

31 May 2016

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 Presentations*

Dear Ms. Dortch:

Pursuant to 47 C.F.R § 1.1206(b), the North American Submarine Cable Association (“NASCA”) notifies the Commission of two *ex parte* presentations in the above-referenced proceeding. On May 26, 2016, Mike Tan (AT&T), Jim Talbot (AT&T), Tom McInerney (AT&T), and I, as counsel for NASCA met in person or telephonically with Brendan Carr, Legal Advisor to Commissioner Ajit Pai and separately with Daudeline Meme, Legal Advisor to Commissioner Mignon Clyburn. During the meetings, we discussed NASCA’s concerns that the proposed outage reporting requirements should be revised to reflect the practical concerns unique to submarine cable systems.

First, we discussed why submarine cable operators need a transition period of at least a year to implement any outage reporting requirements. We explained that many submarine cable systems are consortium-owned; these arrangements will require complex negotiations and coordination among members to implement technology and procedures for reporting. In addition, many submarine cable operators are members of multiple consortia, and some of these operators will be unable to incorporate the reporting requirements for all of their submarine cable systems at the same time. Further, because older submarine cable systems may not have network operations centers to detect outages on all of a system’s segments, affected operators will need to incorporate new technology and coordinate with other consortium members to ensure they receive notification of reportable outages. These real-life challenges will slow down submarine cable operators’ ability to implement the reporting requirements; any transition period less than a year would be unrealistic. In the May Open Commission Meeting, the Commissioners

acknowledged that any new Part 4 reporting rules (through a separate rulemaking¹) should include a transition period for implementation. The Commission should apply that same logic to any new submarine cable outage reporting rules. Indeed, submarine cable reporting implementation should have an even *longer* transition period than other Part 4 reporting rules because establishing submarine cable reporting mechanisms will require changes on a global scale, whereas implementing reporting for other Part 4 outages is typically limited to changes within the U.S. Accordingly, the Commission should incorporate a sufficient transition period to account for the unique challenges to submarine cable systems.

Second, we discussed NASCA's concerns that the proposed timing for the initial notification is not practical. NASCA explained that a 24-hour window for reporting an outage is much more realistic than the proposal that operators must report in a matter of hours. Many smaller systems have fewer than ten employees, all of whom would be focused on restoring traffic and mobilizing a cable ship for repair rather than focusing on filing paperwork. Further, if outages occur on the other side of the world, those responsible for reporting may be asleep at the time of an outage. NASCA urged the Commission to make the initial notification requirement workable for submarine cable operators who need to focus their immediate attention on resolving the outage.

Third, we explained that an interim report requirement adds an extra burden on operators without any material benefit to the Commission and should therefore be eliminated. NASCA reiterated that between the time of an initial outage notification and the time of scheduling a repair, when the interim report would be due, operators would not have additional material information about the outage or its cause. The cause—if discoverable at all—could likely only be determined during the course of the repair. The Commission should therefore reject the idea that the number of reporting phases for submarine cables should parallel that for other kinds of network outages under the Commission's Part 4 rules. Submarine cable outages are distinguishable from terrestrial network outages because submarine cable operators do not have immediate access to infrastructure or its vicinity or the ability to identify proximate activities that might have caused the outage, such as a backhoe digging up terrestrial fiber. On submarine cables, the infrastructure is located on the seabed, often thousands of kilometers offshore and thousands of meters beneath the ocean's surface. Further, submarine cable systems do not have retail customers that will directly suffer from an outage and thus need frequently updated information. These differences make an interim report unnecessary.

Finally, we confirmed NASCA's support of the NPRM's proposal to establish a clearinghouse of information to streamline permitting and to enhance interagency coordination to improve submarine cable protection.

¹ See *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket No. 15-80; *Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, PS Docket No. 11-82; *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, ET Docket No. 04-35.

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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,



Susannah Larson

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North American Submarine Cable Association*

cc: Brendan Carr
Daudeline Meme