

APPENDIX A
PROPOSED RULES

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend Parts 0 and 63 and to create new Part 4 of Chapter I of Title 47 of the Code of Federal Regulations (C.F.R.) as follows

PART 0 – COMMISSION ORGANIZATION

The authority citation for part 0 continues to read as follows

Authority: Sec. 5, 48 Stat. 1068, as amended, 47 U.S.C. 155

1 Section 0.31 is proposed to be amended by revising paragraph (i) to read as follows.

§ 0.31 Functions of the Office.

* * * * *

(i) To administer parts 2, 4, 5, 15, and 18 of this chapter, including licensing, recordkeeping, rule making, and revising the filing system and template used for compliance with the Commission's communications disruption reporting requirements

* * * * *

2 Section 0.241 is proposed to be amended by revising the introductory text paragraph (a) and paragraph (l) and paragraphs b through g and by adding paragraphs (h) and (i) to read as follows:

§ 0.241 Authority delegated.

(a) The performance of functions and activities described in § 0.31 of this part is delegated to the Chief of the Office of Engineering and Technology. Provided, that the following matters shall be referred to the Commission en banc for disposition

(l) Notices of proposed rulemaking and of inquiry and final orders in rulemaking proceedings, inquiry proceedings and non-editorial orders making changes, except that the Chief of the Office of Engineering and Technology is delegated authority to make the revisions to the filing system and template necessary to maximize the efficiency of reporting and responding to critical data and minimize the time for providers to prepare and for the Commission staff to review the communications disruption reports required to be filed pursuant to part 4 of this chapter.

* * * * *

(b) The Chief of the Office of Engineering and Technology is delegated authority to administer the Equipment Authorization program as described in part 2 of the Commission's Rules.

(c) The Chief of the Office of Engineering and Technology is delegated authority to administer the Experimental Radio licensing program pursuant to part 5 of the Commission's Rules

(d) The Chief of the Office of Engineering and Technology is delegated authority to administer the communications disruption reporting requirements that are contained in part 4 of this chapter and to revise the filing system and template used for the submission of such reports

(e) The Chief of the Office of Engineering and Technology is delegated authority to examine all applications for certification (approval) of subscription television technical systems as acceptable for use under a subscription television authorization as provided for in this chapter, to notify the applicant that an examination of the certified technical information and data submitted in accordance with the provisions of this chapter indicates that the system does or does not appear to be acceptable for authorization as a subscription television system. This delegation shall be exercised in consultation with the Chief, Media Bureau

(f) The Chief of the Office of Engineering and Technology is authorized to dismiss or deny petitions for rulemaking which are repetitive or moot or which for other reasons plainly do not warrant consideration by the Commission

(g) The Chief of the Office of Engineering and Technology is authorized to enter into agreements with the National Institute of Standards and Technology and other accreditation bodies to perform accreditation of test laboratories pursuant to § 2.948(d) of this chapter. In addition, the Chief is authorized to make determinations regarding the continued acceptability of individual accrediting organizations and accredited laboratories

(h) The Chief of the Office of Engineering and Technology is delegated authority to enter into agreements with the National Institute of Standards and Technology to perform accreditation of Telecommunication Certification Bodies (TCBs) pursuant to §§ 2.960 and 2.962 of this chapter. In addition, the Chief is delegated authority to develop specific methods that will be used to accredit TCBs, to designate TCBs, to make determinations regarding the continued acceptability of individual TCBs, and to develop procedures that TCBs will use for performing post-market surveillance.

(i) The Chief of the Office of Engineering and Technology is delegated authority to make nonsubstantive, editorial revisions to the Commission's rules and regulations contained in parts 2, 4, 5, 15, and 18 of this chapter

PART 4 – DISRUPTIONS TO COMMUNICATIONS

GENERAL

Sec

4.1 Scope, basis and purpose

Reporting Requirements for Disruptions to Communications

4.3 Communications providers covered by the requirements of this part

4.5 Definitions of outages, special offices and facilities, and 911 special facilities.

4.7 Definitions of metrics used to determine the general outage-reporting threshold criteria.

4.9 Outage reporting requirements -- threshold criteria

4.11 Initial and final communications outage reports that must be filed by communications providers.

4.13 Reports by the National Communications System (NCS) and by special offices and facilities, and related responsibilities of communications providers.

The authority citation for Part 4 is proposed to read as follows:

Authority: 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), unless otherwise noted.

GENERAL

§ 4.1 Scope, basis and purpose.

By these rules the Federal Communications Commission is setting forth requirements pertinent to the reporting of disruptions to communications and to the reliability of communications infrastructures.

Reporting Requirements for Disruptions to Communications

2. New section 4.3 is proposed to read as follows.

§ 4.3 Communications providers covered by the requirements of this part. As used in this Part

- (a) "Cable communications" providers are cable service providers that also provide circuit-switched telephony. Also included are affiliated and non-affiliated entities that maintain or provide communications systems or services used by the provider in offering telephony.
- (b) "Wireless service" providers include Commercial Mobile Radio Service communications providers that use cellular architecture and CMRS paging providers. In particular, they include Cellular Radio Telephone Service (Part 22 of the Commission's Rules), Personal Communications Service (PCS) (Part 24), and enhanced Special Mobile Radio Service (Part 90) providers, as well as those private paging (Part 90) providers that are treated as CMRS providers (see Section 20.9 of the Commission's Rules, 47 C.F.R. § 20.9) and narrowband PCS providers (Part 24). Also included are affiliated and non-affiliated entities that maintain or provide communications systems or services used by the provider in offering such communications.
- (c) IXC or LEC tandem facilities refer to the tandem facilities used in the provision of interexchange or local exchange communications.
- (d) "Satellite communications providers" use space stations as a means of providing the public with communications, such as telephony and paging. Also included are affiliated and non-affiliated entities that maintain or provide communications systems or services used by the provider in offering such communications.
- (e) Signaling System 7 (SS7) is a signaling system used to control telecommunications networks. It is frequently used to "set up," process, control, and terminate circuit-switched telecommunications, including but not limited to domestic and international telephone calls (irrespective of whether the call is wholly or in part wireless, wireline, local, long distance, or is carried over cable or satellite

infrastructure), SMS text messaging services, 8XX number type services, local number portability, VoIP signaling gateway services, 555 number type services, and most paging services. For purposes of this rule Part, SS7 refers to both the SS7 protocol and the packet networks through which signaling information is transported and switched or routed. It includes future modifications to the existing SS7 architecture that will provide the functional equivalency of the SS7 services and network elements that exist as of **[the date of adoption of this rule]**. SS7 communications providers are subject to the provisions of Part 4 of the Commission's rules regardless of whether or not they provide service directly to end users. Also subject to Part 4 of the Commission's rules are affiliated and non-affiliated entities that maintain or provide communications systems or services used by the SS7 provider in offering SS7 communications.

- (f) "Wireline communications providers" offer terrestrial communications through direct connectivity, predominantly by wire, coaxial cable, or optical fiber, between the serving central office (as now defined on October 1, 2002 in the glossary to Part 36 of the Commission's Rules, 47 C.F.R. Part 36, Appendix-Glossary) and end user location(s). Also included are affiliated and non-affiliated entities that maintain or provide communications systems or services used by the provider in offering such communications.
- (g) "Communications provider" is an entity that provides two-way voice and/or data communications, and/or paging service, by radio, wire, cable, satellite, and/or lightguide for a fee to one or more unaffiliated entities.

2. New section 4.5 is proposed to read as follows:

§ 4.5 Definitions of outage, special offices and facilities, and 911 special facilities As used in this Part

- (a) "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.
- (b) Special offices and facilities are defined as airports, major military installations, key government facilities, and nuclear power plants. The member agencies of the National Communications System (NCS) will determine which of their locations are "major military installations" and "key government facilities." 911 special facilities are addressed separately in paragraph (e) of this section.
- (c) An outage that "potentially affects" an airport is defined as an outage that: (i) disrupts 50% or more of the air traffic control links or other FAA communications links to any airport; or (ii) has caused an Air Route Traffic Control Center (ARTCC) or airport to lose its radar; or (iii) causes a loss of both primary and backup facilities at any ARTCC or airport, or (iv) affects an ARTCC or airport that is deemed important by the FAA as indicated by FAA inquiry to the provider's management personnel; or (v) has affected any ARTCC or airport and that has received any media attention of which the communications provider's reporting personnel are aware.
- (d) A mission-affecting outage is defined as an outage that is deemed critical to national security/emergency preparedness (NS/EP) operations of the affected facility by the National Communications System member agency operating the affected facility.
- (e) An outage that potentially affects a 911 special facility is defined as an outage that potentially affects the ability of a communications provider to complete 911 calls (including all associated name, identification, and location data). Such outages include those significant service degradations and

switch or transport failures where rerouting to the same or an alternative answering location was not implemented. Examples of such outages include one or more of the following situations:

- (1) isolation of one or more Public Service Answering Points (PSAPs) for at least 30 minutes duration, or
- (2) loss of call processing capabilities in one or more E911 tandems for at least 30 minutes duration, or
- (3) isolation of one or more end office switches or host/remote clusters, for at least 30 minutes duration

3. New section 4.7 is proposed to read as follows:

§ 4.7 Definitions of metrics used to determine the general outage-reporting threshold criteria. As used in this Part:

- (a) "Administrative numbers" are defined as the telephone numbers used by communications providers to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards.
- (b) "Assigned numbers" are defined as the telephone numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use, or numbers not yet working but having a customer service order pending. Numbers that are not yet working and have a service order pending for more than five days shall not be classified as assigned numbers.
- (c) "Assigned telephone number minutes" are defined as the mathematical result of multiplying the duration of an outage, expressed in minutes, by the sum of the number of assigned numbers (defined in paragraph (b) of this section) potentially affected by the outage and the number of administrative numbers (defined in paragraph (a) of this section) potentially affected by the outage.
- (d) "DS3 minutes" are defined as the mathematical result of multiplying the duration of an outage, expressed in minutes, by the number of previously operating DS3 circuits that were affected by the outage.
- (e) "User minutes" are defined as:
 - (A) assigned telephone number minutes (as defined in paragraph (c) of this section), for telephony and for those paging systems in which each individual user is assigned a telephone number,
 - (B) the mathematical result of multiplying the duration of an outage, expressed in minutes, by the number of end users potentially affected by the outage, for all other forms of communications.

4. New section 4.9 is proposed to read as follows:

§ 4.9 Outage reporting requirements – threshold criteria.

- (a) *Cable*. All cable communications providers shall submit electronically an Initial Communications Outage Report to 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 service; (2) affects at

least 1,350 DS3 minutes, (3) represents the loss of at least one satellite transponder; (4) potentially affects any special offices and facilities (in accordance with paragraphs (a) - (d) of section 4.5); or (5) potentially affects a 911 special facility (as defined in paragraph (e) of 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 section 4.7.) Not later than thirty days after the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Initial and Final reports shall comply with all of the requirements of section 4.11.

- (b) *Wireless* All wireless service providers shall submit electronically an Initial Communications Outage Report to 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 (1) of a Mobile Switching Center (MSC), (2) that potentially affects at least 900,000 user minutes of either telephony and associated data (2nd generation or lower) service or paging service, (3) that affects at least 1,350 DS3 minutes, (4) represents the loss of at least one satellite transponder, (5) that potentially affects any special offices and facilities (in accordance with paragraphs (a) - (d) of section 4.5), or (6) that potentially affects a 911 special facility (as defined in (e) of 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 section 4.7.) Not later than thirty days after the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Initial and Final reports shall comply with all the requirements of section 4.11.
- (c) *IXC or LEC tandem facilities* In the case of IXC or LEC tandem facilities, providers must, if technically possible, use real-time blocked calls to determine whether criteria for reporting an outage have been reached. Providers must report IXC and LEC tandem outages of at least 30 minutes duration in which at least 90,000 calls are blocked or at least 1,350 DS3-minutes are lost. The number of blocked calls is the sum of the number of blocked originating calls and the number of blocked terminating calls. Providers may use historical data for the appropriate time(s) of day to estimate blocked calls when required real-time blocked call counts are not possible. When using historical data, providers must report incidents where at least 30,000 originating and terminating calls are blocked during a period of at least 30 minutes duration. (DS3 minutes are defined in paragraph (d) of section 4.7.)
- (d) *Satellite* All satellite communications providers shall submit electronically an Initial Communications Outage Report to 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 manifests itself as (1) a loss of complete accessibility to at least one satellite or transponder; (2) a loss of a satellite communications link that potentially affects at least 900,000 user minutes of either telephony service or paging service; (3) affecting at least 1,350 DS3 minutes; or (4) potentially affecting any special offices and facilities (in accordance with paragraphs (a) - (d) of section 4.5) (DS3 minutes and user minutes are defined in paragraphs (d) and (e) of section 4.7.) Not later than thirty days after the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Initial and Final reports shall comply with all the requirements of section 4.11. Excluded from these outage-reporting requirements are

satellite transponders used solely for intra-corporate or intra-organizational private telecommunications networks, and satellite transponders that are used solely for the one-way distribution of video or audio programming.

- (e) *Signaling System 7* Signaling System 7 (SS7) providers shall submit electronically an Initial Communications Outage Report to 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 manifests itself as the loss or blocking of at least 90,000 ISDN User Part (ISUP) messages. The number of lost or blocked messages may be based on call logs if available. Otherwise if call logs are not available, the number of lost or blocked messages may be estimated based on the normal message volumes during the applicable time(s) of day. Not later than thirty days after the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Initial and Final reports shall comply with all the requirements of section 4.11.
- (f) *Wireline* All wireline communications providers that operate transmission, routing, or switching facilities and provide interstate or international communications service shall submit electronically an Initial Communications Outage Report to 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 either telephony or paging, (2) affects at least 1,350 DS3 minutes; (3) represents the loss of at least one satellite transponder, (4) potentially affects any special offices and facilities (in accordance with paragraphs (a) - (d) of section 4.5); or (5) potentially affects a 911 special facility (as defined in (e) of 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 the provider 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 efforts to communicate with that facility (DS3 minutes and user minutes are defined in paragraphs (d) and (e) of section 4.7.) Not later than thirty days after the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Initial and Final reports shall comply with all the requirements of section 4.11.

5 New section 4.11 is proposed to read as follows:

§ 4.11 Initial and Final Communications Outage Reports that must be filed by communications providers. Initial and Final Communications Outage Reports shall be submitted by a person authorized by the communications provider to submit such reports to the Commission. The person submitting the Final report to the Commission shall also be authorized by the provider to legally bind the provider to the truth, completeness, and accuracy of the information contained in the report. Each Initial report shall be attested by the person submitting the report that he/she has read the report prior to submitting it and on oath deposes and states that the information contained therein is true, correct, and accurate to the best of his/her knowledge and belief. Each Final report shall be attested by the person submitting the report that he/she has read the report prior to submitting it and on oath deposes and states that the information contained therein is true, correct, and accurate to the best of his/her knowledge and belief and that the communications provider on oath deposes and states that this information is true, complete, and accurate. The Initial and Final reports shall contain the information [identified in Appendix B to the *Notice of Proposed Rule Making*]. 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.

6 New section 4.13 is proposed to read as follows:

§ 4.13 Reports by the National Communications System (NCS) and by special offices and facilities, and related responsibilities of communications providers. Reports by the National Communications System (NCS) and by special offices and facilities (other than 911 special offices and facilities) of outages potentially affecting them (see paragraphs (a) – (d) of section 4.5) shall be made according to the following procedures:

- (a) When there is a mission-affecting outage, the affected facility will report the outage to the NCS and call the communications provider in order to determine if the outage is expected to last 30 minutes. If the outage is not expected to, and does not, last 30 minutes, it will not be reported to the Commission. If it is expected to last 30 minutes or does last 30 minutes, the NCS, on the advice of the affected special facility, will either
 - (1) Forward a report of the outage to the Commission, supplying the information for initial reports affecting special facilities specified in this section of the Commission's Rules;
 - (2) Forward a report of the outage to the Commission, designating the outage as one affecting "special facilities," but reporting it at a level of detail that precludes identification of the particular facility involved, or
 - (3) Hold the report at the NCS due to the critical nature of the application
- (b) If there is to be a report to the Commission, an electronic, written, or oral report will be given by the NCS 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. Notification may be served at such other facility designated by the Commission by public notice or (at the time of the emergency) by public announcement only if there is a telephone outage or similar emergency in Washington, DC. If the report is oral, it is to be followed by an electronic or written report the next business day. Those providers whose service failures are in any way responsible for the outage must consult and cooperate in good faith with NCS upon its request for information.
- (c) Additionally, if there is to be a report to the Commission, the communications provider will provide a written report to the NCS, supplying the information for final reports for special facilities required by this section of the Commission's rules. The communications provider's final report to the NCS will be filed within 28 days after the outage, allowing the NCS to then file the report with the Commission within 30 days after the outage. If the outage is reportable as described in paragraph (b) of this section, and the NCS determines that the final report can be presented to the Commission without jeopardizing matters of national security or emergency preparedness, the NCS will forward the report as provided in either paragraphs (a) (1) or (a) (2) of this section to the Commission.

PART 63 – EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

The authority citation for Part 63 continues to read as follows

Authority: Sections 1, 4(i), 4(j), 10, 11, 201-205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 161, 201-205, 214, 218, 403, and 571, unless otherwise noted

1 Section 63.100 is proposed to be amended by removing paragraphs (a) through (h) and revising § 63.100 to read as follows

§ 63.100 Notification of service outage.

The requirements for communications providers concerning communications disruptions and the filing of outage reports are set forth in Part 4 of this chapter

APPENDIX B**PROPOSED ELECTRONIC FILING TEMPLATE**

The proposed template for reporting telecommunications disruption ("outage") information is given below. It is expected that additions, modifications, and deletions to this proposed template will be made as appropriate to better achieve the purposes that are contained in Sections 1 and 256 of the Communications Act of 1934, as amended, and as discussed in this Notice of Proposed Rulemaking. We propose to delegate authority to the Chief, Office of Engineering Technology, to modify the Commission's telecommunications disruption reports, including this template, to reflect changes in technology, usage patterns, evolving telecommunications disruption characteristics and the Commission's needs for information in this area (*see generally*, 47 U.S.C. § 155(c)(1)).

Name of Reporting Entity (e.g., Company):

Type of Entity Reporting Disruption:

Date of Incident:

Local Time Incident Began (24 hr clock):

Outage Duration:

Hrs

Min

Explanation of Outage Duration (for incidents with partial restoration times)

Empty rectangular box for explanation of outage duration.

Inside Building Yes No

Effects of the Outage

Services Affected

Cable Telephony:

Wireless (other than paging):

E911:

Paging:

Satellite:

Signaling (SS7):

Special Facilities (Airport, Government, etc.):

Wireline:

Other (please specify) _____

Number of Potentially Affected:

Wireline Users: _____

Wireless (non-paging) Users: _____

Paging Users: _____

Cable Telephony Users: _____

Satellite Users: _____

Number of Affected:

Blocked Calls (Originating + Terminating):

DS3s:

SS7 Signaling Messages (Blocked or Failed):

Mobile Switching Center (MSC) Failed Yes No

Geographic Area Affected

State:

MULTI STATES

County:

More Complete Description of Geographic Area of Outage

Description of Incident

Description of the Cause(s) of the Outage

Direct Causes: The direct cause is the immediate event that resulted in an outage. Please scroll down to the appropriate entry.

Root Cause(s): The root cause is the underlying reason why the outage occurred. Please scroll down to the appropriate entry.

Other Causes 2. Please scroll down to the appropriate entry.

No Other Cause ▼

Other Causes 3. Please scroll down to the appropriate entry.

No Other Cause ▼

Absence of Physical Or Logical Separation of Network Facility or Software That Would Have Prevented The Outage: Yes ▼

Malicious Activity: Yes ▼
If yes, please explain

▲

▼

▶

Name and Type of Equipment that Failed:

Specific Part of the Network Involved:

Method(s) Used to Restore Service

▲

▼

▶

Steps Taken to Prevent Reoccurrence

▲

▼

▶

Applicable Best Practices That Might Have Prevented the Outage or Reduced Its Effects

APPENDIX C

Initial Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act ("RFA"),¹²⁰ the Commission has prepared this Initial Regulatory Flexibility Act Analysis ("IRFA") of the possible significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rule Making* ("Notice"). Written public comments are requested on this IRFA and must be filed by the deadlines for comments on the *Notice* provided above in paragraph 57. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.¹²¹ In addition, the *Notice* (or summaries thereof), including the IRFA, will be published in the Federal Register.¹²²

A Need for and Objectives of the Proposed Rules We seek comment on whether communications providers, whose customers experience outages on any facilities that the providers own, operate, lease, or otherwise utilize, should be required to report those outages that meet the revised reporting criteria set forth in our proposed amendments to Section 63.100 of the Commission's Rules, 47 C.F.R. § 63.100. The current rule applies outage-reporting requirements only to wireline common carriers and to circuit-switched telephony service, if any, that is offered by cable television service providers. Our proposal, however, would extend such requirements to those commercial mobile radio service (CMRS) providers that employ cellular architecture ("wireless service providers"), terrestrial or satellite paging providers, satellite communications providers, affiliated or non-affiliated entities that maintain or provide communications systems or services used by the provider in offering such communications, and Signaling System 7 (SS7) providers. We believe that this proposed extension of the outage reporting requirements will provide needed information for fulfilling our statutory responsibilities with respect to the reliability of communications and their underlying infrastructures, given the increasing substitutability of communications through different media and our Nation's increasing reliance on these substitutes for Homeland Defense and National Security. Similarly, the changes that we propose in the threshold reporting criteria are well tailored, we believe, to accomplish this objective. Our proposal to move the outage-reporting requirements out of Part 63 and into Part 4 of the Commission's rules reflects that the proposed rules would be adapted to and applied broadly across all communications platforms to the extent discussed in the *Notice of Proposed Rule Making*. Finally, the proposed rules would require electronic filing of outage reports, pursuant to the requirements of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998, 44 U.S.C. § 1704.

B Legal Basis The legal basis for the rule changes proposed in this *Notice* are contained in sections 1, 4(i), 4(k), 4(o), 218, 219, 230, 256, 301, 302(a), 303(f), 303(g), 303(j), 303(r), 303(v), 403, 621(b)(3), and 621(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(k), 154(o), 218, 219, 230, 256, 301, 302(a), 303(f), 303(g), 303(j), 303(r), 303(v), 403, 621(b)(3), and 621(d), and in section 1704 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998, 44 U.S.C. § 1704.

C Description and Estimates of the Number of Small Entities to Which the Rules Adopted in This Notice May Apply The RFA directs agencies to provide a description of and, where feasible, an estimate

¹²⁰ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 - 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

¹²¹ 5 U.S.C. § 603(a).

¹²² *Id.*

of the number of small entities that will be affected by the proposed rules.¹²³ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹²⁴ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹²⁵ A small business concern is one which (1) is independently owned and operated, (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).¹²⁶

We further describe and estimate the number of small entity licensees and regulatees that may be affected by rules adopted pursuant to this *Notice*. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be the data that the Commission publishes in its *Trends in Telephone Service* report.¹²⁷ The SBA has developed small business size standards for wireline and wireless small businesses within the three commercial census categories of Wired Telecommunications Carriers,¹²⁸ Paging,¹²⁹ and Cellular and Other Wireless Telecommunications.¹³⁰ Under these categories, a business is small if it has 1,500 or fewer employees. Below, using the above size standards and others, we discuss the total estimated numbers of small businesses that might be affected by our actions.

We have included small incumbent LECs in this present RFA analysis. As noted above, a “small business” under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a wired telecommunications carrier having 1,500 or fewer employees), and “is not dominant in its field of operation.”¹³¹ The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not “national” in scope.¹³² We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

Wired Telecommunications Carriers. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer

¹²³ 5 U.S.C. §§ 603(b)(3), 604(a)(3).

¹²⁴ *Id.* § 601(6).

¹²⁵ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such terms which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

¹²⁶ 15 U.S.C. § 632.

¹²⁷ FCC, Wire Line Competition Bureau, Industry Analysis and Technology Division, *Trends in Telephone Service*, Table 5.3 (May 2002) (*Trends in Telephone Service*).

¹²⁸ 13 CFR § 121.201, North American Industry Classification System (NAICS) code 517110.

¹²⁹ 13 CFR § 121.201, NAICS code 517211.

¹³⁰ 13 CFR § 121.201, NAICS code 517212.

¹³¹ 5 U.S.C. § 601(3).

¹³² Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of “small business concern,” which the RFA incorporates into its own definition of “small business.” See 15 U.S.C. § 632(a), 5 U.S.C. § 601(3). SBA regulations interpret “small business concern” to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b).

employees¹³³ According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year¹³⁴ Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more¹³⁵ Thus, under this size standard, the great majority of firms can be considered small

Incumbent Local Exchange Carriers (LECs) Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers Under that size standard, such a business is small if it has 1,500 or fewer employees.¹³⁶ According to Commission data,¹³⁷ 1,337 carriers have reported that they are engaged in the provision of incumbent local exchange services Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our action.

Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers" Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers Under that size standard, such a business is small if it has 1,500 or fewer employees¹³⁸ According to Commission data,¹³⁹ 609 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services Of these 609 carriers, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees In addition, 35 carriers have reported that they are "Other Local Service Providers" Of the 35, an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities that may be affected by our action

Interexchange Carriers (IXCs) Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁴⁰ According to Commission data,¹⁴¹ 261 carriers have reported that they are engaged in the provision of interexchange service Of these, an estimated 223

¹³³ 13 CFR § 121.201 (1997), NAICS code 513310 (changed to 517110 in October 2002).

¹³⁴ U.S. Census Bureau, 1997 Economic Census, Subject Series Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 513310 (issued October 2000)

¹³⁵ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more"

¹³⁶ 13 C.F.R. § 121.201, NAICS code 517110 (changed from 513310 in Oct. 2002)

¹³⁷ FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, Page 5-5 (Aug. 2003) (hereinafter "Trends in Telephone Service") This source uses data that are current as of December 31, 2001

¹³⁸ 13 C.F.R. § 121.201, NAICS code 517110 (changed from 513310 in Oct. 2002)

¹³⁹ "Trends in Telephone Service" at Table 5.3

¹⁴⁰ 13 C.F.R. § 121.201, NAICS code 517110 (changed from 513310 in Oct. 2002)

¹⁴¹ "Trends in Telephone Service" at Table 5.3

have 1,500 or fewer employees and 38 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXC's are small entities that may be affected by our action

Wireless Service Providers. The SBA has developed a small business size standard for wireless small businesses within the two separate categories of Paging¹⁴² and Cellular and Other Wireless Telecommunications¹⁴³. Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. According to the Commission's most recent data,¹⁴⁴ 1,387 companies reported that they were engaged in the provision of wireless service. Of these 1,387 companies, an estimated 945 have 1,500 or fewer employees and 442 have more than 1,500 employees.¹⁴⁵ Consequently, the Commission estimates that most wireless service providers are small entities that may be affected by the rules and policies adopted herein

Broadband Personal Communications Service. The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of \$40 million or less in the three previous calendar years.¹⁴⁶ For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.¹⁴⁷ These standards defining "small entity" in the context of broadband PCS auctions have been approved by the SBA.¹⁴⁸ No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F.¹⁴⁹ On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses. Based on this information, the Commission concludes that the number of small broadband PCS licenses would have included the 90 winning C Block bidders, the 93 qualifying bidders in the D, E, and F Block auctions, the 48 winning bidders in the 1999 re-auction, and the 29 winning bidders in the 2001 re-auction, for a total of 260 small entity broadband PCS providers, as defined by the SBA small business size standards and the Commission's auction rules. Consequently, the

¹⁴² 13 CFR § 121.201, North American Industry Classification System (NAICS) code 517211

¹⁴³ 13 CFR § 121.201, North American Industry Classification System (NAICS) code 517212.

¹⁴⁴ FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, Trends in Telephone Service, Table 5.3, (August 2002)

¹⁴⁵ Id

¹⁴⁶ See Amendment of Parts 20 and 24 of the Commission's Rules – Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, WT Docket No. 96-59, Report and Order, 61 FR 33859 (July 1, 1996), see also 47 C.F.R. § 24.720(b)

¹⁴⁷ See Amendment of Parts 20 and 24 of the Commission's Rules – Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, WT Docket No. 96-59, Report and Order, 61 Fed Reg 33859 (July 1, 1996)

¹⁴⁸ See e.g., Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, Fifth Report and Order, 59 Fed Reg 37566 (July 22, 1994)

¹⁴⁹ FCC News, Broadband PCS, D, E and F Block Auction Closes, No. 71744 (released January 14, 1997). See also Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, Second Report and Order, 62 FR 55348 (Oct. 24, 1997).

Commission estimates that 260 broadband PCS providers would have been small entities that could be affected by the rules and policies adopted herein. The results of Auction No. 35, however, were set aside and the licenses previously awarded to NextWave, which had qualified as a small entity, were reinstated. Therefore, the Commission estimates that less than 260 broadband PCS providers will be small entities that may be affected by the rules and policies adopted herein.

Narrowband Personal Communications Services To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, "small businesses" were entities with average gross revenues for the prior three calendar years of \$40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order*.¹⁵⁰ A "small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$40 million. A "very small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$15 million. The SBA has approved these small business size standards.¹⁵¹ In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future actions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this analysis that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

800 MHz and 900 MHz Specialized Mobile Radio Licenses The Commission awards "small entity" and "very small entity" bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than \$15 million in each of the three previous calendar years, or that had revenues of no more than \$3 million in each of the previous calendar years, respectively.¹⁵² These bidding credits apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. The Commission assumes, for purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR bands. There were 60 winning bidders that qualified as small or very small entities in the 900 MHz SMR auctions. Of the 1,020 licenses won in the 900 MHz auction, bidders qualifying as small or very small entities won 263 licenses. In the 800 MHz auction, 38 of the 524 licenses won were won by small and very small entities. Consequently, the Commission estimates that there are 301 or fewer small entity

¹⁵⁰ In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS, Docket No. ET 92-100, Docket No. PP 93-253, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 65 FR 35875 (June 6, 2000).

¹⁵¹ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from Aida Alvarez, Administrator, SBA (Dec. 2, 1998).

¹⁵² 47 CFR § 90.814(b)(1).

SMR licensees in the 800 MHz and 900 MHz bands that may be affected by the rules and policies adopted herein

Paging The SBA has developed a small business size standard for Paging, which consists of all such firms having 1,500 or fewer employees.¹⁵³ According to Census Bureau data for 1997, in this category there was a total of 1,320 firms that operated for the entire year.¹⁵⁴ Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional seventeen firms had employment of 1,000 employees or more.¹⁵⁵ Thus, under this size standard, the majority of firms can be considered small

Rural Radiotelephone Service The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service.¹⁵⁶ A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS).¹⁵⁷ The Commission uses the SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," *i.e.* an entity employing no more than 1,500 persons.¹⁵⁸ There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein

*Cable and Other Program Distribution*¹⁵⁹ This category includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year.¹⁶⁰ Of this total, 1,180 firms had annual receipts of under \$10 million and an additional 52 firms had receipts of \$10 million or more but less than \$25 million. Consequently, the Commission estimates that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein

Satellite Telecommunications Providers The appropriate size standards under SBA rules are for the two broad categories of Satellite Telecommunications and Other Telecommunications. Under both categories, such a business is small if it has \$12.5 or less in average annual receipts.¹⁶¹ For the first category of Satellite Telecommunications, Census Bureau data for 1997 show that there were a total of 324 firms that operated for the entire year.¹⁶² Of this total, 273 firms had annual receipts of under \$10

¹⁵³ 13 C.F.R. § 121.201, NAICS code 517211 (changed from 513321 in October 2002)

¹⁵⁴ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 513321 (issued October 2000)

¹⁵⁵ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees, the largest category provided is "Firms with 1,000 employees or more."

¹⁵⁶ The service is defined in Section 22.99 of the Commission's Rules, 47 C.F.R. § 22.99

¹⁵⁷ BETRS is defined in Sections 22.757 and 22.759 of the Commission's Rules, 47 C.F.R. §§ 22.757 and 22.759.

¹⁵⁸ 13 C.F.R. § 121.201, NAICS code 517212

¹⁵⁹ 13 C.F.R. § 121.201, North American Industry Classification System (NAICS) code 513220 (changed to 517510 in October 2002).

¹⁶⁰ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 513220 (issued October 2000)

¹⁶¹ 13 C.F.R. § 121.201, NAICS codes 517410 and 517910 (changed from 513340 and 513390 in Oct. 2002)

¹⁶² U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 513340 (issued Oct. 2000).

million, and an additional twenty-four firms had receipts of \$10 million to \$24,999,999. Thus, the majority of Satellite Telecommunications firms can be considered small.

Signaling System 7 (SS7) Providers The Commission has not developed a definition of small entities applicable to Signaling System 7 providers. We shall apply the SBA's small business size standard for Other Telecommunications, which identifies as small all such companies having \$12.5 million or less in annual receipts.¹⁶³ We believe that there are no more than half-a-dozen SS7 providers and doubt that any of them have annual receipts less than \$12.5 million. Nonetheless, we shall assume that there may be several SS7 providers that are small businesses which could be affected by the proposed rules. We request comment on how many SS7 providers exist and on how many of these are small businesses that may be affected by our proposed rules.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements The rules proposed in this Notice would require telecommunications providers to report those outages that meet specified threshold criteria. These criteria are largely determined by the number of end users potentially affected by the outage and the duration of the outage, which generally must be at least 30 minutes. Under the current rules, which apply only to wireline carriers and cable television service providers that also provide telecommunications service, only about 200 outage reports per year from all reporting sources combined are filed with the Commission. The proposed revisions to the threshold criteria are not expected to alter the number of outage reports filed annually to a significant degree. Nevertheless, the proposed rules would extend the outage reporting requirements to telecommunications providers that are not currently subject to these rules. Therefore, we anticipate that more than 200 outage reports will be filed annually, but estimate that the total number of reports from all reporting sources combined will be substantially less than 1,000 annually. We note that, occasionally, the proposed outage reporting requirements could require the use of professional skills, including legal and engineering expertise. Without more data, we cannot accurately estimate the cost of compliance by small telecommunications providers. But irrespective of any of the reporting requirements that we are proposing here, we expect that telecommunications providers will track, investigate, and correct all of their service disruptions as an ordinary part of conducting their business operations -- and will do so for service disruptions that are considerably smaller than for disruptions that would trigger the reporting criteria that we propose here. As a consequence, we believe that in the usual case, the only burden associated with the reporting requirements contained in this Notice will be the time required to complete the initial and final reports. We anticipate that electronic filing, through the type of template that we have identified in Appendix B, should minimize the amount of time and effort that will be required to comply with the rules that we propose in this proceeding. In this IFRA, we therefore seek comment on the types of burdens telecommunications providers will face in complying with the proposed requirements. Entities, especially small businesses and small entities, more generally, are encouraged to quantify the costs and benefits of the proposed reporting requirements.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered Since the inception of the outage-reporting requirements in 1992, the number of outages reported each year has remained relatively steady at about 200. Since 1992, the substitutability of telecommunications through different media has increased substantially, and our Nation increasingly relies on these substitutes for Homeland Defense and National Security. We believe that the proposed telecommunications outage reporting requirements are minimally necessary to assure that we receive adequate information to perform our statutory responsibilities with respect to the reliability of telecommunications and their infrastructures. Also, we believe that the magnitude of the outages needed to trigger the reporting requirements (e.g., outages of at least 30 minutes duration that potentially affect at least 900,000 user minutes) are sufficiently high as to make it unlikely that small businesses would be impacted.

¹⁶³ 13 C.F.R. § 121.201, NAICS code 517910.

significantly by the proposed rules. Finally, we believe that the proposed requirement that outage reports be filed electronically would significantly reduce the burdens and costs currently associated with manual filing processes.

F Federal Rules that Might Duplicate, Overlap, or Conflict with the Proposed Rules None.

**STATEMENT OF
CHAIRMAN MICHAEL K. POWELL**

Re New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Notice of Proposed Rule Making, ET Docket No. 04-35

Our homeland security agenda begins with reliable telecommunications infrastructure. Today's Notice would give us headlights on the road to reliability.

Numerous technological changes have occurred since the Commission adopted its communications disruptions reporting requirements more than ten years ago. These changes have facilitated the rapid deployment of new communications technologies and play an ever increasingly role in providing important services to consumers, our military, and emergency responders.

Our outage reporting requirements have been directed primarily to the telephone industry. These reporting requirements have been successful in permitting the causes of certain types of disruptions in telephone networks to be identified and corrected. This, in turn, has permitted organizations to develop "best practices" for use by carriers and manufacturers in reducing the likelihood, and length, of network outages.

Today, we adopt an NPRM that proposes to streamline and apply our disruption reporting to other communications providers including wireless, cable, and satellite. It is essential that they take into account newly emerging forms of communications upon which we have become so vitally dependent. The timely provision of outage information by multiple communications providers should provide sufficient information to facilitate the prompt discovery of outage and reliability problems that occur to communications networks. In addition, such information should further facilitate efforts by communications providers to discover potential vulnerabilities in their systems.

**STATEMENT OF
COMMISSIONER KATHLEEN Q. ABERNATHY**

Re New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Notice of Proposed Rule Making, ET Docket No. 04-35

As the world is becoming increasingly dependent on telecommunications services for commerce, security, and defense, it is imperative that the FCC have information available to it concerning significant service disruptions that impact the American public. Accordingly, I believe that it is appropriate for the FCC to examine how best to collect data concerning significant disruptions from providers of telecommunications services offered over wireline, cable, satellite, and CMRS platforms.

Specifically, the record in this proceeding will enable us to examine the effectiveness of our past rules on mandatory outage reporting requirements for wireline carriers and whether such mandatory requirements should be extended to other service providers. In general, I am hesitant to impose new regulatory burdens on service providers in competitive markets, because a fully functioning market generally makes better decisions than the government. However, I also recognize that there are critical public policy goals, such as protecting public safety, that can make regulation imperative. Accordingly, as part of this proceeding, I will carefully analyze the record to determine the best way to ensure the Commission has sufficient information regarding the reliability of our communications infrastructure during times of crisis.

**STATEMENT OF
COMMISSIONER KEVIN J. MARTIN**

Re New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Notice of Proposed Rule Making, ET Docket No. 04-35

I am pleased to support this item, which explores updating our network outage reporting requirements. One of this Commission's most important responsibilities is to seek to "make available, so far as possible" a nationwide and worldwide wire and radio communication service "for the purpose of the national defense" and "for the purpose of promoting safety of life and property." 47 U.S.C. § 151. After massive telephone outages on the east and west coasts occurred in 1991, a congressional investigation questioned the extent to which the Commission was fulfilling this responsibility. The Commission responded by establishing a council – today known as the Network Reliability and Interoperability Council or NRIC – and implementing network outage reporting requirements for telephone companies and cable companies providing common carrier services. These steps have proven effective. NRIC has used the information gathered from our reporting requirements to develop best practices to reduce the severity and number of telecommunications outages. This information has also enabled the FCC to determine whether and how network reliability is improving.

However, the world has changed a great deal from the early 1990s. Since then, wireless and satellite communications – which are not covered by our reporting requirements – have become ubiquitous. Moreover, these communications are now the first choice of many (including Government and public safety officials) for use in emergencies. It is thus crucial that we ensure the reliability of these communications. As the Commission found with respect to wireline communications, an important part of this task is obtaining network outage information. Accordingly, I look forward to receiving comments on the best way the Commission can obtain information on all components of our telecommunications infrastructure and ensure continued communications reliability in the 21st century.

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Notice of Proposed Rule Making, ET Docket No. 04-35

I recognize that a discussion of mandatory reporting requirements for wireless and satellite providers is not embraced by everyone in industry. But I believe the time is right to look at this important issue. As we have heard today, our country continues to increasingly rely on alternative technologies for communications. Events over the past several years dictate that this Commission has access to accurate and immediate information when there are significant disruptions to our nation's communications systems.

There has been a significant effort by a number of industry representatives to work with a voluntary system for outage reporting. And that effort should be applauded. It is unclear, though, if the voluntary trial was truly successful in that it may not have provided the depth and breadth of information we really need. That concerns me, and makes this item all the more necessary.

I am pleased that we also explore in today's item improved methods for reporting disruption information electronically. These new procedures would apply to all providers subject to outage reporting requirements. This is a positive step forward that will hopefully simplify the process for both industry and the Commission staff responsible for reviewing such filings.