

**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)
)

To: The Commission

**COMMENTS OF
DOBSON COMMUNICATIONS CORPORATION**

Dobson Communications Corporation ("Dobson") hereby supports the Petitions for Reconsideration filed by CTIA, Cingular, Sprint and OPASTCO¹ (collectively the "Petitioners") in response to the Commission's *Report and Order* in the above-captioned proceeding.² In particular Dobson joins with these parties in urging reconsideration and clarification of several of the network outage reporting requirements adopted for wireless service providers in the *Report and Order*.

Since the outage reporting requirements became effective on January 3, 2005, Dobson has worked diligently to implement a compliance program that satisfies these new and burdensome reporting obligations.³ Based on even this limited experience with the reporting

¹ Cingular Wireless LLC ("Cingular"), Petition for Reconsideration, ET Docket No. 04-35 (filed Jan. 3, 2005) ("Cingular Petition"); CTIA – The Wireless Association ("CTIA"), Petition for Partial Reconsideration and Motion for Partial Stay, ET Docket No. 04-35 (filed Dec. 23, 2004) ("CTIA Petition"); Sprint Corporation ("Sprint"), Petition, ET Docket No. 04-35 (filed Jan. 3, 2005) ("Sprint Petition"); Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"), Petition for Reconsideration and Clarification, ET Docket No. 04-35 (filed Jan. 3, 2005) ("OPASTCO Petition").

² *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, ET Docket No. 04-35, *Report and Order*, 19 FCC Rcd 16830 (2004) ("*Report and Order*").

³ Dobson is a rural wireless carrier subject to the Commission's network outage reporting requirements. Dobson operates its wireless telecommunications systems through its wholly-owned subsidiaries Dobson Cellular Systems, Inc. and American Cellular Corporation and each of their subsidiary licensees. As the new reporting requirements

requirements, Dobson agrees that reconsideration and/or clarification of the following is warranted: (i) the 120-minute window for filing initial disruption reports; (ii) the inclusion of planned outages as reportable events; and (iii) the scope of the reporting obligations for “special facilities.”

I. The 120-Minute Window For Filing Initial Disruption Reports Places Undue Burdens on Wireless Carriers, Falling Most Heavily on Smaller Providers.

Based on its own experience to date, Dobson strongly supports OPASTCO’s request for reconsideration of the requirement that initial disruption reports be filed with the Commission within 120 minutes of an outage becoming reportable.⁴ The requirement is simply much too burdensome for small and mid-sized wireless carriers, most of which lack the resources to maintain network operations centers (“NOCs”) staffed 24 hours a day/7 days a week (“24/7”) by in-house personnel. While carriers with such NOCs may have personnel available not only to resolve service disruptions but also to analyze and report outages within such a short period of time, carriers like Dobson must rely on available in-market personnel to resolve these problems that are typically called to their attention by local third-party monitoring resources, particularly when they occur after business hours.

Dobson is a mid-sized rural carrier by industry standards, the eighth largest mobile telephone provider in the country, operating wireless networks in 16 states from Alaska to New

place a significant burden on Dobson’s operations, Dobson appreciates the opportunity to provide its comments in support of the petitions filed by the wireless industry.

⁴ OPASTCO Petition at 3-5; 47 C.F.R. § 4.9(e). As an alternative to the current rule, Dobson supports OPASTCO’s suggestion that rural carriers instead be required to provide notification orally within 24 hours. *See* OPASTCO Petition at 4. While OPASTCO’s petition focuses its request for relief to the circumstances of rural ILECs, the justifications provided by OPASTCO apply equally to rural wireless carriers like Dobson.

York, with over 1.6 million customers in a managed population base of 11.8 million.⁵ Dobson's operations are concentrated in rural, low-density ex-urban and suburban areas with approximately 85 percent of its wireless network coverage in markets considered "rural." Dobson distributes its network personnel among five regional areas. Notwithstanding the breadth and depth of Dobson's significant network operations over these five regions, the economics of operating on a regional, rather than national scale simply do not support Dobson's operation of a 24/7 NOC. Instead, like most carriers of its size or smaller, Dobson relies on a third party monitoring service to alert Dobson of network service disruptions during off hours.

When an outage occurs, Dobson's number one priority is to restore service, utilizing all available resources locally, and to the extent required, even regionally, to resolve the problem. When a disruption occurs in the middle of the night or on a weekend or holiday, marshalling the necessary resources is even a more severe problem. A Dobson contact will first be alerted by a third party monitoring service, and an "all hands on deck" alarm will typically result in a number of Dobson personnel being called from their homes to investigate and resolve service disruptions in remote areas of the country. Simply stated, with such limited resources available to restore service in any given market or even region, requiring that these personnel focus on the need for an initial notification to be filed within 120 minutes of a reportable outage will inevitably take these limited resources away from restoring service. Ironically, the need to comply with these rules is likely to increase the duration of the outage, as these personnel first must take the time to determine when an outage is reportable and then prepare and file the necessary notification on-line or via facsimile. The problem is particularly acute for off-hour disruptions, since Dobson's field personnel do not have the capability to relay the necessary information from the site of a

⁵ See *Annual Report and Analysis of Competitive Market Conditions With Respect to CMRS*, WT Docket No. 04-111, *Ninth Report*, 19 FCC Rcd 20597 at Appendix A-8 (2004). Although Dobson is listed as the ninth largest carrier, this table was released before completion of the merger of AT&T Wireless Services, Inc. into Cingular.

disruption to a NOC, or even to a 24/7 staffed field office where Dobson personnel can meet these obligations within the required two-hour period. To the contrary, the same personnel who should be focused on service restoration may instead need to travel, sometimes long distances, to a location where he or she would be able to file the web-based initial report.

As the Petitioners make clear, and Dobson's limited experience already establishes, the Commission was incorrect in concluding that the 120-minute filing requirement will not impose a significant burden on the provider's restorative efforts.⁶ In reaching this conclusion, the Commission relied primarily on the wireline industry's 10-year experience using a 120-minute reporting window.⁷ A rural wireless carrier's coverage area and operations, however, are far different than those of incumbent local exchange carriers ("LECs"). Most significantly, unlike the wireline industry which is populated primarily with large regional bell operating companies ("RBOCs") with ample resources to satisfy such a requirement or smaller LECs with generally localized service areas, Dobson's operations are spread throughout the United States; and like most wireless carriers, its service territories are significantly larger than those of the typical non-RBOC landline telephone company. The Commission cannot reasonably apply a "one-size fits all" reporting regime designed for large RBOCs to wireless carriers like Dobson and those represented by OPASTCO; to do so will definitely *delay* restoration of service outages, to the public's detriment.

⁶ *Report and Order*, 19 FCC Rcd at 16871.

⁷ *Id.* at 16870.

II. The Objectives Of The New Rules Are Not Served by Treating Planned Outages As Reportable Outages.

Dobson also agrees with Cingular and Sprint who seek reconsideration of the requirement to report planned outages that satisfy the generally applicable reporting thresholds.⁸ Planned outages are not only common to all wireless networks, but also necessary for efficient and effective network operations. Dobson, like most industry participants, takes steps to ensure that any planned maintenance or software upgrades have minimal impact on its customers, typically by performing them during off-peak traffic hours.⁹ But notwithstanding that the carriers take steps to assure that the number of user minutes actually affected will be minimal, because of the Commission's prescription of a "potentially affected" metric, a planned outage will often nonetheless be reportable.

The Commission has made clear that the primary purpose of the reporting requirements is the development of "best practices" to mitigate *unplanned* service disruptions in an emergency situation.¹⁰ Like the petitioners, Dobson can see little benefit to be gained from having carriers report *planned* outages. Accordingly, Dobson supports Cingular's request that the Commission reconsider its decision to include planned outages in the outage reporting requirements.¹¹

However, if the Commission insists on including planned outages in the reporting program, then Dobson supports the alternative remedy proposed by Cingular and Sprint (i) to

⁸ See Cingular Petition at 1-4; Sprint Petition at 6; *Report and Order*, 19 FCC Rcd at 16890.

⁹ See Cingular Petition at 2.

¹⁰ See *Report and Order*, 19 FCC Rcd at 16836-41, 16855.

¹¹ See Cingular Petition at 4.

extend the minimum outage threshold for planned outages from 30 to 120 minutes;¹² and (ii) to consolidate the three separate reports currently required for planned outages into one report that would need to be filed within 72 hours of a reportable planned outage.¹³

III. The Commission Should Clarify The Scope Of The Network Outage Reporting Requirements For “Special Facilities.”

In the *Report and Order*, the Commission extended the network outage reporting requirements to wireless outages of at least 30 minutes in duration that potentially affect a “special office or facility,” such as a nuclear power plant, major military installation, or key government facility.¹⁴ Dobson has assumed that this requirement was designed to cover outages that affect service to an area where the special facility is the end user of the wireless service provider (*e.g.*, the special facility has a “direct service facility agreement” with the carrier). To the extent that the Commission intended this requirement to apply to any outage that covers any area in which a special facility is located, whether or not the special facility has a user agreement with the carrier, then Dobson strongly supports CTIA and Sprint in requesting that the Commission exclude wireless carriers from this reporting requirement.¹⁵ The Commission’s rationale for not including airports in this requirement applies equally to other special facilities

¹² *Id.* at 4.

¹³ See Sprint Petition at 6.

¹⁴ See 47 C.F.R. §§ 4.5(a); 4.9(e)(4); *Report and Order*, 19 FCC Rcd at 16862-63.

¹⁵ 47 C.F.R. § 4.9(e)(4); CTIA Petition at 2-3; Sprint Petition at 3-4. If the Commission’s intent is only to include special facilities that are end users of a wireless provider’s service through a “direct service facility agreement,” then the Commission can simply clarify Section 4.9(e)(4) by moving the phrase elsewhere in the section, as follows: “That potentially affects any special offices and facilities [receiving service] *through direct service facility agreements* (in accordance with paragraphs (a) through (d) of § 4.5) other than airports.”

that are located in a wireless carrier's broad service area, *i.e.*, the critical communications infrastructure of such facilities is primarily landline-based.¹⁶

Respectfully submitted,

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¹⁶ See *Report and Order*, 19 FCC Rcd at 16867.

CERTIFICATE OF SERVICE

I, LaVon E. Nickens, hereby certify that on this 2nd day of March, 2005, I caused copies of the foregoing "Comments" to be sent via first class mail, postage prepaid to the following:

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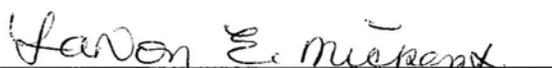
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In addition, the document was filed electronically in the Commission's Electronic Comment Filing System on the FCC website.



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