

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

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| In the Matter of                             | ) |                      |
|  | ) |                      |
| Recommendations of the Independent Panel     | ) | EB Docket No. 06-119 |
| Reviewing the Impact of Hurricane Katrina on | ) |                      |
| Communications Networks                      | ) |                      |
|  | ) |                      |

**REPLY COMMENTS OF  
THE UNITED STATES TELECOM ASSOCIATION**

**INTRODUCTION AND SUMMARY**

In January 2006, FCC Chairman Kevin Martin established the “Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks” (the Independent Panel) to assess the hurricane’s effect on telecommunications and media infrastructure in the areas affected by the disaster. The Independent Panel submitted its report to the Federal Communications Commission (FCC or Commission), and the FCC released its request for comment on the report in a Notice of Proposed Rulemaking released on June 19, 2006.<sup>1</sup> In comments filed on August 7, 2006, the United States Telecom Association (USTelecom)<sup>2</sup> argued that the FCC should not mandate best practices but instead should disseminate information about best practices and let industry develop appropriate disaster recovery plans and procedures to recover and restore communications services as quickly as possible.<sup>3</sup> USTelecom urged the FCC to help ensure that proper credentials are available to telecommunications personnel responding

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<sup>1</sup> *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, EB Docket 06-119, Notice of Proposed Rulemaking, (rel. June 19, 2006) (NPRM).

<sup>2</sup> USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data, and video over wireline and wireless networks.

<sup>3</sup> USTelecom Comments at 9-12.

to emergencies so that they have access to affected areas.<sup>4</sup> USTelecom supported the Independent Panel's recommendation that telecommunications personnel be designated as emergency responders under the Stafford Act<sup>5</sup> in order to have security protection and priority access to disaster areas.<sup>6</sup> Furthermore, USTelecom urged the Commission to streamline industry reporting<sup>7</sup> and educate federal, state, and local departments and agencies and enterprise customers, as applicable about communications services, such as the Telecommunications Service Priority and Government Emergency Telecommunications Services, that are designed to help emergency preparedness.<sup>8</sup>

Many of those commenting in this proceeding agreed with USTelecom's recommendations, especially with recommendations to allow industry flexibility to develop disaster recovery plans and position equipment, personnel, and supplies before an event. USTelecom argued that rigid guidelines and mandatory best practices will provide a false sense of business continuity security. USTelecom urged the Commission to address waivers and other regulatory burdens before a disaster occurs so that service providers can quickly respond and restore services. USTelecom agrees with a number of other suggestions in the comments, including suggestions to give telecommunications service providers priority for restoration of power during major emergencies. USTelecom disagrees with comments that would hinder service providers' flexibility in responding to disasters and with comments promoting particular service providers' own emergency services and capabilities.

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<sup>4</sup> *Id.* at 13-14.

<sup>5</sup> Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sec. 5170, et. seq. (2005).

<sup>6</sup> USTelecom Comments at 15-16.

<sup>7</sup> *Id.* at 16-17.

<sup>8</sup> *Id.* at 18.

## DISCUSSION

### **I. Most Communications Providers Agree on the Need for a Voluntary System of Best Practices, a National Standard for Credentials, Streamlined Reporting, Improved Access for Emergency Responders, and the Designation of Telecommunications Personnel as Emergency Responders.**

Like USTelecom, many parties commenting in this proceeding advocated a voluntary system of best practices, a national standard for credentials, improved access for emergency responders, and the designation of telecommunications personnel as emergency responders. The Alliance for Telecommunications Industry Solutions (ATIS), for example, states, “ATIS strongly believes that the successful development of Best Practices is primarily based on the ability of the industry to work in a cooperative setting free from regulatory mandates.”<sup>9</sup> ATIS supports the development of disaster-readiness checklists developed through consensus-based industry bodies and notes that the ATIS Network Reliability Steering Committee anticipates having a hurricane-related readiness checklist ready in the near future.<sup>10</sup> The National Association of Broadcasters (NAB) underscores the importance of voluntary public-private cooperation in preparing for disasters, noting that even the most carefully crafted checklist may be unable to fully prepare broadcasters for catastrophic events. “Disaster recovery plans, thus,” notes NAB, “must be flexible to allow future pooling of resources to maintain public warning and timely dissemination of information.”<sup>11</sup> The challenge, Qwest Services Corporation (Qwest) notes, is “to craft federal principles that establish articulate expectations for the nation’s communications disaster-recovery needs while leaving the details associated with realizing those expectations to industry

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<sup>9</sup> ATIS Comments at 8.

<sup>10</sup> *Id.* at 5.

<sup>11</sup> NAB Comments at 6.

and other government entities.”<sup>12</sup> The National Cable and Telecommunications Association (NCTA) supports national credentialing standards for all communications providers.<sup>13</sup> Like USTelecom, CTIA – The Wireless Association (CTIA) agrees that the Commission should serve as the single repository for communications outage information during emergencies.<sup>14</sup> Qwest agrees with many commenting that telecommunications infrastructure providers should be afforded emergency responder status under the Stafford Act.<sup>15</sup>

**II. USTelecom Agrees With a Number of Creative Recommendations in the Comments That Stress the Need for Flexibility and Relaxation of Regulatory Burdens in Order to Ensure Rapid and Effective Disaster Response.**

In addition to its own recommendations, USTelecom supports many of the recommendations of others who commented. The Department of Homeland Security (DHS), for example, recognizes the need for the “appropriate relaxation of FCC regulatory requirements in the disaster context.”<sup>16</sup> USTelecom agrees with DHS that relaxation of regulatory burdens is critical during disasters. As DHS and others point out, many of the recommendations made by the President’s National Security Telecommunications Advisory Committee (NSTAC) are being advanced by DHS and NCS and others.<sup>17</sup> More regulation and legislation may not be required to implement many of these recommendations. For example, many commenting in this proceeding advocated designation of communications providers as “emergency responders” under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act)<sup>18</sup> to ensure that such providers are eligible for federal security protection of critical facilities and repair

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<sup>12</sup> Qwest Comments at 2.

<sup>13</sup> NCTA Comments at 7-9.

<sup>14</sup> CTIA Comments at 14.

<sup>15</sup> Qwest Comments at 8-9.

<sup>16</sup> DHS Comments at 5.

<sup>17</sup> *Id.* at 2.

<sup>18</sup> 42 U.S.C. Sec. 5170, *et. seq.* (2005).

personnel.<sup>19</sup> As Verizon notes, “Making this change would not require an amendment to the Stafford Act. Indeed, in March 2006, [NSTAC] reported to the President that the Executive Branch could issue guidance and take other immediate measures to ensure that the term ‘Emergency Responder (Private Sector)’ under the Stafford Act includes telecommunications infrastructure providers.”<sup>20</sup>

Another recommendation for easing regulatory burdens during emergencies often repeated in comments was that of amending FCC rules to permit automatic grants of special temporary authorities (STAs) and waivers to support disaster planning and response. Communications providers are often required to petition the Commission for STAs and waivers after a disaster has occurred. This can be a time consuming process that unnecessarily hinders response and recovery. The Commission recently granted Verizon, AT&T, BellSouth, and Qwest STAs and waivers, allowing them automatic relief from certain regulatory requirements when they invoke emergency management plans to respond to a disaster or emergency. The Commission has limited this disaster-planning relief to a one-year period expiring in June 2007.<sup>21</sup> Verizon, BellSouth, and others recommend that the Commission reconsider the one-year limitation on this regulatory relief and permit automatic grants of STAs and waivers for disaster areas or that it change its rules so that STAs and waivers are not necessary for disaster planning and recovery.<sup>22</sup> USTelecom agrees with this recommendation and encourages the Commission to extend the same waivers and other disaster-planning relief to all USTelecom members, so that they, too, have the regulatory flexibility they need to respond to disasters. Furthermore,

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<sup>19</sup> See USTelecom Comments at 16.

<sup>20</sup> Verizon Comments at 20.

<sup>21</sup> *Petition of BellSouth Corporation et al. for Special Temporary Authority Order and Waiver to Support Disaster Planning and Response*, WC Docket No. 06-63, Order, (June 9, 2006).

<sup>22</sup> See, e.g., Verizon Comments at 16; BellSouth Comments at 10.

USTelecom believes that the Commission should not limit the grant of STAs and waivers only to those disasters declared by the President, as the Independent Panel suggests.<sup>23</sup> USTelecom agrees with BellSouth, which notes that providing such authorities and waivers in advance of a specific disaster threat, such as an approaching hurricane, will facilitate emergency response and recovery.<sup>24</sup>

Sprint Nextel Corporation (Sprint) urges the Commission to work with state governments and the U. S. Department of Energy to place communications providers on a list for priority restoration of commercial power in emergencies.<sup>25</sup> Verizon had the same proposal, saying, “although the electric utilities are generally not subject to FCC jurisdiction in the provision of electricity to the public, Verizon recommends that the Commission encourage the Department of Energy to establish a priority electricity restoration program for telecommunications providers and their services similar to the [Telecommunications Service Priority (TSP)] program.”<sup>26</sup> USTelecom strongly agrees with both Sprint and Verizon that a priority electric power restoration program should be developed for all commercial communications providers during times of major emergencies. Such a program would speed recovery efforts, facilitate electric and other utilities’ maintenance of commercial power restoration priority lists, and help telecommunications providers better direct recovery efforts and resources based on where commercial power companies were focusing their restoration efforts.<sup>27</sup> In addition, priority

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<sup>23</sup> *Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, Report and Recommendations (Independent Panel Report) (attached as App. B to NRPM).

<sup>24</sup> BellSouth Comments at 11.

<sup>25</sup> Sprint Comments at 16.

<sup>26</sup> Verizon Comments at 22.

<sup>27</sup> *But See* CTIA Comments at 16. CTIA advocates that wireless facilities receive priority for electric power service restoration. USTelecom asserts that priority should not be limited to wireless providers but such a program should extend to all commercial communications providers following TSP guidelines for the telecommunications industry at large.

access should also be extended to commercial communications providers for fuel, water, and security.

**III. USTelecom Disagrees With the Those Who Fail to Balance the Need for Disaster Recovery Plans Against the Need for Feasibility and Flexibility.**

Most commenting in the proceeding seemed to carefully consider and balance their recommendations for disaster planning and recovery against practical considerations such as feasibility and the need for flexibility in disaster response. However, a few comments seek FCC action that could hinder recovery. For example, pulver.com/Evslin Consulting proposes that telephone companies be required to provide voicemail to subscribers affected by a disaster.<sup>28</sup> USTelecom objects to such a proposal for the same reasons its members and others have already objected to the proposal. As Verizon has pointed out, each emergency presents different challenges demanding flexibility to design and implement solutions that account for the nature of the disaster, the facilities located near the affected area, and the needs of first responders and affected residents.<sup>29</sup> Sprint notes that the pulver.com proposal “appears to be premised on the notion that the Commission is unable to act quickly in a disaster to assist carriers in their efforts to restore communications in the affected areas.”<sup>30</sup> This is not the case. As USTelecom and others have noted, the Commission moved swiftly in establishing round-the-clock operations to assist communications companies following Hurricane Katrina.<sup>31</sup>

The American Association of State Highway and Transportation Officials (ASSHTO) recommends the development of guidelines regarding the borrowing or lending of equipment from emergency communications caches and naming the parties responsible for controlling

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<sup>28</sup> See Petition of pulver.com and Evslin Consulting to Preserve Post-Disaster Communications, RM 11327, (attached as Exhibit A to pulver.com comments) at 5.

<sup>29</sup> Verizon Comments (April 27, 2006) at 4.

<sup>30</sup> Sprint Comments (April 27, 2006) at 2.

<sup>31</sup> See, e.g., USTelecom Comments at 2-3.

caches of emergency equipment. USTelecom believes additional clarification is needed as to whether ASSHTO is referring to caches of equipment owned by state and local jurisdictions or by commercial communications entities. USTelecom members stockpile backup generators, mobile satellites, cell on wheels and other communications equipment and have incorporated the use and sharing of this equipment in corporate business continuity plans. In addition, mutual aid agreements (both between service providers and between service providers and governmental entities) are a long-standing facet of emergency preparedness within the telecommunications industry, and the Commission need not mandate the terms and conditions by which equipment should be shared. It is imperative that commercial communications providers retain the right to determine which equipment is kept in caches and how it is used. As AT&T notes, there are security implications to the widespread knowledge of where caches are stored and “flexibility is key to a successful disaster recovery due to the variation in infrastructure assets being protected at different locations and the unique circumstances of different disaster scenarios.”<sup>32</sup>

USTelecom encourages federal, state, and local jurisdictions to discuss pre-event planning with communications service providers, but USTelecom agrees with AT&T that these discussions should not result in formal requirements for pre-positioning of assets.<sup>33</sup>

Another potentially unreasonable measure is advocated by the National Emergency Number Association (NENA). NENA recommends that the FCC require 911 System Service Providers, which it notes are typically incumbent local exchange carriers (ILECs), to analyze the redundancy, resiliency and dependability of the 9-1-1 network in their coverage area and to provide detailed information to the FCC on areas where these issues are treated in the network

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<sup>32</sup> AT&T Comments at 4-5.

<sup>33</sup> *Id.*

and areas where there are gaps.<sup>34</sup> ILECs do not own 911 networks but merely provide inputs for them. They should not, therefore, be required to report to the FCC regarding the dependability of these networks. Furthermore, ILECs do not need to be burdened with additional reporting requirements and regulatory mandates. They need flexibility to create redundancies in their networks not mandates requiring them to do so where it is unnecessary. In addition, USTelecom questions whether reporting the sensitive information that NENA desires would hurt the public interest.

Finally, NTI Group, Inc. (NTI) urges the FCC to require ILECs to grant fast access to their telephone number data bases and to offer updates at reasonable costs.<sup>35</sup> NTI wants the Commission to encourage and facilitate the deployment of NTI's time-sensitive notification (TSN) technology. NTI's technology is similar to a mass-calling event. During a disaster, communications networks are compromised and do not have the ability to handle mass-calling events of any magnitude. The Commission should not allow this proceeding to become a vehicle for the advocacy of a particular kind of technology or service of a particular company. In fact, many commenting in this proceeding advocated use of their particular IP technology, paging systems, satellite communications, or amateur radios as an emergency communications solution. Application of emergency communications solutions should be even-handed and technology-neutral based on the circumstances of a particular emergency. In addition, the Commission should carefully consider the impact of NTI's and others' mass-calling capabilities, as they may have the unintended consequence of straining already limited network resources. USTelecom

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<sup>34</sup> NENA Comments at 5-6.

<sup>35</sup> NTI Comments at 14-15.

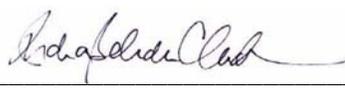
encourages the Commission to address these services and solutions in its existing Emergency Alert proceeding.<sup>36</sup>

### CONCLUSION

USTelecom urges the Commission to consider the recommendations of those who, like USTelecom, believe that the communications industry must have flexibility in developing disaster-response measures and that the Commission should continue to be flexible in responding to communications providers during emergencies. Industry, and not federal regulators, should be permitted to take the lead in formulating appropriate disaster recovery plans and procedures while the Commission can help by ensuring that proper credentials and access are available to telecommunications personnel responding to emergencies, streamlining industry reporting, and educating governments, industry, and the public about communications services designed to help emergency preparedness.

Respectfully submitted,

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<sup>36</sup> *In the Matter of Review of the Emergency Alert System*, EB Docket No. 04-296, First Report and Order and Further Notice of Proposed Rulemaking, (rel. Nov. 10, 2005).