposes to limit reportable “connectivity losses” to those on the undersea cable and power failures.¹⁶ The Coalition agrees with AT&T that the definition of a reporting event must be grounded in the technology and submits that a customer-based definition is unworkable given the widely varied uses of submarine cables for numerous types of voice and data communications by different types of users.¹⁷

The Coalition accordingly reiterates that the definition of an “outage” proposed by the Commission should be amended and the reporting requirement should be triggered only when

¹⁴See NASCA Comments at 10-13; Coalition Comments at 2-4; AT&T Comments at 13-16. The Notice of Proposed Rulemaking proposes to define a reportable disruption as “when either: (i) an event occurs in which connectivity in either the transmit mode or the receive mode is lost for at least 30 minutes; or (ii) an event occurs in which 50 percent or more of a cable’s capacity in either the transmit mode or the receive mode is lost for at least 30 minutes, regardless of whether the traffic is re-routed.” NPRM, ¶ 31.

¹⁵ See NASCA Comments at 34.

¹⁶ See AT&T Comments at 14-15.

¹⁷ Submarine cables are used by different types of users with different needs and requirements for performance. Among the most common users of undersea systems are: domestic and international telecommunications carriers, government agencies, Internet companies, financial institutions, enterprise customers, etc.

“there is an event related to damages or replacements of a portion of submarine cable system between the submarine line terminal equipment (“SLTE”) at one end of the system and the SLTE at another end of the system, that disrupts traffic provisioned on fifty percent or more of the active fiber pairs in the system for more than three hours.”¹⁸

The Coalition’s proposed definition aligns with NASCA’s position that “if an incident does not disrupt communications, the incident should not be reportable”¹⁹ and would address AT&T’s concerns with respect to over-reporting of “issues that normally do not significantly affect the operation of submarine cables.”²⁰

The alternative definition proposed by the is unambiguous, better reflects the realities of the submarine industry, and is more in line with the Commission’s goal of requiring licensees to report outages only when communications on a particular cable system are indeed disrupted.

III. Successful Implementation Outage Reporting Requirements Requires a Reasonable Transition Period

The Coalition agrees that the Commission should make the outage reporting requirements effective upon completion of a transition period of 12-15 months as proposed by NASCA and AT&T, respectively.²¹ This would permit consortium licensees to take steps necessary to ensure compliance with the reporting rules, given the level of coordination that will be required among cable licensees in multiple jurisdictions.

¹⁸ Coalition Comments at 3. The Coalition notes that, particularly with respect to repeaterless segments, submarine cable operators may opt to roll degraded fibers to dark fiber in lieu of repair. As such, only active fiber pairs should be considered in the definition of a reportable “outage.”

¹⁹ NASCA Comments at 34.

²⁰ AT&T Comments at 14.

²¹ NASCA Comments at 35; AT&T Comments at 12.

IV. CONCLUSION

For the reasons set forth herein, the Coalition respectfully urges the Commission to adopt reasonable modifications to its proposed submarine cable outage reporting requirements based on broad consensus among stakeholders with industry expertise.

Respectively submitted,

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