

**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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PETITION OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), on behalf of its wireline and wireless operating divisions, hereby respectfully requests that the Commission clarify or, if necessary, reconsider certain of the rules it adopted in its *Report and Order*, 19 FCC Rcd 16830 (2004) (*Outage Decision*) in the above-captioned proceeding. Specifically, Sprint requests that the Commission: (1) clarify the reporting metric to be used by wireless carriers for outages potentially affecting a 911 special facility to ensure that the Commission receive as accurate reports as possible regarding such outages; (2) expand the exemption relieving wireless carriers from reporting outages affecting airports to include other special offices and facilities; (3) clarify that wireline carriers are only required to report outages affecting airports when such outages "disrupt[] 50% or more of the air traffic control lines or other FAA communications links" as was the case under the previous outage reporting rules, *see* 47 CFR §63.100(a)(6); (4) clarify that wireless providers that do not own any facilities and instead provide service by reselling the wireless services of facilities-based wireless carriers do not have to file outage reports; (5) limit to one the number of reports that carriers have to file when their planned outages meet the reporting metric; and (6) include a

provision in the rules allowing carriers to withdraw their notifications and initial reports in appropriate circumstances.¹ In support, Sprint states as follows.

A. The Current Metric For Reporting A Loss of Communications At Public Safety Answering Points (PSAPs) Could Result In The Filing of Inaccurate Reports By Wireless Carriers.

Under Section 4.5(e) of the rules, carriers are required to report “[a]n outage that potentially affects a 911 special facility,” if, *inter alia*, there is a “loss of communications to PSAP(s) potentially affecting at least 900,000 user minutes and: (a) the failure is neither at the PSAP(s) nor on the premises of the PSAP(s); (b) no reroute for all end users was available; and (c) the outage lasts 30 minutes or more.” There are two problems with this rule from a wireless carrier’s perspective. First, while the rule properly relieves wireless carriers from reporting an outage when the failure is at the PSAP or on the premises of the PSAP, it fails to acknowledge that other carriers, including especially incumbent LECs, are usually involved in delivering 911 calls from a wireless phone user to the PSAP. The Commission should clarify that the wireless

¹ With the exception of the issue dealing with wireline outages to airports, Sprint has previously brought the matters being raised here before the Commission in an *ex parte* letter filed November 8, 2004. In that letter, Sprint also explained that it disagreed with the Commission’s view that an outage occurs every time traffic on DS3s that are being provided as part of a protection scheme is switched from the primary-path to the protect-path (commonly referred to as a “DS3 simplex event”) and that carriers have to count this “protect-mode” traffic in determining whether a reportable outage has occurred. *Outage Decision*, 19 FCC Rcd at 16898 ¶134. Sprint explained that a DS3 simplex event cannot be deemed an outage under the clear and unequivocal definition of that term in the Commission’s rules. *See* 47 CFR §4.5(a). Sprint went on to state that if the Commission wanted to be informed of simplex events that lasted for extended periods of time -- and this appeared to be the primary reason advanced by the Commission for requiring simplex events to be reported as outages -- the Commission could obtain such information without imposing significant burdens on the industry. Sprint suggested, *inter alia*, that carriers be given 5 days from the time they discover that an DS3 simplex event has occurred to restore the traffic to the primary circuit before reporting such event to the Commission. The Commission has now adopted Sprint’s proposal pending further investigation. *See Order Granting Partial Stay*, FCC 04-291 released December 22, 2004. Thus, Sprint does not seek reconsideration of the Commission’s decision in this regard, although it does believe that the carriers need only file one post 5-day report instead of three.

carrier's obligation is to report outages on its network and not those occurring on other carriers' networks.

Second, the Commission's definition of 900,000 user minutes is based upon total switch capacity in the wireless environment. Typically, however, many PSAPs subtend a wireless carrier's mobile switching center (MSC) and a wireless customer dialing 911 will, depending upon his location, be routed to the appropriate subtending PSAP. If there is an outage affecting just one of the subtending PSAPs, only those wireless customers whose calls would have been routed to such PSAP would be potentially affected. Yet the metric could be interpreted as requiring that wireless carriers assume that all 911 calls to the MSC would be sent to the affected PSAP. Such assumption, in turn, would mean that the 900,000 user-minute threshold would likely be reached even though, in reality, the number of user-minutes potentially affected by the PSAP outage may not ever reach that level.

Sprint believes that this problem can be mitigated, if not avoided entirely, by permitting wireless carriers to divide the capacity of the MSC as defined in the rules by the number of subtending PSAPs. Sprint believes that such methodology should enable wireless carriers to produce a relatively more accurate number of potential end user minutes affected by an outage to each subtending PSAP than would be the case under the current rules. The Commission should clarify the reporting metric for PSAPs to be used by wireless carriers accordingly.

B. Absent Special Circumstances, Wireless Carriers Should Not Be Required To Report Outages At Any Special Office Or Facility.

The Commission has exempted wireless carriers from reporting outages that potentially affect airports because "the critical communications infrastructure serving airports is landline based." *Outage Decision*, 19 FCC Rcd at 16897 ¶66. However, because the Commission did not extend this exemption to other special offices and facilities as defined in Section 4.5(b) of the

rules, wireless carriers apparently may have to file outage reports that potentially affect major military installations, key government facilities and nuclear power plants.

The same reasoning that led the Commission to exempt airports from the reporting obligations being imposed upon wireless carriers applies with equal force to the other special offices and facilities. The communications infrastructure serving these other special offices and facilities “is landline based,” and unless a wireless carrier has installed its own equipment at the special office or facility, it would have no way of knowing if one of its phones was being used by personnel at such office or facility. For this reason, Sprint requests that the Commission expand the airport exemption granted wireless carriers to include all special offices and facilities as defined in Section 4.5(b), unless the wireless carrier has dedicated facilities installed at such office or facility.²

C. Wireline Carriers Should Only Be Required To Report Outages Affecting Critical Infrastructure Serving Airports.

Section 63.100(a)(6) of the Commission’s previous outage reporting rules limited the reporting by wireline carriers of outages potentially affecting major airports to those “that disrupt[] 50% or more the air traffic control links or other FAA communications links” to such airports. The only modification to this airport outage reporting rule that was discussed in the *Outage Decision* was to expand the number of airports for which outage reports would now be required. *See Outage Decision*, 19 FCC Rcd at 16867 ¶65. The Commission did not mention, let alone justify, doing away with the Section 63.100(a)(6) limitation that carriers report only outages affecting the critical communications facilities serving airports. Yet, this limitation does

² On December 23, 2003, CTIA filed a petition for partial reconsideration of the Commission’s *Outage Decision* requesting similar relief. It has also asked the Commission to stay the effective date of the special office and facilities outage reporting requirements for wireless carriers pending reconsideration. Sprint strongly supports CTIA’s stay request and urges that it be granted.

not appear in the new Part 4 outage reporting rules. Thus, wireline carriers may now have to report any failure of any communications line to an airport, including those to retail stores located on the airport's premises, that lasts more than 30 minutes regardless of the number of end user minutes potentially affected by such failure. Sprint urges the Commission to clarify that it had no intention of removing the Section 63.100(a)(6) language from Part 4 that limits the reporting of airport outages to disruptions in communications being carried over critical infrastructure serving such airports, *i.e.*, air traffic control or other FAA communications links and to restore such language to Section 4.5 of the rules.

D. The Commission Should Clarify That Wireless Providers That Do Not Own Any Facilities Need Not File Outage Reports.

The Commission also needs to clarify that providers of wireless services that do not own or maintain any facilities and instead provide services by offering the services of an underlying facilities-based wireless carrier, *i.e.*, resellers or virtual network operators, are not required to file a separate outage report. The customers of these providers are included in the reports of the affected underlying wireless carrier.

Sprint's request for clarification here is based upon the fact that the Commission defines wireless service providers as "includ[ing] ...affiliated and non-affiliated entities that maintain or provide communications networks or services used by the provider in offering such communications." 47 CFR §4.3(b). This definition could be read as encompassing a provider of wireless services that did not own any wireless facilities or maintain a wireless network even though such provider would not be able to provide any information as to extent and duration of the outage or the cause of the outage.

E. Carriers Should Only Have To File One Report For Planned Outages.

Sprint further requests that the Commission modify in one respect its decision that planned outages meeting the threshold must be reported. *Outage Decision*, 19 FCC Rcd at 16889-90 ¶114. Specifically, carriers should not have to file a notification and two subsequent reports for planned outages. Rather, carriers should be required to file one report of any planned outage meeting the reporting criteria within 72 hours of the outage.

F. The Rules Should Allow Carriers To Withdraw Outage Reports.

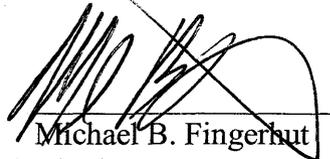
In the *Outage Decision*, 19 FCC Rcd at 16908 ¶156, the Commission found that “companies need to be able to withdraw notifications and initial reports in legitimate circumstances.” In fact, it stated that it would not require “a formal retraction letter” for withdrawing “two-hour notification reports.” However, the Commission’s findings here are not set forth in the rules. Thus, the Commission should modify Section 4.11 to provide for withdrawal of the notification and/or initial report in appropriate circumstances.

Conclusion.

For the above-stated reasons, Sprint respectfully requests that the Commission grant Sprint's Petition and adopt the clarifications and modifications to its *Outage Decision* discussed herein.

Respectfully submitted,

SPRINT CORPORATION



Michael B. Fingerhut
Charles W. McKee
Richard Juhnke
Luisa Lancetti

401 9th Street NW, Suite 400
Washington, D.C. 20004
(202) 585-1909

Its Attorneys

January 3, 2005