

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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

PETITION FOR PARTIAL STAY

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November 19, 2004

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PETITION FOR PARTIAL STAY

Pursuant to 47 C.F.R. §§ 1.41 and 1.43, the United States Telecom Association (USTA)¹ requests that the Federal Communications Commission (FCC or Commission) stay the enforcement of paragraph 134 of the Report and Order (Order) released on August 19, 2004 in the above-captioned proceeding² pending reconsideration.³ The Commission's requirement in paragraph 134⁴ that wireline local exchange carriers (LECs) report as "outages" those events in which a DS3 that is part of a protection

¹ USTA is the nation's oldest trade organization for the local exchange carrier industry. USTA's carrier members provide a full array of voice, data and video services over wireline and wireless networks.

² *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 04-35, FCC 04-188 (rel. Aug. 19, 2004) (Order).

³ USTA intends to file a petition for reconsideration of the requirement that is the subject of this Petition for Partial Stay. Because the Commission failed to allow an opportunity for notice and comment on reporting of DS3 simplex events, USTA is entitled to file a petition for reconsideration relying on facts not previously presented to the Commission because consideration of the facts is required in the public interest. *See* 47 C.F.R. 1.106(c)(2) and 47 C.F.R. 1.429(b)(3).

⁴ *See* Order at ¶ 134, stating, "We therefore require that DS3s that switch to protect be counted in DS3 outage minutes until such time as the DS3s are restored to normal service, including protection."

scheme that switches to protect mode⁵ is not only procedurally improper because it violates the Administrative Procedure Act (APA), but it is also substantively inequitable because it imposes significant administrative burdens and costs on providers without providing any countervailing benefits. To avoid significant harm to the members of USTA and to preserve a system of network outage reporting that is consistent with the Commission's own rules and definitions, the Commission should grant the requested stay. As demonstrated below, USTA satisfies the four-part test to justify a stay.

INTRODUCTION AND SUMMARY

The Order significantly expanded the reporting obligations previously imposed on wireline providers. As discussed below, the requirement adopted in paragraph 134 is procedurally defective and particularly burdensome for USTA's members. Requiring LECs to report DS3 simplex events as "outages" is an unprecedented requirement that (1) was not properly noticed in the initial Notice of Proposed Rulemaking (NPRM),⁶ (2) does not satisfy the FCC's own definition of an "outage," because it does not result in a degradation in customer service, and (3) would impose a significant administrative burden on the industry with no countervailing benefit.

⁵ The switching of a DS3 that is part of a protection scheme such as a Synchronous Optical Network (SONET) ring is referred to throughout this petition as "a DS3 simplex event." A DS3 simplex event occurs when a DS3, which is engineered with a fully redundant protection scheme, switches to the redundant DS3 in the protection scheme.

⁶ *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, Notice of Proposed Rulemaking, ET Docket No. 04-35, FCC 04-30 (rel. Feb. 23, 2004) (NPRM).

USTA has gathered sworn statements from six of its members, ranging from large to modest-sized companies, regarding the burdens imposed by the new requirement to report DS3 simplex events. The combined estimate from these six companies alone to comply just with the DS3 simplex event portion of the Order is tens of millions of dollars. Both BellSouth Telecommunications, Inc. (BellSouth) and Verizon estimate that complying with the new DS3 simplex event reporting requirement would cost each company well over \$5 million annually.⁷ ALLTEL Corporation (ALLTEL) anticipates that the cost of adding new connectivity throughout its network to comply with the new requirement will be over \$2 million.⁸ USTA's smaller member companies will have to make even bigger expenditures to make their networks compliant with the new requirement. Frontier and Citizens ILECs (Frontier), for example, estimate that it would cost more than \$16 million to reconfigure the Frontier network to comply with the new requirement.⁹ Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom (Iowa Telecom) estimates that it will incur expenses as high as \$16 million to reconfigure its network to accommodate the new DS3 simplex event reporting requirements.¹⁰

These estimates are in stark contrast to the FCC's Final Regulatory Flexibility Analysis, which concludes that "the only burden associated with the reporting requirements will be the time required to complete [the three stage] reports" and that the total annual costs for each carrier would be only \$41,600.¹¹ Moreover, the FCC's analysis fails to account for the upfront capital and human resource expenditures needed

⁷ BellSouth Affidavit ¶ 13 and Verizon Declaration ¶ 5.

⁸ ALLTEL Affidavit ¶ 8.

⁹ Frontier Affidavit ¶ 10.

¹⁰ Iowa Telecom Affidavit ¶ 9.

¹¹ Order, Appendix D ¶ 24.

to update hardware and software and train staff in order to begin complying with the new rule.

In addition, the Commission has significantly underestimated the number of reports that likely would be filed if the DS3 simplex event reporting requirement becomes effective, which also leads to an under-counting of the costs and burdens associated with the new requirement. The Commission estimated that for all new rule changes, the *total* number of reports *from all reporting sources combined* would be substantially less than 1,000 annually.¹² If the Commission allows the new DS3 simplex event reporting requirement to take effect, however, some USTA members may have to file hundreds or even thousands of additional reports per year *per carrier* just regarding DS3 simplex events.¹³ In addition to USTA members, other carriers likewise have expressed concerns about similar burdens.¹⁴

As demonstrated below, USTA can easily prove the four elements considered in granting a stay: (1) the likelihood of success on the merits, (2) the likelihood of irreparable injury absent relief to the party seeking the stay, (3) the absence of harm to

¹² Order ¶ 168 (emphasis added).

¹³ See, e.g., BellSouth Affidavit ¶ 12; Verizon Declaration ¶ 3; SBC Affidavit ¶ 11; ALLTEL Affidavit ¶ 7.

¹⁴ See, e.g., Letter from Dennis Guard, MCI, to Marlene Dortch, FCC, ET Docket No. 04-35, at 1 (filed Nov. 16, 2004) (implementing new rule regarding “protect-path routing” “could result in thousands of additional outage reports” which “would drain valuable resources while providing the Commission with information of questionable value”); Letter from Michael Fingerhut, Sprint, to Marlene Dortch, FCC, ET Docket No. 04-35, at 2 (filed Nov. 8, 2004) (estimating that such reports “could number in the several hundred if not thousands each month”).

third parties if the stay is granted, and (4) the public interest in granting the stay.¹⁵

Because of the procedural infirmities of the requirement in paragraph 134 and the severe harm that will be imposed upon USTA members and others if this new service outage reporting obligation is permitted to take effect, USTA respectfully requests that the Commission grant the requested stay pending reconsideration of the Order, or, in the alternative, that it issue a Further Notice of Proposed Rulemaking (FNPRM) asking for comment on the benefits and burdens of implementing the reporting requirement set forth in paragraph 134 and stay the effect of paragraph 134 pending conclusion of that FNPRM. USTA further requests that the Commission grant this stay petition as soon as possible, but in any event no later than the effective date of the Order.

DISCUSSION

I. USTA is Likely to Succeed on the Merits Because the Commission's Decision Contains Serious Procedural and Substantive Deficiencies.

A. The Commission Did Not Provide Proper Notice of the DS3 Simplex Reporting Requirement.

The Commission's adoption of the DS3 simplex reporting requirement was not based on an adequate record because the industry did not have any warning or notice that the Commission was considering such a requirement. Nowhere in the NPRM is there any indication that the Commission was considering adoption of such an obligation. While the NPRM put parties on notice of the proposed 1,350-minute threshold for DS3 outages (counting only "working" DS3s), neither the text of the NPRM nor the proposed rules in Appendix A refer to any proposal to establish a reporting requirement for DS3 simplex

¹⁵ See *Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958). See also Telephone Number Portability, Order, 18 FCC Rcd 24664, ¶ 4 and n. 4 (2003) (citing *Virginia Petroleum*).

events.¹⁶ Furthermore, as explained in Section I.B. below, it is not clear that the Commission properly adopted the reporting obligation imposed in paragraph 134 because the Order contains no rules implementing the obligation.

In instituting a rulemaking proceeding, the Commission is obliged to provide the public with adequate notice of the subject matter and issues involved so that interested parties can assess the impact of the Commission's proposals and provide meaningful comment. The Commission's decision in paragraph 134 of the Order requiring reporting of DS3 simplex events violates the APA because it was not made after proper notice and opportunity for comment.¹⁷ The Commission's failure to provide adequate notice in the NPRM before adopting the requirement in paragraph 134 constitutes procedural error requiring vacatur.¹⁸ The lack of notice prevented USTA and other interested parties from developing a record on the burdens that would follow from requiring reporting of these DS3 simplex events.¹⁹ Had the Commission adhered to the APA and issued proper notice, such issues could have been addressed comprehensively. As discussed below, the lack of notice here will cause substantial harm to USTA's members because they were deprived of the opportunity to point out the burdens that will be placed on them by the reporting requirement in paragraph 134.

¹⁶ See Order ¶¶ 47-48; Appendix A (Proposed Rule 47 C.F.R. § 4.9.(f)).

¹⁷ See 5 U.S.C. § 553(b).

¹⁸ See *Sprint Corp. v. FCC*, 315 F.3d 369, 376-77 (D.C. Cir. 2003); Order, *Sprint Corp. v. FCC*, Nos. 01-1266 *et al.* (D.C. Cir. Apr. 1, 2003) (clarifying that failure to provide notice would require vacatur of rule).

¹⁹ See NPRM ¶ 129. Indeed, the only record mention of DS3 simplex events at all were references made by USTA and others to the appropriate standard for DS3 reporting. USTA recommended that the threshold be set at 48 DS3s out of service for 30 minutes or more within a "communications infrastructure that did not switch to protect." See USTA Comments at 23. USTA did not discuss whether switching to a protect path should be reported as an outage because the Commission did not raise the question.

Moreover, even if the damage to USTA members were not as great, the Commission may not defend its position by claiming that its procedural error was harmless. Failure to adhere to the notice requirements of the APA mandates reversal as long as there is “any uncertainty at all as to the effect of that failure.”²⁰ In this respect, USTA “need not” identify “additional arguments” or “considerations it would have raised in a comment procedure.”²¹ Rather, it is enough to establish that the effect of the FCC’s procedural failings “is uncertain.”²² USTA clearly satisfies this standard. By proceeding without issuing proper notice, the Commission constrained USTA’s and others’ ability to propose solutions that would have enabled the Commission to proceed in a balanced, less burdensome fashion.

B. A DS3 Simplex Event Does Not Constitute an “Outage” Under the Commission’s Own Definition.

Although the Order expresses an intention to require carriers to file reports in the event of a DS3 simplex event, the final rules that address DS3 reporting requirements apply only in the event of an “outage.”²³ By the FCC’s own definition, the switching to protect of a DS3 in a SONET ring is not an “outage.” The FCC defines the term “outage” 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

²⁰ *Sugar Cane Growers Coop. of Florida v. Veneman*, 289 F.3d 89, 96 (D.C. Cir. 2002) (citing *McLouth Steel Prods. Corp. v. Thomas*, 838 F.2d 1317, 1324 (D.C. Cir. 1988)).

²¹ *Id.* at 96-97 (noting that such a requirement would “eviscerate[]” section 553). See *Sprint*, 315 F.3d at 377 (“a showing of actual prejudice is not required” in a notice claim under section 553).

²² *Sprint*, 315 F.3d at 377.

²³ Order, Appendix B, §4.9(f).

communication provider's network.²⁴ When a DS3 is part of a protection scheme such as a SONET ring, it will switch to a protect path within a fraction of a second when there is a failure in the primary path with no impact on the service provided to the customer. Although the Commission correctly recognized that in a DS3 simplex event, "the communication services being provided over the DS3 will not be immediately affected," it nonetheless ordered that DS3s that switch to protect be counted in DS3 outage minutes until the DS3s are restored to normal service.²⁵

The Commission analogizes this situation to a twin-engine airplane losing power in one engine, arguing that if one engine fails the plane continues to fly but in an impaired state.²⁶ This is not an apt analogy because, unlike the twin engines of an airplane, the multiple paths of a SONET ring are not designed to carry the same traffic simultaneously but to re-route traffic. A SONET ring's protection scheme is engineered to minimize the impact on customer service. The design of the circuit is synchronous, and, therefore, customers experience *no* impact on service when a circuit switches to simplex mode. In other words, a DS3 simplex event is a non-customer-affecting event.

The requirement in paragraph 134 ignores the fact that there is no impact on the customer, no call failure, and no service degradation when a DS3 in a SONET ring switches to protect. When this occurs, the customer is still able to establish and receive communications without any deterioration or impairment of service.²⁷ DS3s that are part

²⁴ Order, Appendix B, §4.5(a).

²⁵ Order ¶ 134

²⁶ *Id.*

²⁷ See International Engineering Consortium, on-line tutorial regarding SONET rings, <http://www.iec.org/online/tutorials/sonet/index.html> at 6, stating "Multiple [add/drop multiplexers (ADMs)] can be put into a ring configuration for either

of a protection scheme such as a SONET ring are designed to switch to protect mode when one path of a SONET ring fails. This network configuration is deliberate and is intended to avoid a true “outage” in which a customer’s service is affected. By using SONET rings and redundant facilities in networks, providers are able to minimize service-affecting outages. Thus, the switching of a DS3 in a SONET ring to protect mode constitutes normal operation and is not an “outage” under the Commission’s own definition.²⁸

As demonstrated above, USTA is likely to prevail on the merits. The requirement to report DS3 simplex events as “outages” is procedurally improper because of the Commission’s failure to provide for proper notice and comment as mandated by the APA. Moreover, the final rules do not implement the DS3 simplex event reporting requirement set forth in the Order because a DS3 simplex event does not meet the FCC’s own definition of an “outage.”

II. USTA Members Will Suffer Irreparable Harm Absent a Stay Because the Order Will Impose Enormous and Costly Administrative Burdens on Them Without Any Countervailing Benefit.

Although not an “outage,” as defined by the Commission or the final rules, according to paragraph 134 of the Order the switching of a DS3 in a SONET ring to protect mode would have to be reported. This requirement will generate an overwhelming number of new reports for which the Commission has not accounted. In

bidirectional or unidirectional traffic. The main advantage of the ring topology is its survivability; if a fiber cable is cut, the ADMs have the intelligence to send the services affected via an alternate path through the ring without interruption.”

²⁸ See Order ¶ 48. Nor does the switching to protect of a DS3 in a SONET ring fall under the definition of “communications disruptions” found in 47 C.F.R. § 63.100(c) because it is not a customer-affecting event.

its Final Regulatory Flexibility Analysis, the FCC estimates “that the total number of reports, from all reporting sources combined, will be substantially less than 1,000 annually”²⁹ and that the total annual costs for each carrier would be only \$41,600.³⁰

USTA attaches to this petition sworn statements from six member companies, which demonstrate that the Commission significantly underestimates the total number of reports that will be generated under its new reporting rules and the costs involved in complying with the new requirement.

The added burden and expense for USTA’s members principally come in two categories. First, the number of reports due from many companies is projected to rise far beyond the Commission’s estimates. In fact, reports of DS3 simplex events by several companies individually will match or exceed the Commission’s estimates of *all* reports for *all* causes by *all* companies. Second, some companies, particularly smaller companies, will have to spend large sums to alter their systems to make the type of reporting required by the Commission possible.

BellSouth provides a good example of the first category of additional expense. BellSouth currently files approximately 20 outage reports each year. Taking the new rules into account, it estimates that this number would rise to at least 150 reports without the inclusion of DS3 simplex events. Based on an analysis of six months of historical data, BellSouth estimates that the number of DS3 simplex events that would meet the FCC's new reporting rules would be approximately 1,011 per year.³¹ Of these, only 0.3% to 0.4% would escalate to true customer-affecting outages. BellSouth expects that the average DS3

²⁹ Order, Appendix D ¶ 28.

³⁰ *Id.* ¶ 24

³¹ BellSouth Affidavit ¶ 12.

simplex event would require 72 hours of labor to process.³² Multiplying this figure by the 1,011 projected annual events yields 72,792 hours, or approximately 36 man-years, of labor,³³ which would result in additional annual estimated costs to BellSouth of \$5.82 million³⁴ to treat DS3 simplex events as reportable disruptions.

Similarly, in 2003, Verizon filed a total of 19 outage reports pursuant to 47 C.F.R. § 63.100.³⁵ Verizon estimates that the addition of the DS3 simplex reporting requirement would require it to file close to 1,000 additional outage reports, thus increasing the number of reports Verizon must file between 5000% and 7000% annually.³⁶ Verizon estimates that compliance with the new DS3 simplex reporting requirement would cost it approximately \$5.5 million annually.³⁷

SBC Communications Inc. (SBC) projects an even larger number of reports based on its analysis of DS3 simplex event data. SBC currently files an average of 33 outage reports per year. SBC estimates that it would have to file approximately 3,500 reports per year for DS3 simplex events.³⁸ Furthermore, it estimates that, based on its experience, complying with current reporting requirements, each report would require an average of 90 management man-hours for investigating, compiling information, and filing.³⁹

³² *Id.* ¶ 13.

³³ *Id.*

³⁴ *Id.*

³⁵ Verizon Declaration ¶ 3.

³⁶ *Id.*

³⁷ *Id.* ¶ 5.

³⁸ SBC Affidavit ¶ 11.

³⁹ *Id.* ¶ 16.

ALLTEL reports that it filed only four outage reports last year.⁴⁰ To comply with the new DS3 simplex event reporting requirement, it would have to file approximately 200 additional reports.⁴¹ ALLTEL estimates that of these 200 events, only ten would be likely to result in customer-affecting events, most of which would not meet FCC thresholds for reporting.⁴² ALLTEL anticipates that compliance with the new DS3 reporting requirement would require new connectivity throughout its network to determine in real time when a redundant path has been activated, a capability that would take about one year to complete at a cost of over \$2 million.⁴³

Other smaller USTA member companies will also be greatly harmed by the new DS3 simplex reporting requirement. These companies will have to undertake enormous capital expenditures to make their networks compliant with the new requirement. Frontier, for example, estimates that it would cost more than \$16 million to reconfigure the Frontier network to make it possible for DS3 simplex events to send alarms to Frontier's network operations center.⁴⁴ This estimate does not include the costs of hiring new employees to monitor the additional alarms that would be necessary. Frontier has more than 1,000 central offices that are not manned, and Frontier's alarms for DS3 simplex events generally are not transmitted beyond the office in which the electronics are located.⁴⁵ Due to the unmanned central offices and local alarms, Frontier cannot always know the exact moment when a DS3 simplex event occurs. Absent network

⁴⁰ ALLTEL Affidavit ¶ 7.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* ¶ 8.

⁴⁴ Frontier Affidavit ¶ 10.

⁴⁵ *Id.* ¶ 9.

reconfiguration, which would take a year to accomplish, Frontier would have to hire thousands of new employees to monitor DS3 simplex alarms in each central office on a 24 hour basis.⁴⁶

Like Frontier, Iowa Telecom estimates that it will incur expenses as high as \$16 million to reconfigure its network to accommodate the new DS3 simplex event reporting requirements.⁴⁷ Iowa Telecom states that it has limited resources to make transport and switching improvements in the next few years, and even under the most favorable circumstances, it would take the company three to five years to comply with the DS3 simplex event reporting requirement.⁴⁸

If the Commission's reporting requirement for DS3 simplex events is allowed to take effect, USTA members will be significantly harmed should the Commission later eliminate or modify this requirement because they will have incurred significant expense to comply. Not only will they have had to modify their systems, they will have had to implement new procedures and hire additional personnel to track DS3 simplex events. Accordingly, to avoid irreparable harm to USTA's members, the Commission should grant this petition for stay.

III. No Significant Harm to Third Parties Will Result From a Grant of the Stay.

A partial stay of the order does not pose any cognizable harm to third parties. The issuance of a stay pending reconsideration will merely preserve the *status quo* and harm neither consumers nor others who legitimately rely on outage reporting information. As demonstrated above, a customer's service is not impacted when a DS3 in a SONET ring

⁴⁶ *Id.* ¶ 12.

⁴⁷ Iowa Telecom Affidavit ¶ 9.

⁴⁸ *Id.*

switches to protect. In fact, as SBC notes, its customers experience no impact to service when a circuit is switched to simplex mode because the switch takes fewer than 50 milliseconds.⁴⁹ Not reporting DS3 simplex events will not pose any harm to third parties. Public safety is not threatened by DS3 simplex events. DS3 simplex events have no effect on homeland security. In addition, service providers would still be subject to all of the other new and modified reporting obligations, and the Commission would have reports as required under all of these other rules. Therefore, staying the effective date of this discrete rule will not harm consumers or jeopardize homeland security.

IV. The Public Interest Favors Grant of a Stay.

Finally, the public interest favors a stay. As demonstrated above, requiring reporting of DS3 simplex events will cause enormous harm to USTA member companies who will be forced to spend millions of dollars to become compliant with a new rule that does not benefit their customers whose service is not affected by DS3 simplex events in the first place. It is arbitrary and capricious for the Commission to impose such a burden when doing so yields no benefit.

A stay will forestall the expense, disruption, and administrative burdens that USTA members would face as a result of premature implementation of the Order. It is reasonable to allow providers to avoid the expense and burden of modifying networks, developing new reporting processes, and hiring additional personnel to satisfy this new reporting obligation while the Commission reconsiders its decision. Moreover, the limited scope of the stay weighs strongly in favor of granting it.

⁴⁹ SBC Affidavit ¶ 6.

CONCLUSION

As shown above, USTA members will suffer enormous economic and administrative harms if required to report DS3 simplex events. Furthermore, USTA clearly meets the four-part test for a stay. Therefore, the Commission should grant this petition and issue a partial stay pending reconsideration of the Order or, in the alternative, stay the effect of paragraph 134 pending conclusion of an FNPRM asking for comment on the benefits and burdens of implementing the reporting requirement set forth in paragraph 134.

Respectfully submitted,

United States Telecom Association



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November 19, 2004

AFFIDAVITS

Attached

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

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

ET Docket No. 04-35

**AFFIDAVIT OF ARCHIE MCCAIN
ON BEHALF OF BELLSOUTH TELECOMMUNICATIONS, INC.**

QUALIFICATION AND PURPOSE OF TESTIMONY

1. My name is Archie C. McCain.

2. I have a Degree in Computer Engineering from Southwestern College,

Memphis, Tennessee. I have 22 years experience in the operations and maintenance of digital switching equipment, digital transmission equipment, and general network operations and management. I have considerable expertise in the collection and analysis of outage data, having developed the outage data collection process used by BellSouth Telecommunications, Inc. ("BST"). In addition, I have been a leader in the development of outage reporting tools and processes for the industry, including the standardized outage reporting template used by many service providers and suppliers. In 2004, the IEEE Communications Society selected me for the Communications, Quality, and Reliability Chairman's Award in recognition of my contributions to the industry in the area of outage data collection.

3. I have been employed by various affiliates of the Bell System for 22 years as both an engineer and as a technical manager. My experiences include service at Bell Laboratories during the development and introduction of the first Bell System digital switch, the 5ESS. In addition, I served as a founding member of the first digital switch Electronics Systems Assistance Center ("ESAC") at Southern Bell; member of the Technical Staff at Bellcore with national responsibility for 5ESS digital switching; and Director of Network Operations for the international long distance affiliate, BellSouth International - Access. I am currently the Director of Network Management and Signaling for BST. In that position, I am responsible for the identification and reporting of major outages to the Federal Communications Commission ("FCC") pursuant to its network outage reporting rules.

4. My business address is 7 Executive Park Drive, Room 480, Atlanta, GA 30329.

5. BST is a facilities-based local exchange carrier that offers telecommunications services to businesses and consumers in nine states in the southeastern United States.

6. BST owns and operates a network of 21.6 million access lines with more than 3 million miles of optical fiber.

7. The purpose of this affidavit is to demonstrate that requiring BST to report as "outages" those events in which a DS3 that is part of a Synchronous Optical Network

(SONET) ring switches to protect mode¹ not only would be inconsistent with the FCC's definition of an "outage,"² but also would impose significant administrative and economic burdens on BST with no countervailing benefit or relationship to the FCC's homeland security or network reliability mandates.

DS3 SIMPLEX EVENTS DO NOT CONSTITUTE "OUTAGES" AND REQUIRING BST TO REPORT THESE EVENTS WILL IMPOSE ADDITIONAL BURDENS AND COSTS UPON BST WITH NO CORRESPONDING BENEFIT.

8. Synchronous optical network ("SONET") is a widely used technical standard for telecommunications transport over fiber optic cables. SONET can be configured in various ways within a provider's network depending upon the application. However, the demand by customers and network designers for circuits that are available nearly 100 percent of the time has made the bi-directional line switch and uni-directional path switch SONET ring technologies extremely popular. A SONET ring is composed of a circle of fiber optic cable and network elements that, when cut or disabled, automatically reroute traffic around the fault to the unimpaired side of the loop.

¹ The switching of a DS3 that is part of a protection scheme such as a SONET ring is referred to throughout this affidavit as a "DS3 simplex event."

² The FCC defines the term "outage" 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 communication provider's network." *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, ET Docket No. 04-35, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 04-188 (rel. Aug. 19, 2004), Appendix B, 47 C.F.R. § 4.5(a).

9. When a DS3 is deployed over a SONET ring, there are alternate optical paths for every circuit. There are essentially two ways that a SONET ring can fail: (1) the electronics (circuit packs) of a SONET node can fail, or (2) the facilities (optical fiber) can be cut or damaged. When there is a single failure of the SONET ring electronics or one of the fiber facilities that make up the SONET ring, no outage occurs; instead, within milliseconds of detecting a continuous stream of errors, the SONET equipment switches over to the alternate electronics or alternate fiber facility and begins what is called a DS3 simplex event. DS3 simplex events are transparent to customers and neither cause nor result in any degradation of service.

10. When a SONET DS3 simplex event occurs, a repair is scheduled in an expeditious manner. Because service is not interrupted or degraded during a DS3 simplex event, restoration activities for electronics are typically scheduled to take place *during the next maintenance window* along with other critical activities that place service at risk. BellSouth's maintenance windows are typically late at night or early in the morning each day of the week, including weekends. Restoration activities for simplex events involving electronics are scheduled during normal maintenance periods because these activities pose a greater risk to service than the possibility that the DS3 simplex event could escalate to an "outage" caused by a second failure. In comparison, restoration activities for facility damage (typically caused by construction and farming activities involving digging equipment) that result in a DS3 simplex event are scheduled promptly on a priority basis instead of being scheduled during a normal maintenance window.

11. On the other hand, true "outage events" on the BST network that affect customer service are handled on an emergency basis. BST has established a rigorous set of processes to first restore service, then analyze the root cause of the outage, and finally to take steps to prevent future recurrence of the outage anywhere in the BST network. The amount of effort that is devoted to an outage is proportional to the seriousness of the event, and FCC reportable outages are among those events that receive a maximum effort, with a significant amount of labor and urgency devoted to each outage. If SNET DS3 simplex events are classified as "outages" subject to reporting under the FCC's service disruption rules, it will impose a significant administrative burden on BST and dilute the efforts that are devoted to detecting, reporting, and analyzing "true" outages.

12. Based upon an analysis of six months of historical data, BST estimates that the number of simplex events that meet the FCC's new reporting rules would be approximately 1,011 per year. Of this total number of DS3 simplex events (1,011), true "outages" occur only three to four times a year. Thus, only 0.3% to 0.4% of DS3 simplex events would escalate to an outage.

13. According to BST's estimates, the FCC's new DS3 simplex reporting requirement would result in the filing of 1,011 reports over a twelve-month period. In addition, classifying these events as FCC reportable outages would drive BST to handle these events as major outages with special treatment for restoration, analysis and reporting. Using the BST average times for analysis and reporting, plus the average DS3 simplex event duration for restoration, it is expected that the average DS3 simplex event would require 72 hours of labor to process. Multiplying this figure times the projected

annual number of events yields (1,011 events x 72 hours per event) 72,792 hours of labor or approximately 36 man-years of labor. Although loaded labor rates vary by region and company, using a common planning rate of \$80 per hour for the 72,792 hours of labor, would result in an estimated annual cost to BST of \$5.82 million to treat DS3 simplex events as FCC reportable disruptions to communications.

This concludes my affidavit.

Executed this 8th day of November 2004.

Archie C. McCain
Archie C. McCain
BellSouth Telecommunications

SUBSCRIBED AND SWORN TO BEFORE ME this 8th day of November, 2004.

Tangie Zellner
Notary Public

My Commission Expires:

February 26, 2007



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

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

ET Docket No. 04-35

**DECLARATION OF ROBIN B. HOWARD OF VERIZON
IN SUPPORT OF PETITION FOR RECONSIDERATION AND STAY**

1. My name is Robin B. Howard. My business address is 2200 West Airfield Drive, Irving, Texas 75015. I am a Manager – Intelligent Network Operations/Network Service Assurance Center, for Verizon, and have worked for Verizon, or its predecessor companies, for 26 years. In this position, I am responsible for network performance metrics, measurements, and processes for Centralized Network Operations Group at Verizon. In that capacity, I am responsible for complying with the Commission's regulations regarding the reporting of network outages for all of Verizon's domestic United States local exchange carriers ("Verizon"). These duties include administration and control of the Verizon outage reporting database and processes, root cause analysis program, and reporting of outages pursuant to 47 C.F.R. § 63.100 and ARMIS Table IV and Table VI A annual outage reporting. I have over 20 years experience in performing root cause analysis and 10 years in alarm systems, messages, and policy, and 26 years experience in switching, transport, alarm systems, outage analysis and reporting, and network management systems.

2. The purpose of this affidavit is to support the petition for reconsideration and stay of the new requirement that DS3s that switch to protect (“DS3 simplex reporting”) be counted in DS3 outage minutes. As explained in more detail below, requiring Verizon to report those events as outages would impose significant administrative and economic burdens on Verizon, and is not necessary to determine network reliability or protect against disruption of customer service.

THE BURDENS OF REPORTING OF DS3 SIMPLEX EVENTS

3. In 2003, Verizon filed a total of 19 final outage reports pursuant to 47 C.F.R. § 63.100. To date, in 2004, Verizon has filed 14 such reports. Verizon estimates that if the Commission implements the DS3 simplex reporting requirement, it will be required to file close to 1000 additional outage reports per year. Thus, Verizon estimates that the DS3 simplex reporting requirement alone would increase the number of reports Verizon must file between 5000% and 7000%.

4. The Commission’s new rule requires DS3s that switch to “simplex” or “protect-path” mode – *i.e.*, that operate on a backup system when the main path fails – be counted in DS3 outage minutes. A DS3 is a transmission pipe that carries data from one location to another at a high rate of speed, with the capacity to handle 28 DS1s or 672 DS0s (64 kbps voice or data circuits). Often, the architecture of the transport network element (such as a Synchronous Optical Network (“SONET”) element) includes two paths – a working and a protect path. When it contains these two paths, the working path carries 100% of the DS3 traffic during normal operations; the protect path operates as a failsafe or backup in the event of failure of the working path. When either the working or protect path fails, that is referred to as a simplex event. However, a DS3 simplex event

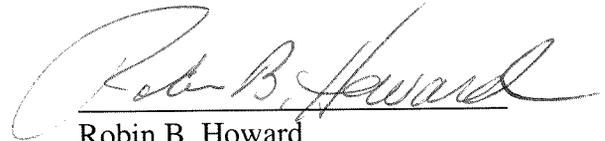
results in no loss of service to the customer, because if there is a failure in the working path, 100% of the traffic is carried over the protect path. Thus, the Commission's definition of outage – which is defined as a “significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communication provider's network” – does not apply to a DS3 simplex event. For that reason, Verizon currently does not perform the type of analysis that would be required for outage reporting of a DS3 simplex event, since there is no customer impact and no “outage” has occurred.

5. In order to comply with the new DS3 simplex reporting requirement, I estimate that it would cost the company approximately \$5.5 million dollars annually. Much of this additional cost would be due to the sheer volume of reportable events that would be required. This cost would include additional man hours necessary to provide the monitoring, analysis of root cause, and reporting required pursuant to 47 C.F.R. § 63.100. Among other things, the new DS3 simplex reporting requirement would require Verizon to direct personnel to manually search for and count the number of DS3s that are on a particular network element to determine the number of DS3 minutes required for the Commission's formula of reportable events of 1,350 DS3 minutes or more.

6. In addition, Verizon maintains a policy that unless the risk for failure of the simplex element is so significant as to warrant immediate restoration, restoration of a simplex DS3 event to a two-path (“duplex”) operation, routinely is deferred until a time of day when traffic is low. This is in adherence with NRIC Best Practices 6-5-0693 and 6-5-0697 addressing performing work on in-service equipment or high-risk operations

during low traffic periods. Thus, a company will face a choice of adhering to best practices in order to restore duplex ability at a time less likely to disrupt customer traffic, or restore it more quickly in order to avoid or reduce the periods of FCC reportable events. Therefore, the DS3 simplex reporting requirement may have the unintended consequence of creating more actual disruption of customer service.

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.


Robin B. Howard

Executed this 8th day of November, 2004.

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

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

**AFFIDAVIT OF RAY M. LUKE
ON BEHALF OF SBC COMMUNICATIONS INC.**

QUALIFICATION AND PURPOSE OF TESTIMONY

1. My name is Ray M. Luke. I am Vice President – Network Central Offices for SBC Operations, Inc. My duties include the supervision of SBC process and Operational Strategy for Network Central Office Operations across SBC's 13 state ILEC territory. I have been employed by SBC for 20 years in numerous Network Operations Management positions. I have a Bachelor of Science degree in Electrical Engineering from the University of Missouri – Columbia, and a Master's degree in Business Administration from Baker University in Baldwin, Kansas.
2. The SBC companies offer voice and data services to residential and business customers. SBC local exchange companies are facilities-based telecommunications carriers that own and operate a network serving over 53 million access lines.
3. The purpose of this affidavit is to show why requiring SBC to report as "outages" those events in which a DS3, which is designed and engineered with a fully redundant protection scheme, switches to protect mode ("DS3 simplex event") would impose significant administrative and economic burdens on SBC with no countervailing benefit.¹ My affidavit is in support of the United States Telecom Association's Petition for Partial Stay of New Part 4 of the Commission's Rules Concerning Disruptions to Communications.

¹ As discussed in paragraphs 5-7 and 9, a DS3 switching to simplex mode is part of the network design to protect against customer service outages and is transparent to the customer. Any cost/benefit analysis must take into consideration the fact that, in most instances, DS3 simplex events are purposely remedied within established maintenance windows in order to minimize customer impact.

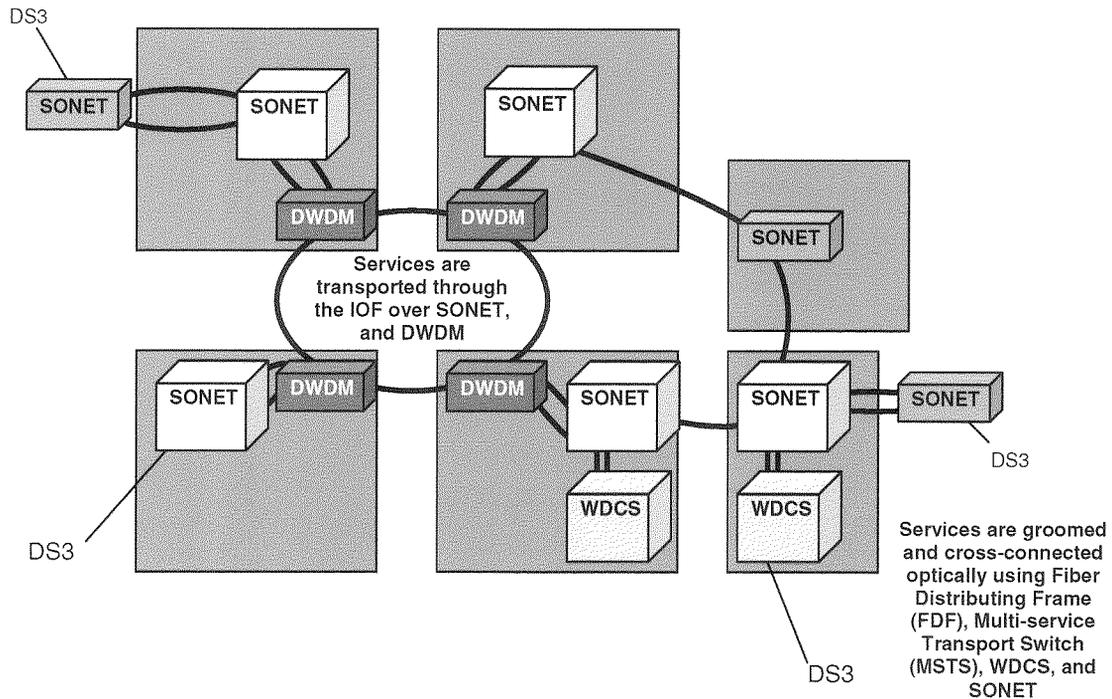
THE BURDENS OF REPORTING OF DS3 SIMPLEX EVENTS

Current Network Configuration

4. DS3 service is designed to meet customers' voice and data needs. The high capacity marketplace is extremely competitive and customer satisfaction is crucial to a carrier's success. Regardless of regulatory oversight, if SBC fails to meet its customers' expectations, customers will leave its network in favor of a competitor. SBC, therefore, has purposefully designed its network to minimize customer service interruptions. Regardless of the platform or product manufacturer, there are several service protection elements integrated into the overall design of DS3 service.

5. The Transport Network diagram, below, illustrates a basic Synchronous Optical Network ("SONET") with DS3 redundancy. DS3 signals typically traverse the network via Optical Channel OC3/OC12/OC48/OC192 Synchronous Optical Network ("SONET") Elements. DWDM (Dense Wave Length Division Multiplexing) Network Elements are used to maximize the efficiency of fiber cable by combining multiple optical signals on a single optical strand. WDCS (Wide Band Digital Cross-connect Systems) are utilized to groom and/or to provide DS3 test access. This protection is engineered in the circuit whether optical or electrical transmission facilities are used to provision service to the customer. This design provides a fully redundant path transporting duplicate information between offices. In the event of a failure in the intra-office or inter-office facilities (IOF), the network elements simply process the signal from the redundant facility.

Transport Network



6. Any failure of the transmission facility or the transport equipment results in a DS3 simplex event, i.e. the service is provided over the protect path of the circuit. Since the design of the circuit is synchronous, the customer will experience no impact to service when a circuit is switched to simplex mode. In fact, the switch takes less than 50 milliseconds. Should a failure occur, SBC's network automatically routes the call in the opposite direction so that the flow of the call is not interrupted. SBC's network captures these failures via multiple network monitoring systems. Technicians respond to the trouble condition and determine corrective action.
7. Currently SBC's network captures all DS3 events via multiple network monitoring systems. SBC personnel immediately respond to the trouble condition and determine what corrective action is needed.
8. Since the circuit is designed to minimize the impact to the customer's service, when a simplex situation occurs corrective action is usually deferred to a low traffic, off-hours maintenance window. It is important to note that delaying corrective action allows time to effectively analyze the trouble condition, develop a corrective action plan, gather resources, and minimize customer impact. All of this occurs without impacting the customer's service (and in fact the customer is not even aware the circuit has gone into simplex mode) since traffic is being

routed over the protect path. The risk of creating a service-affecting condition is greatest during the corrective action. Repairing non-service affecting DS3s during a maintenance window minimizes the potential of causing service-impacting outages. It would be an exceptional circumstance that would result in a DS3 simplex event lasting longer than five days. Determining the best time to resolve a DS3 simplex event depends on a combination of many factors, such as the customer's usage pattern, the availability of established maintenance windows, and the proximity of the event to weekends and holidays.

Effect of Treating Simplex Events as "Outages"

9. Since DS3 circuits are designed to move seamlessly to simplex mode in the event of a failure, avoiding an impact on customer service, there is no reason to report such an event as an "outage." The additional resources and expense associated with treating DS3 simplex events as outages would cause an undue burden on SBC resources and have the potential effect of increasing the likelihood of an actual customer service disruption.
10. The additional reporting requirements associated with the DS3 events will also stress SBC's network monitoring systems, adding manual steps and activities to otherwise mechanized systems.
11. In support of this Affidavit, SBC analyzed the anticipated effect of this particular aspect of the *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, Report and Order ("*Part 4 Order*"). Based upon actual August 2004 data, SBC estimates it would be required to report approximately 3,500 DS3 simplex events² according to the criteria adopted in the *Part 4 Order*. Today, DS3 simplex events are not included in our Service Disruption Reporting procedures, therefore new procedures will have to be established to generate these reports.
12. Projected DS3 simplex data was manually gathered by investigating only SONET alarm and monitoring tickets³ for the month of August 2004 and extrapolated to forecast a yearly estimate.
13. To date, due to the designed redundancy of the network, SBC has not conducted formal investigations on DS3 simplex events to determine Root Cause, Steps

² This number only covers estimated reports for SBC local exchange companies. Other SBC affiliates that may have reporting obligations under the *Part 4 Order* are currently unable to estimate the potential impact of a DS3 simplex reporting requirement at this time.

³ Because SONET rings are common to ILEC networks and are a major part of the network infrastructure, SBC only gathered data on SONET DS3 simplex events. Therefore, because there are other DS3s in the SBC network that may be part of a protection scheme, the numbers in this affidavit are a conservative estimate of the total reports that could be required as a result of this one aspect of the *Part 4 Order*. Moreover, data networks, such as SBC's Frame Relay and ATM networks, were not included in these estimates since those networks fall under the "public data network" exception stated in the *Part 4 Order* at fn. 9.

Taken to Prevent Recurrence, Best Practices, etc. Compliance with these additional FCC reporting requirements will create additional administrative and operating expenses diverting resources from network reliability improvements and customer service.

14. In order to report these DS3 simplex events as outages SBC will incur a substantial increase in labor costs, including having to hire additional personnel, to track the events as reportable outages. SBC will also have to make changes to its already mechanized work flows, resulting in the addition of manual reporting steps for these DS3 events. Over time, SBC will necessarily mechanize some systems to reduce the manual observation of alarms in order to determine when an event becomes reportable.

Labor Costs

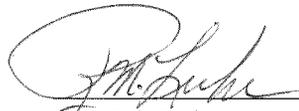
15. SBC must implement new methods and procedures to comply with the 3 stage reporting requirement for DS3 simplex events that are reportable under the *Part 4 Order*.
16. Based on the amount of work SBC currently undertakes to file an outage report to the Commission, SBC estimates the total number of man hours needed to file one FCC Communications Outage Report to be approximately 90. This estimate only covers the man-hours required to (a) identify a reportable outage, (b) compile the necessary data for the 3 reports, (c) investigate the Root Cause of the outage, any contributing factors, Best Practices, Steps Taken to Prevent Recurrence, and any other information the Commission requires, and (d) complete, verify, and file the report. Steps (b) – (d) are manual steps which require the participation of several organizations within SBC.
17. The significant man-hours required for each network outage report is attributable to the multi-faceted resources involved in this process. After an outage has been identified, SBC management personnel will determine if the outage meets the criteria for filing an FCC report. This determination is done by the local field operations organization. Then the Outage Information Control Center (OICC) organization gathers the data associated with the outage and conducts an investigatory conference call with affected SBC organizations as well as affected equipment vendors to determine the cause of the outage. SBC organizations that could be involved in the data gathering and investigation process include central office, outside plant, installation/repair, special services, 911 marketing, engineering, claims, and procurement.
18. The accumulated information and data are reviewed by SBC's management team to ensure the report will be complete and accurate. All steps identified as necessary to prevent a recurrence are manually monitored through completion. After these steps are completed, a Final FCC Service Disruption Report (SDR) is drafted, which must be reviewed and agreed upon by all involved parties. Once

agreed upon, the Final FCC SDR is filed with the FCC. The SBC National Security Emergency Preparedness (NSEP) organization completes and files all FCC-mandated SDR reports. NSEP is also responsible for verifying that any corrective actions identified are implemented.

19. SBC expects to report approximately 3,500 DS3 simplex events annually. SBC estimates that a total of approximately 315,000 man-hours (over 150 employees) would be required to support the increased influx of Communication Outage Reports required for DS3 simplex events.
20. Currently, SBC spends approximately 90 man-hours to investigate and report each network outage as required by FCC rules. While the *Part 4 Order* outlines new metrics that will increase the number of networks outage reports SBC will be required to file on an annual basis, SBC will exercise diligence in mechanizing reporting processes where possible.
21. In summary, SBC finds that complying with reporting DS3 simplex events as outages is onerous and taxes labor resources that would best be allocated to address true customer network affecting outages. Our networks are purposely designed with redundancy to reduce customer impact. Thousands of SBC man-hours were spent designing and implementing a top-level redundant network with multiple communication paths in order to provide our customers with the most reliable telecommunication customer service possible.

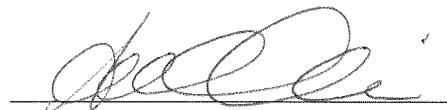
This concludes my affidavit.

Executed this 16th day of NOVEMBER, 2004.



Ray M. Luke
SBC

SUBSCRIBED AND SWORN TO BEFORE ME this 16th day of November, 2004.



Notary Public

My Commission Expires:

9-17-2005



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

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

**AFFIDAVIT OF JAMES J. ROBERTS
ON BEHALF OF ALLTEL CORPORATION**

QUALIFICATION AND PURPOSE OF TESTIMONY

1. My name is James J Roberts. This statement is submitted in support of the United States Telecom Association's Emergency Petition for Partial Stay of the New Part 4 of the Commission's Rules Concerning Disruptions to Communications.

2. I have a Bachelor's Degree in Electrical Engineering from University of Arkansas and I am a Professional Engineer (#7613) in the State of Arkansas. I have 22 years experience in various telecommunications engineering and operations roles.

3. I have been employed by ALLTEL Corporation for 8 years as a Vice President of Network Operations. In this position, I am responsible for Network Operations including the NOC, DNOC, Translations, SS7, and Network Quality.

4. My business address is One Allied Drive, Little Rock, Arkansas.

5. ALLTEL Corporation is a telecommunications carrier that offers diverse wireline LEC services and Wireless services as a facilities based carrier, as well as provides interexchange services through a combination of owned facilities and resold services, to customers in various areas of the country.

6. ALLTEL Corporation owns and operates a wireline network as an ILEC that serves approximately 3 million access lines. The purpose of this affidavit is to demonstrate that requiring ALLTEL Corporation to report as outages those events in which a DS3 that is part of a Synchronous Optical Network (SONET) ring that switches to protect mode¹ would impose significant administrative and economic burdens on ALLTEL Corporation with no countervailing benefit.

THE BURDENS OF REPORTING OF DS3 SIMPLEX EVENTS

7. ALLTEL utilizes DS3 and SONET Rings within the ALLTEL Inter-exchange Network (AXN) for data, toll and long distance transport, and additionally for local transport rings and facilities. To estimate the number of additional reports created by the obligation to file when a portion of the network goes into protect mode, ALLTEL extrapolated nine months of data out to one year. Furthermore, this estimate is based solely on the AXN infrastructure that has intelligent connectivity to the central NOC. While the remaining loops are alarmed, they are without detailed alarm intelligence and therefore no past information on simplex events is available. To establish a baseline for comparison, last year ALLTEL Wireline filed a total of 4 FCC Outage reports. Based on the AXN network data, ALLTEL believes that 200 additional reports would have been generated during the year as a result of the simplex reporting requirement alone. Of these events, our records indicate approximately 10 resulted in actual outages that would have affected customers and even then most would not have met FCC outage parameters. ALLTEL is unable at this time to estimate how many more reports would be generated

¹ The switching of a DS3 (x 45) that is part of a protection scheme such as a SONET ring is referred to throughout this affidavit as a DS3 simplex event.

by the simplex requirement if we had been able to capture past data from the remainder of the local network but we believe it to be proportionately as high as the AXN simplex count.

8. Based upon our detailed consideration of the new requirements of Part 4 of the Commission's Rules, ALLTEL has determined that in order for it to be compliant, ALLTEL will require new and additional connectivity throughout the network to determine both when a redundant path has been activated and the ability to recognize this in real time at the NOC. ALLTEL estimates this alone will take approximately one year and cost over \$2 million. Additionally, various software and hardware upgrades, licensing fees and NOC modifications as well as the addition of two analysts dedicated to FCC reporting will be needed.

9. ALLTEL believes the simplex reporting requirement will result in considerable administrative and economic burden, along with a substantial increase in the number of reports filed without either furthering the Commission's interest in ensuring network redundancy in the event of an outage or otherwise producing any public benefit.

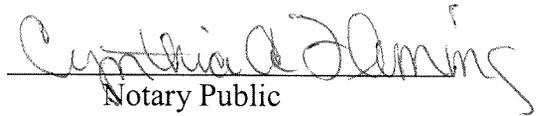
This concludes my affidavit.

Executed this 3rd day of NOVEMBER, 2004.


James J Roberts
ALLTEL Corporation

SUBSCRIBED AND SWORN TO BEFORE ME this 3rd day of November, 2004.

CYNTHIA A. FLEMING
Notary Public, State of Arkansas
No. 97-038296
Qualified in Pulaski County
Commission Expires May 27, 2007


Notary Public

My Commission Expires:

May 27, 2007

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

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

ET Docket No. 04-35

**AFFIDAVIT OF CASSANDRA K. GUINNESS
ON BEHALF OF THE FRONTIER AND CITIZENS ILECS**

QUALIFICATION AND PURPOSE OF TESTIMONY

1. My name is Cassandra K. Guinness.
2. I have a Bachelor's Degree in Accounting from the New York State University of Brockport and a Masters in Organizational Management from the Roberts Wesleyan College. I have 10 years experience in the telecommunications industry.
3. I have been employed by the Frontier and Citizens ILECs ("Frontier") for 2 and one-half years as Manager – Operational Analysis. In this position, I am responsible for service outage reports to the Federal and state regulatory commissions.
4. My business address is 180 South Clinton Avenue, Rochester, New York 14646.
5. Frontier is a group of facilities-based incumbent local exchange carriers under the common ownership of Citizens Communications Company (NYSE: CZN).
6. Frontier owns and operates networks providing local exchange services over approximately 2.5 million access lines in 24 states.

7. The purpose of this affidavit is to show why requiring Frontier to report as outages those events in which a DS3 that is part of a Synchronous Optical Network (SONET) ring that switches to protect mode¹ would impose significant administrative and economic burdens on Frontier with no countervailing benefit in support of the United States Telecom Association's Emergency Petition for Partial Stay of New Part 4 of the Commission's Rules Concerning Disruptions to Communications.

THE BURDENS AND LACK OF BENEFITS OF REPORTING OF DS3 SIMPLEX EVENTS

8. Frontier's DS3 and higher-capacity SONET rings are designed and constructed with four fibers on each side of the ring, automatic protection switching and automatic bi-directional capability. The four fibers on each side of the ring consist of two working fibers and two hot standby fibers. When a simplex event occurs in one fiber, one of the two standby fibers is immediately and automatically placed into service. If a second simplex event then occurs on the same side of the ring, the second hot standby comes into service. If the third fiber on the same side of the ring then loses service, there is no hot standby but its traffic is rerouted in the other direction over the other side of the ring. If the fourth fiber on the same side of the ring then loses service (as could occur with a cable cut of all fibers on one side of the ring), all traffic on the ring is routed over the second side of the ring. If the fifth fiber (we are now on the second side of the ring) then switches to protect, a hot standby on the second side is placed into service. If the sixth fiber then switches to protect, the other hot standby on the second side of the ring becomes active. At this point six fibers or their associated electronics have failed one by

¹ The switching of a DS3 that is part of a protection scheme such as a SONET ring is referred to throughout this affidavit as a DS3 simplex event.

one with no service degradation. It is only if the seventh or eighth fibers fail that a customer-affecting outage occurs.

9. Unlike some carriers, Frontier does not monitor its DS3 simplex events in a single location. Because of the massive redundancy discussed above, Frontier's alarms for simple DS3 simplex events generally are not transmitted beyond the office in which the electronics are located. Because the alarms in question are local, and because the large majority of Frontier's more than 1,000 central offices are not manned, Frontier does not either know or record when a DS3 simplex event occurs at the moment it occurs. Each office is checked on a regular basis and during such a visit, the technician would see the alarm and make the necessary adjustments to take the circuit off of switch protect. A ticket is not generated.

10. It would be exceedingly costly for Frontier to reconfigure its network so that DS3 simplex events result in alarms in Frontier's Network Operations Center (NOC). Only if the alarms are brought back to the NOC could the company be notified immediately of a DS3 simplex incident and start the clock to measure DS3 minutes to ensure that should the minutes exceed 1,350 DS3 minutes, an FCC report is generated within 2 hours. Frontier estimates that the cost of the reconfigurations and addition of hardware and software would exceed \$16 million, a sizeable fraction of Frontier's annual construction budget and an investment that would produce no benefit to Frontier or its customers. There would be additional costs for manpower to monitor the additional alarms. The calculations supporting this hardware and software estimate are attached as Exhibit A.

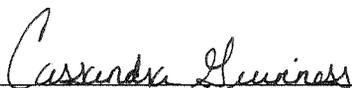
11. Frontier therefore cannot comply without major system changes and investments with the regulations that trigger reporting within a particular period of time, based on the duration of the event. In addition, it would take a minimum of a year for the company to implement all the necessary system enhancements to comply with the Order as the Order now stands.

12. Frontier can conceive of only two ways to comply with the interpretation in ¶134 of the Order: (1) spend more than \$16 million for the sole purpose of compliance with the reporting requirements imposed by ¶134, with no other benefit to Frontier or its customers; or (2) hire a small army of several thousand² “Maytag repairmen” to do nothing but wait in each unmanned central office for a DS3 simplex event alarm to occur so that the event could be reported appropriately to the Commission as if it were a real outage. The costs of the two alternatives appear to be in the same order of magnitude, and in each case the costs outweigh any potential benefits by a wide margin.

13. There would be no benefits to Frontier or its customers from re-engineering Frontier’s network or hiring thousands of additional employees in order to report DS3 simplex events.

14. This concludes my affidavit.

Executed this 27 day of October, 2004.

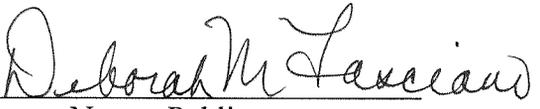


Cassandra K. Guinness
Frontier

² Frontier has more than 1000 central offices and estimates that staffing each one of them on a 24 by 7 basis would require more than 2,000 new employees.

SUBSCRIBED AND SWORN TO BEFORE ME this 27 day of Oct, 2004.

DEBORAH M. FASCIANO
Notary Public, State of New York
Qualified in Monroe County
Commission Expires 8/14/05


Notary Public

My Commission Expires:

8/14/05

EXHIBIT A

Number of unique Fiber equipment items (per Web page may not be complete)	124	
Total Number of Fiber equipment items (per Web page may not be complete)	2288	
Number of unique Microwave equipment items (per Web page may not be complete)	32	
Total Number of Microwave equipment devices (per Web page may not be complete)	336	
Cost Per Smart Agent	\$10,000	
Cost per each additional device	\$1,000.00	
Number of Location Codes	1,500	
Cost for Fiber smart agents	124 X 10,000 =	\$1,240,000.00
Cost for replication for additional devices	(2288 - 124) X 1000 =	\$2,164,000.00
Cost for Microwave smart agents	32 X 10,000 =	\$320,000.00
Cost for replication for additional devices	(336 - 90) X 1000 =	\$246,000.00
Cost for additional SUN servers to monitor alarms	(100,000) X 2 =	\$200,000.00
Cost for additional license fees and maintance fees	(200,000 X 1) =	\$200,000.00
Cost per Cordell ISD3000 unit	\$8,000	
Number of Cordell units needed	1,500	
Number of POTS lines need for Cordell units	3,000	
Cost per POTS line	TBD	
Total Cost for Cordell units (minus POTS lines)	(1,500 X 8,000)=	\$12,000,000.00
Cordell units would have to be places in the field because we do not have Lan capabilities to report the alarms in all offices.		
Total Cost (minus POTS lines)		\$16,370,000.00

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

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

**AFFIDAVIT OF DENNIS R. KILBURG, VICE PRESIDENT – ENGINEERING, IOWA
TELECOMMUNICATIONS SERVICES, INC. D/B/A IOWA TELECOM**

STATE OF IOWA)
) SS
COUNTY OF JASPER)

The undersigned, being first duly sworn, on oath deposes and states under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief:

1. My name is Dennis R. Kilburg. My business address is 1020 Main Street, Grinnell, Iowa, 50112. Since the inception of Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom (“Iowa Telecom”) in 2000, I have supervised, among other things, all network planning, all capital expenditures related to network infrastructure, and all network technical support. My current title is Vice President – Engineering. I have 33 years of experience in the telecommunications industry, the vast majority of which have primarily involved the engineering and operations of incumbent local exchange carriers.

2. Iowa Telecom began business on June 30, 2000, when it acquired the Iowa operations of GTE Midwest Incorporated. Today, Iowa Telecom is the largest provider of wireline local exchange telecommunications services to residential and business customers in

rural Iowa, serving 440 communities (294 exchanges) across the state. Iowa Telecom provides services to more than 253,000 access lines in Iowa as an incumbent local exchange carrier (as of June 30, 2004). In addition to its basic local telephone service, Iowa Telecom provides long distance service, dial-up and digital subscriber line Internet access, and other communications services. Iowa Telecom has approximately 620 full-time employees (as of June 30, 2004) and earned \$205,509,000 in revenue from all sources in 2003.

3. The purpose of this affidavit is to demonstrate why requiring Iowa Telecom to report as outages those events in which a DS3 that is part of a Synchronous Optical Network (“SONET”) ring that switches to protect mode¹ (“Simplex Reporting Rule”) would impose significant administrative and economic burdens on Iowa Telecom with no countervailing benefit in support of the United States Telecom Association’s Petition for Partial Stay of New Part 4 of the Commission’s Rules Concerning Disruptions to Communications.

4. Further, Iowa Telecom has begun an extensive network improvement plan that is significantly improving the robustness of its network which, by necessity, entails installment of certain functionalities that will monitor service quality. Over the next three years, Iowa Telecom plans to spend roughly \$27 million on this venture and millions more after that (Iowa Telecom’s “Network Improvement Plan”). Because this network investment is part of a judicial settlement between Iowa Telecom and the Iowa Utilities Board (involving the granting of permission to raise local rates in return for firm commitments to significant reinvestment of the proceeds), Iowa Telecom’s engineering resources are stretched thin and cannot be easily redeployed while abiding by the terms of this settlement.

¹ The switching of a DS3 that is part of a protection scheme such as a SONET ring is referred to throughout this affidavit as a DS3 simplex event.

5. While we are making, and will continue to make, great strides in further ensuring the reliability of the network, the Simplex Reporting Rule calls for Iowa Telecom to find the money to make massive additional new investments and, more significantly, meet an implementation timeline that is unrealistic.

6. We have invested and continue to invest in fiber ring arrangements precisely to obviate the need for measuring the frequency with which such rings switch into simplex mode. Our long-range plan involves further SONET ring deployment that will lead to Iowa Telecom's network having transport redundancy in the majority of its exchanges. Not all exchanges will be on a full ring, but exposure because of transport failure will be significantly reduced. Automatic protection switching and our efforts to connect more of our network on rings have provided new levels of reliability.

7. Iowa Telecom has a variety of different fiber terminals and topologies being used, from point to point (non-redundant) linear paths to full SONET rings. Due to real-life economics, however, Iowa Telecom will continue to use different technologies and configurations in our network. These topologies will include linear, collapsed ring, and full SONET rings. Iowa Telecom does not have monitoring equipment in place to provide detailed historic data on these transport systems.

8. Iowa Telecom is taking steps to improve monitoring of the transport network as part of its Network Improvement Plan. We are in the process of purchasing and deploying element management system that will monitor network elements and be able to report equipment failures. Iowa Telecom has budgeted for the purchase of an element manager for one of our more prevalent transport systems. The remaining transport systems, however, will continue to be

monitored discretely by our current alarm monitoring system. The proposed element manager supports only our most robust terminal equipment. At this time, many of our highest capacity transport systems using OC-48 technology are configured in SONET topology. We will continue to use linear topology in parts of our network and full SONET rings in others.

9. Iowa Telecom's network, however, would have to be redesigned for DS3 simplex events to be measured in a manner in which the data could be collected in anything approaching an efficient manner. The element management system and related fiber terminal upgrades will support less than half of our terminals, not all of which are in SONET configuration. Iowa Telecom estimates that the remaining fiber terminals that are not compatible would require three to five years and \$16 million dollars to be brought into compliance. An exact timetable is not available. Adding further difficulty to such a project, Iowa Telecom will have limited resources for transport and switching improvements in the next few years, as regulatory requirements will consume a large portion of our Network Improvement Plan budget.

10. Simply measuring the occurrence of DS3 simplex events, however, does not amount to compliance with the Simplex Reporting Rule. Most significantly, carriers must determine the whether the event qualifies for reporting.

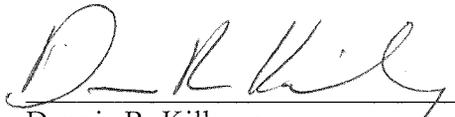
11. Today, Iowa Telecom accomplishes outage control, internal notification, and analysis at Iowa Telecom with a group of six people. This work is mostly manual, with limited assistance from systems. Complying with the new FCC rules would likely require additional network reliability staff, possibly three more full-time employees.

12. Even if Iowa Telecom could devise a method for surmounting the technical obstacles to reporting and could afford the necessary investments, Iowa Telecom estimates that,

under most favorable circumstances, it would take three to five years to be in a position to comply with the Simplex Reporting Rule.

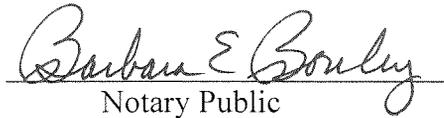
13. This concludes my affidavit.

Executed this 8th day of November, 2004.



Dennis R. Kilburg
Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom

SUBSCRIBED AND SWORN TO BEFORE ME this 8th day of November, 2004.



Notary Public

My Commission Expires:

1-23-2007

1-23-2007