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

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

COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc., on behalf of its affiliates (collectively, "SBC"), respectfully submits these Comments in response to the Commission's Further Notice of Proposed Rulemaking in the matter of the New Part 4 Rules Concerning Disruptions to Communications ("*FNPRM*").[1] Specifically, the Commission has asked for comments on its new rules for reporting outages affecting airports. SBC believes that the Commission should modify its new rules, consistent with its stated intent in the original Notice of Proposed Rulemaking[2] and *Report and Order*, to limit the types of facilities for which outages affecting airports should be reported. Moreover, SBC does not believe that the Commission should extend the outage reporting requirements to include general aviation airports.

I. THE COMMISSION SHOULD CLARIFY ITS NEW RULES ON AIRPORT OUTAGE REPORTING TO BE CONSISTENT WITH STATED INTENT OF ITS PART 4 REPORT AND ORDER AND TO ENSURE THAT CARRIERS REPORT ONLY IMPORTANT SPECIAL FACILITIES OUTAGES

The *Report and Order*, effective January 3, 2005, states that the Commission did not intend to change the rule with respect to airports except to expand reporting obligations to

[1] *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*, 19 FCC Rcd 16830 (2004) ("*Report and Order*" and "*FNPRM*").

[2] *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) ("*Part 4 NPRM*").

include more airports in the definition of "special facilities." Specifically, the *Report and Order* states that in the *Part 4 NPRM*, the Commission, "…proposed to keep this [special office and facility] requirement intact with a minor modification that will make it applicable to all airports [primary, commercial and reliever airports], not just major airports."[3] The new rule, however, actually expands the reporting requirements far beyond the Commission's stated intent. The old rule, Part 63.100, stated, "[a]ny local exchange or interexchange common carrier…that experiences an outage on any facilities…which potentially affects special offices and facilities must notify the Commission if such outage continues for 30 or more minutes regardless of the number of customers affected."[4] The old rule further defined "[a]n outage which 'potentially affects' a major airport" as:

> an outage that disrupts 50% or more of the air traffic control links or other FAA communications links to any major airport, any outage that has caused an Air Route Traffic Control Center (ARTCC) or major airport to lose it [sic] radar, any ARTCC or major airport outage that has received any media attention of which the carrier's reporting personnel are aware, any outage that causes a loss of both primary and backup facilities at any ARTCC or major airport, and any outage to an ARTCC or major airport that is deemed important by the FAA as indicated by FAA inquiry to the carrier management personnel.[5]

With the new rule, there is no limitation to the types of facilities for which outages must be reported. The new Part 4 rule merely states, "[a]ll outages that potentially affect communications for at least 30 minutes with any airport that qualifies as a 'special office and facility' pursuant to the preceding paragraph shall be reported."[6] While that sounds strikingly

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[3] *Report and Order* at ¶57.

[4] 47 C.F.R. §63.100(e) [prior to repeal by the *Report and Order*].

[5] 47 C.F.R. §63.100(a)(6).

[6] 47 C.F.R. §4.5(c).

similar to the old rule, what is missing from the new rule is a limitation on the types of facilities for which outages must be reported. The new rule lacks that crucial definition of "outages potentially affecting" airports that rendered the old rule manageable and reasonable. And the impact of a strict interpretation of the new rule as a whole could be astounding.

Specifically, a strict interpretation of this new Part 4 rule could mean that every outage on every line into an airport must be reported if it lasts longer than 30 minutes. Given that each office, restaurant, retail store, popcorn stand, janitor facility and the like within any given airport would likely have at least a single copper line running to it, the potential number of reports for airport outages would be enormous if these locations were included in the types of facilities that must be reported. Moreover, single-line outages are rarely monitored with the same type of rigor as switches, central office facilities, interoffice facilities, and critical communications facilities and will likely go undetected until the end-user reports the outage. This is the industry standard. Additionally, even if single-line outages were monitored, it would be nearly impossible to know which lines run into any given airport without a complete revamping of systems and substantial customer coordination. This is a lot more work for carriers and consumers than the Commission contemplated in its *Report and Order*.[7]

This issue, however, can be resolved with a simple addition to the Commission's new rules. The Commission should, consistent with its stated intent in the *Report and Order*, add the old Part 63.100(a)(6) definition ("outage which 'potentially affects' a major airport," cited above) to the new rules. This would limit reporting only to critical communications facilities and would drastically reduce the number of inconsequential reports that could be generated under these new rules.

[7] As Sprint Corporation aptly noted at page 4 of its Petition for Reconsideration in this matter, "[t]he 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."

II. THE COMMISSION SHOULD NOT EXTEND OUTAGE REPORTING REQUIREMENTS TO GENERAL AVIATION AIRPORTS

The Commission has asked for comments on whether the outage-reporting requirements should be "extended to cover general aviation airports."[8] The simple answer is no. In the SBC territory alone, there are approximately 240 primary, commercial, and reliever airports. These are the airports the Commission has determined to be of such critical importance that they are all now considered "special facilities." While SBC has not tracked outages for *all* of these airports in the past (only 68 airports nationwide were considered "special facilities" and, therefore, reported on under the old Part 63.100 rules), SBC has put processes into place to report outages that affect these facilities. That was possible at least in part because these airports are large enough to have dedicated SBC account teams and to utilize facilities that are more easily tracked than single copper lines.

General aviation airports, however, would present a much more difficult problem for SBC and other telecommunications providers. To begin with, there are approximately 934 general aviation airports in SBC territory. That is a 389% increase over the number of primary, commercial, and reliever airports that are currently considered special facilities, and an approximately 1374% increase over total number of major airports required to be reported on under the old rules. Clearly the increase in the volume of facilities to be reported on will require a dramatic increase in resources for all entities that must report, and reporting will be a tremendous and costly task – one not justified by the potential benefits.

Moreover, the Commission has not clearly specified any real benefit to extending the reporting requirements to include general aviation airports. While it discusses the possibilities that government officials may fly non-commercial planes and the notion that at some time, somewhere, any airport may need to be used by aircraft for emergency landings, it does not indicate that such possibilities would warrant the expense associated with reporting outages that affect those airports. In fact, the Commission has not even clearly linked those potential issues

[8] *Report and Order* and *FNPRM* at ¶67.

with the need to report outages. What good is three years worth of outage reports on a particular airport when an aircraft requests an emergency landing on its airstrip? And how does reporting outages affecting small airports assist government officials in their non-commercial flights? The Commission has no real reason for requiring outage-reporting affecting these airports and should, therefore, leave its current requirements in place and decline to extend those to general aviation airports.

III. CONCLUSION

For the foregoing reasons, the Commission should clarify carriers' obligations by modifying its new Part 4 rules pertaining to airport outages to be consistent with its stated intent and should not extend the definition of special facilities to include general aviation airports.

Respectfully Submitted,

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