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May 26, 2004

BY ELECTRONIC FILING

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

**Re: New Part 4 of the Commission's Rules Concerning Disruptions to
Communications, ET Docket No. 04-35**

Dear Ms. Dortch:

Upon reviewing Sprint's Comments filed in the above-referenced proceeding on May 25, 2004, the undersigned discovered a number of typographical errors. Although none of the errors are substantive, Sprint nonetheless wishes to file a corrected version of its Comments. Therefore, Sprint respectfully requests that the enclosed Comments replace the Comments that Sprint filed yesterday. Sprint apologizes for any inconvenience its re-filing causes you or your staff.

If you have any questions or need more information, please contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "M.B. Fingerhut", written over a horizontal line.

cc: All parties on the attached service list.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
New Part 4 of the Commission's Rules)	ET Docket No. 04-35
Concerning Disruptions to Communications)	
_____)	

COMMENTS OF SPRINT CORPORATION

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May 25, 2004

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SUMMARY

Sprint respectfully submits that there are several problems with the tentative conclusions regarding outage reporting requirements as set forth in the *NPRM*. In particular, Sprint believes that the imposition of mandatory outage reporting obligations on wireless carriers will serve no useful function and should not be adopted. Sprint also believes that, for the most part, the proposed modifications to the existing wireline reporting obligations are operationally unsupportable and inherently ambiguous. And, Sprint believes that because wireline and wireless networks are part of the critical infrastructure of this Nation, any outage reports that carriers are required to file should be scrubbed of critical infrastructure information before such reports are made publicly available.

Sprint does not dispute the fact that “wireless communications have grown rapidly and are now increasingly gaining acceptance as an alternative to wireline telephony.” Nor does Sprint question the fact that wireless networks are now an important part of the Nation’s communications infrastructure. However, such facts, standing alone, do not justify subjecting the wireless industry to mandatory service disruption reporting. Rather the imposition of mandatory outage reporting on the wireless industry, as with the imposition of any regulatory regime, must be based on a cost/benefit analysis.

The benefits of mandatory outage reporting in the wireless arena appear to be illusive at best. According to the Commission, the imposition of mandatory reporting requirements on wireless carriers will promote significant public interest benefits, including specifically the development of NRIC best practices and increased network reliability. However, competition provides a greater incentive for network reliability and redundancy than would any mandatory reporting obligation. Moreover, most of the best practices development in NRIC V and VI were

based upon historic technical support experience resident in the individual companies or, since September 11, 2001, from proactive efforts to address communications infrastructure vulnerabilities. They were not derived from outage reports filed by wireline carriers.

Moreover, the existence of multiple providers gives every wireless customer multiple “back up” networks if his particular carrier was unable to handle their calls in particular area because of outage in the part of its network that served that area and as such constitutes a form of network reliability and redundancy. Also, given the mobile nature of wireless service, wireless customers can often move to a new location to overcome system degradation caused by an outage at one cell site.

Similarly, the argument that public access to wireline outage reports produced significant benefits may well have been true in the period prior to September 11, 2001. However, given today’s realities the public dissemination of information regarding the location, type and vulnerabilities of specific equipment, along with data regarding the potential number of users impacted and their location, would be a potential bonanza to those with ill intentions. In short, there is and can be no justification for imposing mandatory outage reporting on wireless carriers. Nevertheless, Sprint will continue to participate in the voluntary reporting regime of service disruptions instituted by the wireless industry in conjunction with NRIC VI. Sprint believes that such voluntary reporting has proven to be a valuable source of information regarding the reliability of wireless networks and because such reports have been scrubbed of carrier identifying information as well as critical infrastructure data, they have not raised the competitive, proprietary and national security problems inherent in mandatory reporting.

The new set of reporting metrics for each segment of the industry that would be subject to the reporting rules proposed by the Commission is also problematic. Indeed the reporting

metrics for wireline carriers would give a distorted and inaccurate view of the actual impact of a service disruption and either should be abandoned or modified. Specifically,

- The Commission's decision to base the reporting criteria on end-users and not customers, while understandable, would produce inaccurate reports from wireline carriers because wireline customers usually regard the number of end users at a particular location as confidential. Certainly Sprint's large business and government customers do not provide it such information which, in any event, is likely to change on almost a daily and, perhaps even, an hourly basis. Thus, a wireline carrier would not have any way of determining with any degree of accuracy the number of end users potentially affected by an outage.
- The Commission's assigned number surrogate for end users will not enable the Commission to achieve its goal of determining the impact of an outage on end users. Neither the LECs nor the IXCs can determine such impact simply by referring to assigned telephone numbers. Certainly, it would be incorrect to assume that every number in the bloc of numbers assigned to a customer's location is being used by different end users, if at all. Many numbers are simply not assigned to any end user and are held in reserve for possible future growth. Moreover, one end user may be assigned more than one number.
- Sprint, however, does believe that the current outage reporting metric should be improved and in this regard recommends that the threshold reporting metric for wireline carriers be based on blocked call measurements or historic calling data. A carrier would be required to file a report if an outage lasted more than 30 minutes and there were 900,000 blocked calls (real time) during that period. Alternatively, a carrier would be required to file a report if there was an outage lasting 30 minutes or more and there were at least 30,000 calls during a comparable earlier period, *e.g.*, the same day and time a week earlier.
- The Commission's proposal to require the reporting of outages at all airports cannot be justified especially since such requirement would encompass literally hundreds of small "Mom and Pop" airports. Sprint further recommends that the Commission limit outage reports to service disruptions which occur at the top 136 prime hub airports as set forth on the FAA's website and which are "air traffic impacting" as defined in the NRIC VI Focus Group 2 report.
- The Commission's proposal to modify the reporting requirements for outages affecting 911 services is ill-advised and the current rule should be retained. Such rule reflects the fact that 911 services is provisioned and sold to meet the individual needs of the governmental entity or PSAP purchasing 911 services. Retention of the current rule is further justified by the fact that one of the task forces of the recently convened NRIC VII has been given the responsibility to identify the appropriate criteria for reporting outages affecting E911 services.
- Sprint agrees that the reporting metric for should be 90,000 blocked calls during a period of 30 or more minutes for non-high capacity facilities at tandems. However, the

Commission's proposal that each carrier double the number of blocked calls to be counted for reporting purposes by considering a call as blocked at both the originating and terminating ends even if the cause of the block occurred only at one end should not be adopted.. There is simply no justification for such count doubling which would necessarily increase the reporting burdens imposed upon carriers and would lead to inaccurate reporting.

- The Commission's decision to require carriers to report outages within 120 minutes is unreasonable. Instead, carriers should be allowed 3 days for the filing of their initial reports. A 3-day window would enable carriers to gather all of the necessary data which are unlikely to reside in a single database so as to file accurate initial reports. A carrier's only priority in the wake of an outage should be to devote all necessary resources to restoring service. The filing of reports with the Commission is, or should be, a secondary concern.
- The Commission proposal to expand the information to be provided in a final outage report to include information as to whether "the reported outage was at least partially caused because the network did not follow engineering standards for full diversity (redundancy)" and to list "all of the causes of the outages" would not provide any useful information.
- The Commission proposal to adopt "additional outage-reporting criteria that would apply to failures of communications infrastructure components having significant traffic-carrying capacity" based on a DS3-minute surrogate does not measure the real impact on end users of an outage. A problem on a DS3 or other large capacity facility which potentially affected the transport of at least 1,350 DS3 minutes would not necessarily mean that the entire facility was "down." The Commission should abandon its minute-based approach for outages on high-capacity facilities and instead use the blocked-call criteria as suggested by Sprint.
- Although Sprint agrees that disruptions of SS7 signaling functionality should be subject to outage reporting criteria, it recommends that such threshold reporting criteria be tied to the threshold reporting criteria for tandem outages.

If the Commission does not abandon its proposal to subject wireless carriers to mandatory reporting, the reporting metrics for wireless carriers must be modified as follows:

- The Commission should abandon the its proposed 900,000 end user minute formula because it would create ambiguity and irrelevant data in the wireless arena and instead base such reports on historical data regarding usage during the same period in the previous month or year. Such historical call volume information is the standard industry benchmark for network performance. Sprint suggests that a call blocking level of 75% or higher at a single MSC for 30 minutes or longer would be an acceptable criterion.

- The Commission's proposal regarding outages at all airports should not be adopted for wireless carriers. Such carriers do not necessarily know whether a Mom and Pop airport is in its coverage area, much less whether a particular outage may impact such an airport. Wireless carriers also do not have dedicated access lines assigned to airport control towers or airport security offices. And wireless carriers would have no means of knowing if one of their phones was being used by airport personnel.
- The Commission's proposed rules for 911 service disruptions by wireless carriers are especially problematic. The Commission explicitly states that wireless carriers should be responsible for reporting outages of other third parties such as location vendors. As Sprint has repeatedly explained to the Commission, however, wireless carriers do not control the end-to-end elements of a 911 call and frequently have no visibility to outages that would impact call delivery, particularly for those data elements associated with location. Phase II location in particular is sensitive to interface issues between networks operated by incumbent local exchange carriers, databases controlled by PSAPs and transmission facilities and routers controlled by other third parties. Wireless carriers can only report on information regarding their own networks. Sprint simply has no access to LEC and PSAP data.
- The Commission should not adopt its proposed 120 minute initial reporting deadline for wireless carriers for the same reasons why it should not adopt such reporting window for wireline carriers.

Finally, Sprint believes that given the fact that the United States remains vulnerable to terrorist attacks, it is absolutely necessary that any report that discloses the locations of critical telecommunications infrastructure must not be disclosed either pursuant to a Freedom of Information Act request or otherwise. Terrorists who may seek to attack the homeland should not be able to obtain information that would enable them to severely disrupt the Nation's vital communications systems. At the same time, Sprint recognizes, as does the Commission, the public benefits of allowing public access to the outage information that is filed with the Commission under a mandatory regime. To harmonize such considerations, the Commission should "scrub" the reports of critical network information before allowing public access to the reports. Moreover, if a state governmental entity wants to obtain the data scrubbed from the public reports for purposes of meeting their own homeland security responsibilities, such entity would have to agree to keep such information strictly confidential.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
New Part 4 of the Commission's Rules)	ET Docket No. 04-35
Concerning Disruptions to Communications)	
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SPRINT COMMENTS

Sprint Corporation ("Sprint"), on behalf of its local, long distance and wireless operations, submits the following comments in response to the Notice of Proposed Rule Making issued in the above captioned docket.¹ Sprint opposes the imposition of mandatory outage reporting obligations on the highly competitive wireless industry. Such reporting obligations will serve no useful function and will only cause additional administrative burden. Sprint further opposes, for the most part, the proposed modifications to the existing wireline reporting obligations as operationally unsupportable and inherently ambiguous. And, to the extent the FCC chooses to impose reporting obligations on any carrier, Sprint encourages the Commission to keep the critical infrastructure information contained in such reports as confidential as a matter of homeland security. In fact, because of the over-arching need to protect critical infrastructure information, the Commission should find that "it occupies the field" with respect to outage reporting and accordingly require governmental entity, *e.g.*, State governments, State PUCs, to obtain outage information from the Commission.

¹ *In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Notice of Proposed Rule Making*, ET Docket No. 04-35, FCC 04-30 (released February 23, 2004) (*NPRM*).

I. MANDATORY REPORTING OF SERVICE DISRUPTIONS SHOULD NOT BE EXTENDED TO WIRELESS CARRIERS.

There can be no question that the provision of “wireless communications have grown rapidly and are now increasingly gaining acceptance as an alternative to wireline telephony.”² There also can be no question that wireless networks are now an important part of the Nation’s communications infrastructure.³ However, such facts, standing alone, do not justify subjecting the wireless industry to mandatory service disruption reporting. Rather the imposition of mandatory outage reporting on the wireless industry, as with the imposition of any regulatory regime, must be based on a cost/benefit analysis.

The benefits of mandatory outage reporting in the wireless arena appear to be illusive at best. Indeed, the Commission’s proposed reporting scheme does not acknowledge the fundamentally different technical and competitive environment within which wireless carriers operate. Competition provides a greater incentive for network reliability and redundancy than would any mandatory reporting obligation or the costs of administering such a program.

According to the Commission, the imposition of mandatory reporting requirements on wireless carriers will promote significant public interest benefits, including specifically the development of additional NRIC best practices and increased network reliability. In support of this assertion, the Commission argues that existing best practices for the wireline industry and improvements in network reliability are in large part the result of outage reporting obligations.⁴ Sprint respectfully suggests that the Commission is overstating the role of outage reporting in the creation of industry best practices and improved networks.

² *NPRM* at ¶14.

³ *Id.*

⁴ *NPRM* at ¶10.

The relationship between mandated Commission outage reports required of wireline carriers and the development of the existing approximately 750 NRIC Industry Best Practices applicable to the wireline segment of the industry is tenuous at best. Industry organizations and carriers that participated in both NRIC V and VI have observed that less than 5% of existing best practices can be said to have been derived from knowledge gained from the outage reports filed by wireline carriers with the Commission. Instead, nearly all of these best practices are derived from either the historic technical support experience of individual companies or, since September 11, 2001, from proactive efforts to address communications infrastructure vulnerabilities. Indeed, Sprint submits that improved network reliability is more appropriately ascribed to the new competitive environment imposed on the telecommunications industry by the 1996 Telecommunications Act.

The original outage reporting requirements imposed on wireline carriers were created under a vastly different regulatory regime and are in conflict with the Commission's current emphasis on light-handed regulation. Outage disruption rules are a holdover from traditional rate of return, command and control government regulation. Competition now serves as a much more effective agent for ensuring that networks operate on an efficient and reliable basis.

The Commission has frequently acknowledged that light regulation has been a primary source of wireless success. As Commissioner Abernathy recently noted:

Congress and the FCC made a crucial decision to employ a light touch [with respect to wireless service providers], ensuring that any regulations imposed are narrowly tailored to important governmental objectives. For example, the Commission made a critical decision to refrain from imposing economic, public-utility-type regulations *relating to price and service quality*. And Congress preempted the states from imposing rate or entry regulation, thereby freeing wireless carriers from the most intrusive forms of state regulation. The result has been a vibrantly competitive market with six nationwide providers and dozens of

regional and local providers. *Consumers enjoy declining prices, innovative features and calling plans, and generally very good service quality.* So a property-rights regime, paired with a commitment to avoiding excessive regulation, has proven to be an excellent model — and one that I have advocated following in other areas.⁵

Indeed, it can be said that the existence of competition is in itself a form of network reliability and redundancy. As the Commission recently noted in its Eighth Annual Report on the state of CMRS competition, 95% of the United States population lives in counties with three or more wireless service providers and 83% live in counties with five or more service providers.⁶ Given the Commission's rules mandating the existence of automatic roaming procedures between wireless networks, the existence of multiple providers gives every wireless customer multiple "back up" networks if his particular carrier was unable to handle his calls in a particular area because of outage in the part of its network that served that area.

The outage reporting obligations also ignore the fundamentally mobile nature of wireless service. If a particular cell site loses service, for example, wireless customers (in addition to having the ability to roam onto another carrier's network in many cases), can often move to a new location to overcome system degradation.

⁵ *The Role of Property Rights in Understanding Telecommunications Regulation*, Center for the Digital Economy at the Manhattan Institute, Remarks by FCC Commissioner Kathleen Q. Abernathy, May 17, 2004 (emphasis added).

⁶ *In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, WT Docket No. 02-379, 18 FCC Rcd 14783, 14793-94 (¶18) (2003).

The Commission also seeks to justify mandatory reporting for wireless carriers by observing that “public access to each outage report” of wireline carriers has “enabled individual service providers, as well as manufacturers, to learn from each other’s outage experiences.” The Commission’s observation here may well have been true in the period prior to September 11, 2001. However, given today’s realities, the public dissemination of information regarding the location, type and vulnerabilities of specific equipment, along with data regarding the potential number of users impacted and their location, would be a potential bonanza to those with ill intentions. Rather than enhancing network security, public access to mandatory reports would be a direct threat to homeland security.

Moreover, the release of what is likely to be proprietary information of a wireless carrier to others in the wireless segment of the industry would raise significant competitive concerns. In any event and when necessary, other vendors can obtain outage information from the wireless carrier suffering the outage under confidentiality agreements that would protect competitively sensitive and proprietary information.

While outage reporting may have been an important tool during a time when telecommunications providers had little incentive to ensure quality of service or reliable networks, these rules are neither appropriate nor effective in a highly competitive market such as the wireless industry. Sprint respectfully suggests that the Commission not extend the additional administrative burdens associated with these regulations on a competitive industry that already has significant incentive to maintain network reliability.

That said, Sprint will continue to participate in the voluntary reporting regime of service disruptions instituted by the wireless industry in conjunction with NRIC VI. Sprint believes that such voluntary reporting has proven to be a valuable source of information regarding the

reliability of wireless networks. Moreover, because such reports have been scrubbed of carrier identifying information as well as critical infrastructure data, they have not raised the competitive, proprietary and national security problems inherent in mandatory reporting.

If, contrary to Sprint's position here, the Commission decides to adopt its tentative conclusion to subject wireless carriers to mandatory outage reporting requirements. Sprint respectfully requests that any reporting standards established by the Commission should be exclusive and other governmental entities, including especially the States not be permitted to create other or different reporting obligations. Wireless networks by their nature do not follow State boundaries. Congress recognized the inherently federal nature of wireless service in enacting Section 332 of the Communications Act. To the extent that a State authority desires outage reporting or network reliability information, they should do so through the Commission.⁷

II. THE PROPOSED REPORTING METRICS FOR BOTH THE WIRELINE AND WIRELESS SEGMENTS OF THE INDUSTRY ARE UNSUPPORTABLE.

In addition to proposing to extend mandatory outage reporting to wireless carriers, the Commission also proposes a new set of reporting metrics for each segment of the industry that would be subject to the reporting rules.⁸ The Commission would subject each of these segments to a set of "common reporting metrics," although the metrics would be slightly different for each segment to account for differences among the segments. For wireline carriers, most of these reporting metrics would produce inaccurate reports and thus would not provide the Commission with any useful information to assess the impact of a wireline outage on the public. As for

⁷ Similarly, to the extent that State authorities want outage information from wireline carriers, they should be required to obtain such information through the Commission.

⁸ Sprint's comments here are limited to the reporting metrics being proposed for wireline and wireless carriers.

wireless carriers, these new reporting standards are inapplicable in many respects or are based upon faulty assumptions. Sprint addresses the Commission's proposed "one size fits all" reporting metrics for the wireline and wireless segments of the industry *seriatim*, below.

A. The Commission's Proposed Changes To The Reporting Metrics For Wireline Reporting Are For The Most Part Unworkable.

Given the Commission's view that its existing reporting framework for wireline carries has worked well and has been "successful in permitting the causes of certain types of disruptions in [wireline] telephone networks to be identified and corrected,"⁹ one would certainly expect that the Commission would not seek to substantially overhaul such framework. Rather, any modifications would be in the nature of "tweaking" this "successful" reporting framework. Contrary to such expectations, the Commission is proposing a major overhaul to the framework. Under the Commission's proposal, several of the current reporting metrics would be replaced in their entirety by new reporting metrics. Most of these new metrics are unworkable. Other metrics would be expanded to such a degree that wireline carriers would be required to report outages that are of little or no consequence.

1. Use of the proposed "user-minute" common metric as the reporting threshold for wireline carriers would give a distorted and inaccurate view of the actual number of customers affected by an outage.

The current reporting threshold metric for wireline carriers, which has been in effect for some 15 years now, requires the filing of a report for any outage of 30 minutes or more in duration that affects 30,000 or more customers. *See* 47 CFR §63.100(c). As stated, the Commission has found that this metric was part of a framework that has produced positive results. Nonetheless, the Commission proposes to replace it with an entirely new reporting so-

⁹ *NPRM* at ¶6,

called “common metric” based on “the number of user-minutes potentially affected by the outage.”¹⁰ . “User-minutes” would be derived by “multiplying the duration of the outage, expressed in minutes, by the number of end users potentially affected by the outage.”¹¹ According to the Commission, this metric better reflects the “the true intent of the [outage reporting] rule,” by “focus[ing] on the number of people who would have been affected by the outage,”¹² and by providing the necessary information to enable the Commission “to better assess the reliability of voice and data communications platforms.”¹³

All carriers types, *e.g.*, wireline, wireless, cable, satellite, would have to use this metric and would have to report any outage lasting at least 30 minutes and potentially affecting at least 900,000 user minutes. The only difference among carriers would be how the number of end users potentially affected is determined. However, the threshold reporting does not require carriers to determine the number of end users affected because the Commission proposes that carriers use surrogates to estimate the number of such end users. There are two fundamental problems with applying the Commission’s proposed threshold reporting metric to wireline carriers.

The first problem involves the Commission’s proposal to base the reporting criteria on end users and not customers. The Commission explains that the current rules which use the number of customers affected by an outage as the reporting metric do not provided an accurate picture of the effect of any given outage. This is so, the Commission says, because under the current rule, wireline carriers “have tended to apply this definition [of customers] literally, so

¹⁰ *NPRM* at ¶22

¹¹ *Id.*

¹² *Id.*

¹³ *NPRM* at ¶23.

that if an outage affected a large business or governmental customer with tens of thousands of telephone lines, the business was nevertheless counted as a single customer for reporting outages” and the carrier thereby reduced the probability that it would have to file an outage reports.¹⁴

Sprint agrees that the “reporting thresholds” set forth in the current rules “were meant to require the reporting of outages that could potentially affect significant numbers of end users.”¹⁵ Sprint also agrees that in the case of wireline telephony, certain carriers that lease facilities to other carriers, have relied upon the word “customers” in the current rules to argue that they did not have to file a report even though their facilities were the ones responsible for the outage that affected several thousands of their carrier-customers’ end users.¹⁶

Nonetheless, Sprint believes that the proposed change would not remedy this problem and would introduce new distortions into the reports submitted by wireline carriers.¹⁷ Sprint’s position here is based on the real world fact that wireline customers usually regard the number of end users at a particular location as confidential. Certainly Sprint’s large business and government customers do not provide it such information which, in any event, is likely to change on almost a daily and, perhaps even, an hourly basis. Thus, a wireline carrier would not have any

¹⁴ *NPRM* at ¶20.

¹⁵ *Id.*

¹⁶ In such cases, the responsibility for filling the outage report would fall upon the carriers that leased capacity from the carrier who suffered the outage. Of course, the reporting carrier would be unable to inform the Commission as to the best practices to be followed to avoid such outage in the future since the outage would not have occurred on the reporting carriers’ facilities. Thus the reports would provide little, if any, useful information.

¹⁷ Sprint’s position on the common metric and surrogate for wireless carriers is discussed in Section II.B below.

way of determining with any degree of accuracy the number of end users potentially affected by an outage.

The Commission appears to recognize the fact that carriers are unlikely to know the number of end users potentially affected by an outage at any given location and thus has proposed using the telephone numbers assigned to a particular location as a surrogate.¹⁸ But the use of this surrogate creates the second problem. The surrogate will not enable the Commission to achieve the overarching goal of outage reporting that paints an accurate picture, to the maximum, extent possible of the impact of an outage on end users.¹⁹ Neither the LECs nor the IXCs can determine such impact simply by referring to assigned telephone numbers. Certainly, it would be incorrect to assume that every number in the bloc of numbers assigned to a customer's location is being used by different end users, if at all. Many numbers are simply not assigned to any end user and are held in reserve for possible future growth. Moreover, one end user may be assigned more than one number. In short, basing a reporting scheme on a surrogate that is likely to provide a greatly distorted view of the actual "number of people who would have been affected by the outage" is inconsistent with the goal and this rulemaking and can hardly be considered to be consistent with rational rulemaking.

¹⁸ *NPRM* at ¶33. The Commission defines assigned telephone numbers as the "sum of 'assigned numbers' and 'administrative numbers'...." *Id.*

¹⁹ Use of the 900,000 end-user minute criterion as the threshold metric would, of course, have an unequal impact on wireline carriers depending on their size. The burden of filing reports would fall, in the main, on the largest wireline carriers that tend to provide service to large customers. Smaller wireline carriers would be able to avoid the filing of outage reports altogether even if they suffer outages on their networks of greater than 30 minutes that impact most, if not all, of their end users. A reporting metric that enables significant segments of the wireline industry to avoid filing outage reports would seemingly be at odds with the view that such reports are necessary to provide the Commission with an accurate picture of the reliability and redundancy of the wireline network in its entirety.

By pointing out that the use of assigned telephone numbers as the threshold reporting metric would be ill-advised, Sprint does not suggest that the current reporting scheme cannot be improved. To the contrary, Sprint believes that the Commission should no longer base its reporting scheme on the number of customers or end users affected by an outage. Rather, Sprint recommends that the threshold reporting metric for wireline carriers be based on blocked call measurements or historic calling data. For example, a carrier would be required to file a report if an outage lasted more than 30 minutes and there were 900,000 blocked calls (real time) during that period. Alternatively, a carrier would be required to file a report if there was an outage lasting 30 minutes or more and there were at least 30,000 calls during a comparable earlier period, *e.g.*, the same day and time a week earlier.

A threshold reporting metric for wireline carriers using blocked calls on a real time basis or historical calling patterns would give the Commission a relatively accurate picture of the impact of an outage lasting 30 or more minutes.²⁰ Indeed, unlike the Commission's static assigned telephone line surrogate, Sprint's suggested metric would be dynamic, taking into account actual calling volumes during the period in question. Stated differently, Sprint's suggested metric does not assume that every outage regardless of time of day or the day of the week has the same impact on customers.²¹ Because the Commission's proposed metric is based

²⁰ Using blocked calls on a real time or historical basis would be consistent with the Commission's proposed requirements for reporting outages at tandem facilities. *See NPRM* at ¶¶34-35.

²¹ Plainly an outage occurring at 3 AM on a Sunday morning on a portion of a carrier's network serving a major metropolitan area would not have the same customer impact as an outage on the same portion of the network that occurred during the height of the business day on Monday.

on that assumption, it cannot be expected to produce reliable customer impact information and for that reason alone, the Commission's proposed metric should not be adopted.²²

2. The Commission's proposal to require reports of wireline outages affecting all airports and lasting 30 or more minutes requires clarification.

Under current rules, wireline carriers are required to report all outages of at least 30 minutes duration that potentially impact major airports. *See* 47 CFR §63.100(a)(3) & (e). The Commission proposes to modify this requirement to "make it applicable to all airports, not just major airports."²³ Most of Sprint's local telephone operations are in predominately rural areas where there are literally hundreds of small "Mom and Pop" airports. Many, if not most, of these airports do not provide air traffic control support and instead rely on the air traffic control centers at major metropolitan airports for such services. In fact, many of the airports in Sprint's operating territories do not have FAA circuits that terminate at the airport, making it difficult, if not impossible, to monitor their facilities to determine whether an outage has the impacts listed in proposed Section 4.5(c). If the purpose of outage reports affecting airports is to enable the Commission to help monitor the reliability of the air traffic control and other FAA communications facilities to airports, it makes little sense to require outage reports of airports that have no such facilities. Accordingly, Sprint recommends that the Commission modify its proposed rule here to exempt the "Mom and Pop" airports that do not perform air traffic control services or have other FAA communications links from its scope. Sprint further recommends

²² In those instances where an outage was caused by the fact that the facilities leased by the carrier from a carrier's carrier "went down," the carrier who suffered the outage would inform the carrier's carrier of the impact of the outage and if such impact met the reporting threshold, the carrier's carrier would also have to file an outage report.

²³ *NPRM* at ¶24.

that the Commission limit outage reports to service disruptions which occur at the top 136 prime hub airports as set forth on the FAA's website and which are "air traffic impacting" as defined in the NRIC VI Focus Group 2 report.²⁴

3. The proposed criteria for reporting outages potentially affecting wireline 911 services should not be adopted.

The Commission has determined, at least tentatively, that its "current requirements for reporting outages that potentially affect 911 services [which] are differentiated by the length of the outage, the number of lines potentially affected, and other factors" are "overly complex."²⁵ Thus it proposes to modify the current rule to "simply require the reporting of all communications outages of at least 30 minutes duration that potentially affect the ability to originate, complete, or terminate 911 calls successfully (including the delivery of all associated name, identification, and location data)."²⁶ Sprint respectfully suggests that the Commission retain the current rule. Such rule reflects the fact that 911 service is provisioned and sold to meet the individual needs of the governmental entity or Public Safety Answering Point (PSAP) purchasing 911 services. For example, because some PSAPs/customers have chosen not to

²⁴ The NRIC definition of an air traffic impacting outage is as follows:

An outage which affects a major, minor or small airport and is deemed "air traffic impacting" is defined as the loss of greater than 50% of telecommunication services at a critical air traffic control facility including airports Terminal Radar Approach Control (TRACONS) or Air Traffic Control Towers (ATCTs) or a FAA Air Route Traffic Control Center (ARTCC) that impacts the ability of the air traffic facility to control air traffic as determined by the FAA Air Traffic Supervisor at the Air Traffic Systems Command Center (ATSCC). This may include loss of critical telecommunications services that transmit radar data, flight plan data or controller-to-pilot and controller-to-controller voice.

²⁵ *NPRM* at ¶25

²⁶ *Id.*

purchase enhanced 911 services, identifying information including the name of the caller, the location of the caller, etc, is simply not available.²⁷

Retention of the current rule is further justified by the fact that one of the task forces of the recently convened NRIC VII has been given the responsibility to identify the appropriate criteria for reporting outages affecting E911 services. By waiting until it receives the recommendations of the experts in the field before seeking to change the reporting metrics for 911 outages, the Commission would enable the industry to conserve resources since carriers would have to change their methods and procedures to incorporate changes in the reporting metrics only once as opposed to changing such procedures to accommodate the Commission's proposed changes and then perhaps changing them again to incorporate the recommended changes of the NRIC VII task force.

If, contrary to Sprint's position, the Commission finds that changes in the metrics for reporting 911 outages are necessary at this time, Sprint believes that the Commission's proposed changes need to be clarified in one respect. The Commission's proposed changes to the rule governing 911 outages appears to suggest that the loss of any 911 call processing capability would be reportable which by extension could mean any loss of call processing capability. If this is the intent of the proposed rule, carriers would be required to report any problem in providing 911 service even if the problem is of little significance; even if the problem does not adversely affect the ability of the end user to reach a PSAP and report an emergency; and even if

²⁷ As stated, one of the criterion for reporting outages is inability to deliver "name identification and location data." Obviously, if a PSAP does not purchase enhanced 911 services, such data will not be transmitted. In any event, the inability to transmit such data does not necessarily result in an outage as defined in proposed Section 4.5(a). 911 calls will still be connected and location data can be collected verbally as has traditionally been done where enhanced 911 services have not been deployed.

the problem does not involve many end users. Sprint believes that there can be no justification for requiring reports that do not diminish the ability of an end user to reach a PSAP -- certainly the Commission has not advanced any -- and requests that the Commission make clear that reports would be required only when there is a loss of all call processing capabilities at a PSAP or cluster of PSAPs affecting at least 30,000 lines for 30 minutes or more.²⁸

4. The Commission's proposed rule governing the reporting of IXC and LEC tandem outages needs to be modified.

Section 63.100(g) of the rules currently governing outage reporting requires that when an outage occurs at an IXC's or LEC's tandem facilities, the carrier in question "must, if technically possible, use real-time blocked calls to determine whether criteria for reporting an outage have been reached." Such criteria provide for the reporting of "tandem outages where more than 150,000 calls are blocked during a period of 30 or more minutes for purposes of complying with the 50,000 potentially affected customers threshold" or "where more than 90,000 calls are blocked during a period of 30 or more minutes for purposes of complying with the 30,000 potentially affected customers threshold."²⁹ The Commission proposes to modify the rule by eliminating the 150,000 blocked call/50,000 affected customer metric and by eliminating the 30,000 customer metric. Thus the reporting metric would be 90,000 blocked calls during a period of 30 or more minutes for non-high capacity facilities and 1,350 DS3-minutes lost for

²⁸ Sprint believes that the Commission should retain the current rule that requires the reporting of 911 outages that last more than 24 hours and affect less than 30,000 lines. Moreover, Sprint supports the Commission's tentative conclusion to eliminate the requirement that carriers "report fire-related incidents that affect 1,000 or more service lines for a period of 30 minutes or more." *NPRM* at ¶26. Sprint agrees that such reports are of little benefit and are "an unnecessary complication for reporting carriers." *Id.*

²⁹ *Id.*

high-capacity facilities.³⁰ See proposed rule 4.9(c). The Commission also “propose[s] to require that all blocked calls, regardless of whether they are originating or terminating calls, be counted in determining compliance with the outage reporting threshold criteria.”³¹ Where a carrier has only the number of originating blocked calls or the number of terminating blocked calls, but not both, the Commission proposes “to require that the blocked-call count be doubled ... unless the carrier certifies that only one direction of the call set-up was affected by the outage.”³² And, in those instances “where the failure prevents the counting of blocked calls [in real time] in either the originating or terminating direction or in both directions,” the Commission would allow “historical data to be used.” The threshold would be 30,000 blocked calls and in determining whether they meet this threshold, carriers would have to triple “the actual number of calls carried for the same day of the week and the same time of day....”³³

For the most part, Sprint supports the Commission’s proposed changes here. As discussed above, the number of blocked calls provides a more accurate picture of the impact of an outage on end users than the Commission’s assumed end-user minute surrogate. Sprint’s main problem with the proposed changes is the requirement that each carrier double the number of blocked calls to be counted for reporting purposes by considering a call as blocked at both the originating and terminating ends even if the cause of the block occurred only at one end. There is simply no justification for such count doubling which would necessarily increase the reporting burdens imposed upon carriers and would lead to inaccurate reporting. Thus, even in cases

³⁰ Sprint believes that basing outage reports of DS3 facilities on minutes would be ill-advised. See discussion below.

³¹ *NPRM* at ¶34.

³² *Id.* at ¶35.

³³ *Id.*

where an IXC was unable to deliver 45,000 long distance calls during a 30 minute period to a terminating LEC because the terminating LEC's switch was down, an IXC would still be required to report an outage because under the Commission's proposal it would have to assume that the calls were blocked on the originating end as well regardless of the fact that the originating LEC delivered such calls to an IXC's POP.

Further, it would be extremely difficult for Sprint's local telephone operations to gather the number of blocked calls at its tandems on a real time basis. Rather, the number of blocked calls at a tandem on any given day only becomes available the following day usually just after midnight.³⁴ Thus, if the Commission adopts its proposal to require initial outage reports to be filed within 120 minutes of the outage -- and as discussed below, Sprint believes that such time frame is unreasonable especially given the fact that the information provided would likely be incomplete and perhaps inaccurate -- Sprint's local operations would not be able to meet such time limit. Sprint recognizes that real time tandem outage reporting is required only when "technically feasible." Nonetheless, Sprint requests that the Commission clarify that Sprint and other carriers in similar situations are able to report tandem outages meeting the reporting threshold of 90,000 blocked calls during the first 30 minute of an outage even if they are unable to gather such information during the window for filing an initial report. Sprint believes that the Commission is, or should be, interested in receiving reports based on real data regardless of when it is furnished rather than data based on an assumed historical surrogate.

³⁴ By way of example, Sprint local exchange operations would not be able to obtain a block call count for an outage that occurred at 10 AM on a Monday until sometime early the next morning, *e.g.*, 1 AM on Tuesday.

5. The two hour window for filing initial reports of wireline outages should not be adopted.

The Commission proposes to eliminate the current distinction in the rules regarding the filing of initial reports. Under those rules, carriers are required to initially report outages within 120 minutes from the time the carrier becomes aware of the outage if the “number of customers potentially affected meets or exceeds a threshold criterion of 50,000.”³⁵ If the number of potentially affected customers is between 30,000 and 50,000, the carrier has 3 days from the time it first learned of the outage to file an initial report. Under the new rules, the current distinction would be eliminated. Instead, all carriers would be required to file an initial report within 120 minutes of “discovering a reportable outage.”³⁶

Sprint agrees with the Commission that the distinction in the current rules “complicates the outage reporting requirements without any off-setting benefit and should, therefore, be eliminated.”³⁷ That said, Sprint respectfully suggests the Commission has chosen the wrong timeframe for the filing of initial reports. Carriers should be allowed 3 days for the filing of their initial reports. A 3-day window would enable carriers to gather all of the necessary data which are unlikely to reside in a single database so as to file accurate initial reports.

The Commission claims that the 2 hour window is justified because “[t]he improvements in filing requirements, as well as the electronic filing process that [the Commission] is proposing, should make it easy for communications providers to file initial disruption reports...”³⁸ This hardly justifies the 2 hour timeframe. A carrier’s only priority in the wake of an outage should

³⁵ *NPRM* at ¶28.

³⁶ *Id.* at ¶30.

³⁷ *Id.* at ¶28.

³⁸ *Id.* at ¶30.

be to devote all necessary resources to restoring service. The filing of reports with the Commission is, or should be, a secondary concern.³⁹

The Commission also believes that the filing of reports within 120 minutes “will facilitate more rapid action in the event of a serious crisis, and will also facilitate more rapid, more coherent and more accurate responses when multiple outages are occurring during simultaneous (or virtually coincident) crises.” *Id.* However, such coordination already takes place through the National Coordinating Center for Telecommunications (NCC), to which all major carriers belong and the DHS’ National Communications System (NCS). Thus, the filing of initial reports within 120 minutes of when the carrier learns of a reportable outage would do nothing to facilitate such coordination efforts by members of the industry. Again, the priority and resources of a carrier suffering a network outage should be on service restoration and not gathering data and filing reports. Accordingly, Sprint recommends that the Commission adopt the 3-day time period for the filing of initial reports.

6. Expansion of the root cause and diversity analysis in the final report is unwarranted.

The Commission proposes to expand the information to be provided in a final outage report to include information as to whether “the reported outage was at least partially caused because the network did not follow engineering standards for full diversity (redundancy).” It also proposes to require that carriers report “all of the causes of the outages.”⁴⁰

³⁹ Sprint respectfully suggests that the Commission’s role in helping the carrier to restore service would be limited at best. For this reason alone, there is simply no need for the Commission to be alerted within 120 minutes of an outage.

⁴⁰ *NPRM* at ¶31.

The Commission does not explain why it believes that information as to whether the reporting carrier employed diversity/redundancy engineering standards would be useful. Nor can it. The fact is that architectural design is more complicated than assumed by a simplified optimal design layout that underlie engineering standards for diversity or redundancy. Indeed, any decision to deploy diverse or redundant facilities is usually based upon business continuity/risk assessment as well as an analysis as to whether a carrier's customers would be willing to pay the costs of having the carrier deploy a diverse and redundant network on the customer's request. Because of these factors, a statement of whether the carrier followed "engineering standards for full diversity (redundancy)" would not increase the Commission's understanding as to why the outage occurred.

Similarly, providing a listing of all of factors that are involved in an outage would not be helpful in enabling the Commission to analyze what caused an outage. As a general rule, there is a single root cause for an outage. Although there may be other factors that lengthen the duration of the outage, such factors could not be viewed as causing the outage.

7. The Commission's proposed reporting criteria for DS3 failures should not be adopted.

The Commission proposes "additional outage-reporting criteria that would apply to failures of communications infrastructure components having significant traffic-carrying capacity."⁴¹ The threshold reporting criterion to be used in this regard would be an outage "of at least 30 minutes duration that potentially affect at least 1,350 DS3 minutes."⁴² DS3s were

⁴¹ *NPRM* at ¶47

⁴² *Id.*

chosen because they “are the common denominator used throughout the communications industry as a measure of capacity.”⁴³

The difficulty with the Commission’s proposed DS3-minute surrogate here is the same as the problem with the Commission’s assigned telephone number surrogate for other facilities. It does not measure the real impact on end users of an outage. A problem on a DS3 or other large capacity facility which potentially affected the transport of at least 1,350 DS3 minutes would not necessarily mean that the entire facility was “down.” To the contrary, the carrier could still be transporting traffic on other portions of the facility. For this reason, Sprint recommends that the Commission abandon its minute-based approach for outages on high-capacity facilities and instead use the blocked-call criteria as set forth above.⁴⁴

8. The Commission’s proposed reporting criteria for wireline SS7 networks should be modified.

The Commission also proposes for the first time to subject providers of SS7 system service to outage reporting requirements. Under the Commission’s proposed surrogate “all providers of Signaling System 7 service (or its equivalent) would be required to report those

⁴³ *Id.*

⁴⁴ The Commission states that DS3 and other high capacity facilities that provided access to Internet Service Providers would be subject to the outage reporting requirements. *NPRM* at fn. 102. Although the Commission has not set forth a final decision on the regulatory status of Internet access facilities, it has tentatively concluded that such facilities are enhanced services outside the scope of Title II regulation. In fact, unlike interstate services provided over common carrier facilities, Internet access services are currently exempt from USF contributions. Nothing in the *NPRM* discusses the Commission’s authority to subject non-common carrier services to the outage reporting framework being proposed here. For this reason, its proposal in this regard cannot be adopted.

communications disruptions of at least 30 minutes duration for which the number of blocked or lost ISDN User Part (ISUP) messages (or its equivalent) was at least 90,000.”⁴⁵

Sprint agrees that disruptions of SS7 signaling functionality should be subject to outage reporting criteria. It recommends that such threshold reporting criteria be tied to the threshold reporting criteria for tandem outages. Thus, if SS7 signaling is within a carrier’s network and carrier is responsible for maintenance of the SS7 links at both end points, a disruption in SS7 signaling functionality would be reportable if 90,000 calls were blocked real time or 30,000 calls were blocked using historical data and the disruption was at least 30 minutes or longer. If a third party SS7 provider is involved, the carrier would notify such provider that it met or exceeded the reporting threshold and that the third party had to file a service disruption report.

The Commission’s proposal to use blocked ISUP minutes as the reporting criteria should not be adopted. For carriers such as Sprint whose signaling transfer points (STPs) do not capture ISUP messages because existing equipment was intended for other purposes, the cost of retrofitting such equipment to provide for such functionality would be significant. It makes little sense under a cost/benefit analysis to require the expenditure of such costs to change traditional circuit based equipment given the fact that networks are moving to voice over internet protocol technology.

B. The Proposed Outage Reporting for Wireless Communications Are Inappropriate and Unworkable.

As discussed above, Sprint urges the Commission to reject any mandatory reporting obligations on the wireless industry. If, however, the Commission determines that the imposition of a mandatory regulatory reporting scheme upon wireless carriers is necessary, the Commission

⁴⁵ *NPRM* at ¶49.

must adopt a rational reporting structure that is simple, precise and relevant to wireless networks. Unfortunately, the proposed universal reporting obligations contained in the *NPRM* meet none of these criteria. In addition to the comments above, Sprint discusses the following specific issues associated with the proposed reporting metrics for wireless carriers.

1. The proposed common metric for wireless services is based on faulty assumptions and is inapplicable to wireless carriers.

The Commission proposes that wireless carriers report any outage that exceeds 30 minutes and potentially affects more than 900,000 “user-minutes.”⁴⁶ Unfortunately, the proposed calculation of “user-minutes” is ambiguous and based on faulty assumptions. User minutes are defined as the “total call capacity of the affected MSC” multiplied by a concentration factor of 10. Both halves of this equation have significant problems.

First, the Commission provides no guidance on how the “call capacity” of an MSC is to be calculated. Unlike wireline networks, call capacity on a wireless network is extremely fluid. The number of calls a particular MSC can handle is dependent upon a number of variables including: (1) the number of base stations (or cell sites) that subtend the switch, (2) the number of carriers (*i.e.*, radio frequencies) that have been deployed or are available, (3) the type of handsets the particular end users currently on the system are employing (e.g., 2G handsets impose greater capacity demands on the network than 3G handsets, handsets with different vocoder bit rates demand different capacity), and (4) the capacity of the Base Station Controller to manage call handoffs during mobility. Moreover, the capacity of any particular switch varies over time as new cellsites, carriers, or upgraded processing equipment are added.

⁴⁶ *NPRM* at ¶22,36.

Second, the proposed concentration factor is both incorrect as a matter of engineering principles and irrelevant with respect to the number of impacted end users. As an engineering function, wireless networks are limited by RF availability in any given area, not a straightforward calculation of line concentration as is done on the wireline network. More importantly, this concentration factor suggests that the number of impacted end users is greater than the capacity of the switch. By definition, however, this number of end users will never have been able to make simultaneous telephone calls under any circumstances. Accordingly, it is irrelevant to the reliability of the network. While a switch may be engineered to accommodate the peak busy hour use of the network, this level of usage occurs, by definition, only once a day. An outage at 2 AM is unlikely to impact the same number of end users as an outage at 5 PM.

It must be noted that blocked calls at a cell site are not necessarily registered at the switch location. If usage spikes in a limited geographic area, control channels can become overloaded and the network cannot detect all call requests made. The network is designed to use its capacity first for the completion of calls rather than to record outage information.

Based upon the foregoing, Sprint respectfully suggests that the proposed 900,000 end user minute formula would create ambiguity and irrelevant data in the wireless arena. If the Commission intends to impose criteria for mandatory reporting, it must be based upon something that can be calculated in a more straightforward manner, such as historical data regarding usage during the same period in the previous month or year. Such historical call volume information is the standard industry benchmark for network performance. Sprint suggests that a call blocking level of 75% or higher at a single MSC for 30 minutes or longer would be an acceptable criterion. Of course, it is not possible to report on such historical data in real time. Accordingly, the Commission's proposed two hour reporting window could not be met by wireless carriers.

Finally, Sprint agrees that a complete outage of an MSC for a period of 30 minutes or longer would be a reasonable criterion for outage reporting.

2. The Commission's proposal to require reports of outages affecting all airports should not be applied to wireless.

As noted above, the proposed outage reporting requirements associated with service to airports would include hundreds of small Mom and Pop airports. This issue is of particular concern to wireless carriers, who do not necessarily know when one of these small operations is even within its coverage area, much less whether a particular outage may impact such an airport. Wireless carriers do not have dedicated access lines assigned to airport control towers or airport security offices. Wireless carriers would have no means of knowing if one of their phones was being used by airport personnel. Moreover, to the extent outage reports affecting airports is to enable the Commission to help monitor the reliability of the air traffic control and other FAA communications facilities to airports, wireless carriers are not the providers of these services. At most, wireless services are ancillary communications channels in these locations.

3. 911 Reporting

The Commission proposes that wireless service providers report any failure of a wireless network element that prevents an MSC from receiving or responding to 911 calls for at least thirty minutes, including the delivery of associated location data. Sprint reiterates its concerns expressed above regarding such reporting obligations on the wireline network as equally applicable to wireless carriers. The recently convened NRIC VII should be given the opportunity to complete its work before the Commission acts in this area. Moreover, the Commission should clarify that it does not intend to require the reporting of any call processing capability that could potentially impact 911, since this standard would implicate any call processing failure of any kind and would generate hundreds of largely meaningless reports.

The Commission's proposed rules for 911 service disruptions by wireless carriers are especially problematic. The Commission explicitly states that wireless carriers should be responsible for reporting outages of other third parties such as location vendors. As Sprint has repeatedly explained to the Commission, however, wireless carriers do not control the end-to-end elements of a 911 call and frequently have no visibility to outages that would impact call delivery, particularly for those data elements associated with location. Phase II location in particular is sensitive to interface issues between networks operated by incumbent local exchange carriers, databases controlled by PSAPs and transmission facilities and routers controlled by other third parties. Wireless carriers can only report on information regarding their own networks. Sprint simply has no access to LEC and PSAP data. If reporting is required, the Commission must limit any reporting obligations to those areas within the carrier's control.

4. 120 Minute reporting requirement is unachievable and adds no value

The Commission proposes that wireless carriers report outages within 120 minutes of becoming reportable. Sprint reiterates its concerns as articulated above with respect to this outage reporting period. The time immediately following a major outage is devoted first and foremost to the restoration of service, not the generation of reports. Carriers have already established mechanisms for coordinated efforts and additional reporting obligations will serve no useful function. As discussed above, Sprint does not believe that the Commission needs to be informed of an outage right away since there is nothing the Commission can do to help the carrier restore service. And, wireless carriers rarely have the resources necessary to perform both needed analysis and repairs and create outage reports. In any event, as discussed above, under a 120 minute window for filing initial reports, carriers would unlikely be able to gather all of the necessary data to provide the Commission with meaning reports.

III. CONFIDENTIALITY OF REPORTS MUST BE MAINTAINED FOR PURPOSES OF HOMELAND SECURITY.

There can be no doubt that the existing communications infrastructure is critical to national security. As such, these communications systems fall within the recent Presidential Directive requiring federal agencies to “collaborate” with private industry and “encourage” the development of information sharing and analysis. While the Presidential Directive does not speak in terms of mandating the production of data or the creation of new regulatory regimes, it is very clear that information regarding critical infrastructure must be kept secure:

Federal departments and agencies will appropriately protect information associated with carrying out this directive, including handling voluntarily provided information and information that would facilitate terrorist targeting of critical infrastructure and key resources consistent with the Homeland Security Act of 2002 and other applicable legal authorities.⁴⁷

In the *NPRM* the Commission also recognizes the fact that communications networks are a critical component of the Nation’s infrastructure. At the same time, it notes that historically outage reports have been made available to the public,⁴⁸ and goes on to state that “public access to each outage report” has been of “significant benefit” because “individual service providers, as well as manufacturers [are able] to learn for each other’s outage experiences.”⁴⁹ Thus, the Commission asks that parties comment on whether the Commission should continue to allow public access to such reports.

⁴⁷ Homeland Security Presidential Directive, December 17, 2003, Subject: Critical Infrastructure Identification, Prioritization, and Protection. *See also* DHS’ Procedures for Handling Critical Infrastructure Information, 69 F.R. 8074 (February 20, 2004) where the DHS found that “[t]he protection of critical infrastructure reduces the vulnerability of the United States to acts of terrorism.”

⁴⁸ *NPRM* at ¶52.

⁴⁹ *NPRM* at ¶10.

Sprint believes that given the fact that the United States remains vulnerable to terrorist attacks, it is absolutely necessary that any report that discloses the locations of critical telecommunications infrastructure must not be disclosed either pursuant to a Freedom of Information Act request or otherwise. Terrorists who may seek to attack the homeland should not be able to obtain information that would enable them to severely disrupt the Nation's vital communications systems.

At the same time, Sprint recognizes, as does the Commission, the public benefits of allowing public access to the outage information that is filed with the Commission under a mandatory regime. Sprint believes, however, that these seemingly divergent positions can be harmonized by simply having the Commission "scrub" the reports of critical network information before allowing public access to the reports. The Commission could reveal the name of the carrier or entity reporting the outage, the cause of the outage and the best practices that would perhaps reduce the chances that the same type of outage would recur. This approach would enable the continued use of outage reports as a learning tool for other carriers and manufacturers but at the same time protect critical information infrastructure. Moreover, if a state governmental entity wants to obtain the data scrubbed from the public reports for purposes of meeting their own homeland security responsibilities, such entity would have to agree to keep such information strictly confidential.⁵⁰

⁵⁰ Sprint notes that the Commission proposes to delegate to the Chief of the Office of Engineering and Technology ("OET") the authority "to make 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...." Proposed Section 0.241(a)(1) of the Commission's Rules. While it is unclear from the wording of this provision or the Commission's brief explanation of it, Sprint assumes that Chief will not be able to make any substantive changes in

Footnote continues on next page.

IV. CONCLUSION.

Accordingly, Sprint respectfully requests that any Commission's decision the issues raised by the *NPRM* conform to Sprint's position and adopt Sprint's recommendations as set forth above.

Respectfully submitted,

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this regard without first seeking public input. Indeed, the requirements of the Administrative Procedure Act mandate public participation. Sprint requests that the Commission confirm that Sprint's assumption here is correct.

CERTIFICATE OF SERVICE

I, Sharon Kirby, do hereby certify that this 25th day of May 23 copies of the Comments of Sprint Corporation In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications in ET Docket No. 04-35 were sent as indicated below to the following parties.


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