

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)

**COMMENTS OF
QWEST COMMUNICATIONS INTERNATIONAL INC.
REGARDING FURTHER NOTICE OF PROPOSED RULEMAKING**

Qwest Communications International Inc. ("Qwest"), through counsel and on behalf of itself and its affiliates, submits the following initial comments in connection with the Federal Communications Commission's ("Commission") *Report and Order and Further Notice of Proposed Rule Making* in the above-referenced docket regarding the communications needs of airports.¹

I. INTRODUCTION AND SUMMARY: THE COSTS OF FURTHER EXTENDING OUTAGE REPORTING REQUIREMENTS IN CONNECTION WITH AIRPORT COMMUNICATIONS GREATLY EXCEED ANY POTENTIAL BENEFITS

In the Commission's August 19, 2004 *FNPRM*, the Commission concludes that the existing record did not support further extending outage reporting requirements with respect to airports beyond the expansion of the definition of covered airports accomplished by the *Order*.² In the *FNPRM*, the Commission now proposes to develop a further record with respect to "the unique communications needs of airports."³ Specifically, the Commission, in the *FNPRM*, requests comment with respect to whether it should expand reporting requirements to cover additional types of "airport-related" commercial communications such as those communications

¹ *In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Report and Order and Further Notice of Proposed Rule Making*, 19 FCC Rcd. 16830 (2004) ("*FNPRM*").

² *Id.* at 16867-68 ¶ 67.

³ *Id.*

provided by Aeronautical Radio, Inc. (“ARINC”), other commercial communications links relating to air-to-ground/ground-to-air communications and intra-airline communications links. Finally, the Commission requests comment on whether “the outage-reporting requirements for special facilities should be extended to cover general aviation airports and, if so, what the applicable threshold criteria should be.”⁴ As discussed below, the first proposal would place a burden on carriers that would be extremely onerous if not impossible to meet. With respect to the proposed expansion to cover general aviation airports, the anticipated costs to carriers of such an expansion outweigh any benefit that might be obtained.

II. QWEST OPPOSES THE PROPOSED EXPANSION OF OUTAGE REPORTING TO ADDITIONAL TYPES OF “AIRPORT-RELATED” COMMUNICATIONS

Again, the Commission specifically requests comment with respect to whether it should expand reporting requirements to cover additional types of commercial communications beyond those currently covered by the new regime that became effective on January 3, 2005. The Commission appears to be considering including as additional “airport-related” communications beyond those covered by the existing reporting regime, communications that may relate to air traffic navigation, traffic control, maintenance and restoration but which fall outside of the current requirements that carriers report outages for certain communications links located at covered airports. While the *FNPRM* specifically mentions those communications that may be provided by ARINC, other commercial communications relating to air-to-ground or ground-to-air communications and intra-airline communications links, it does not give a clear definition of just what communications links may be encompassed by these general references. The Commission should not expand the reporting obligation associated with airports and associated communications until it has formulated a clear statement defining what types of communications

⁴ *Id.*

must be reported and carriers have had an opportunity to comment on the specific proposed definition. As discussed more fully in Qwest's reply comments to the initial rulemaking notice in this proceeding,⁵ Qwest supports the definition recommended by the Network Reliability and Interoperability Council ("NRIC") VI Focus Group 2. NRIC Focus Group 2 recommends that an outage affecting an airport be reportable if it is deemed to be "air traffic impacting." "Air traffic impacting" is defined as:

"the loss of greater than 50% of telecommunications services at a critical air traffic control facility including an airports [sic] 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."⁶

However, putting the notice defect in the *FNPRM* aside for the moment, the Commission's proposed expansion of carrier reporting obligations would place an unreasonably heavy burden on carriers.

Simply put, an expansion of carrier reporting obligations regarding airport communications such as proposed in the *FNPRM* would impose a burden that would be difficult, if not impossible, for carriers to meet because it would require reporting of information that is outside their existing knowledge and expertise. Carriers do not track and currently have no way of tracking the types of communications facilities that might fall within the kind of reporting obligation apparently contemplated by the Commission. Accordingly, even if the proposed new communications outage reporting obligation were clarified, carriers would face significant burdens crafting a compliance infrastructure to capture information about and report on outages.

⁵ See Reply Comments of Qwest Communications International Inc., filed herein, June 24, 2004 at 8-9.

⁶ NRIC VI Focus Group 2 – Network Reliability, *Final Report*, page 47 (Nov. 17, 2003).

While it is difficult to provide precise information about that burden, particularly given the lack of a clear statement about the defined reporting obligation, the scope of the burden is substantial because it begins from a position of ignorance but is expected to culminate with a report assuming knowledge. Specifically, Qwest does not know the universe of entities that may obtain commercial communications links related to ARINC communications or other air-to-ground or ground-to-air communications. Similarly, Qwest also does not know the universe of “airlines.” Qwest does not presently maintain information from which such lists could be derived with any confidence. Moreover, even if such lists of relevant customers could be created, Qwest would face the impossible task of trying to identify, from its limited customer information, every communications facility that it provides to an entity on that list and, then, identifying which of those facilities might relate to air traffic navigation, traffic control, maintenance and restoration as opposed to the numerous irrelevant functions performed by airlines and other entities in this category.

For these reasons, Qwest opposes the imposition of new reporting requirements on carriers for additional types of communications facilities.

III. QWEST OPPOSES THE PROPOSED EXPANSION OF OUTAGE REPORTING TO GENERAL AVIATION AIRPORTS

The proposed expansion in the *FNPRM* to cover general aviation airports would also impose considerable costs on carriers that outweigh any benefit that might be obtained. It is difficult to precisely estimate the additional burden that Qwest would incur in complying with an airport requirement if the definition of airports were expanded to include general aviation airports. However, this proposal would result in Qwest having to report covered outages in connection with 782 airports instead of the 170 airports covered under the new rules that became effective on January 3, 2005. In other words, under the new proposal, the number of facilities

for which Qwest would have to perform this expensive process – simply to be able to identify potentially reportable outages in the first place – would expand by 360%. Qwest then faces the added expense and manpower of preparing and filing three reports for each such event. Of course, this reporting burden would only increase further if the Commission expands the definition of the types of communications for which carriers would have to report as discussed above.

In light of the above, it is clear that the anticipated costs to carriers of the proposed expansion clearly outweigh any benefit that might be obtained. In contrast to the primary, commercial service and reliever airports currently covered under the outage reporting rules, general aviation airports are, by definition, smaller facilities that do not receive scheduled commercial service and may not even have paved runways.

For these reasons, Qwest opposes the proposed expansion of outage reporting rules to cover general aviation airports.

IV. CONCLUSION

For the foregoing reasons, Qwest respectfully requests that the Commission take the actions described herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC. REGARDING FURTHER NOTICE OF PROPOSED RULEMAKING** to be 1) filed with the FCC via its Electronic Comment Filing System in ET Docket No. 04-35, and 2) served, via email on the FCC's duplicating contractor, Best Copy and Printing, Inc. at fcc@bcpiweb.com.

/s/ Richard Grozier
Richard Grozier

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