

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of
2010 Biennial Review of Telecommunications
Regulations; Part 4 Regulations Administered by
the Public Safety and Homeland Security Bureau

PS Docket No. 10-270

REPLY COMMENTS OF AT&T INC.

AT&T Inc., on its behalf and on the behalf of its subsidiaries, (AT&T) submits these reply comments in response to the Public Notice requesting input on what telecommunications regulations ought to be modified or repealed as part of the Commission's 2010 Biennial Review.¹

I. Introduction

In its initial comments filed in this proceeding, AT&T recommended that the Commission eliminate or modify the Part 4 rules pertaining to network disruptions.² AT&T noted that the present data collection and retention system is ill-suited to the twin aims of the Part 4 rules; to-wit, (1) getting information about disruptions arising from terrorist attacks or natural disasters, and (2) obtaining information on network "vulnerabilities" to propose long-term "best practices."³ There are several reasons the Commission should consider a major overhaul of this data collection system. *First*, it is not focused enough to serve the Commission's stated goals. *Second*, the existing system is unnecessarily burdensome to reporting entities and has turned out to be exceedingly costly to providers. *Third*, the overall value of the rules to the Commission and the reporting entities alike is dubious. And given that there is no evidence of a market failure jeopardizing the quality and reliability of the nation's

¹ Public Notice, *Commission Seeks Public Comment in 2010 Biennial Review of Telecommunications Regulations; Announces Particular Focus on Data Collection Requirements*, PS Docket No. 10-270 (rel. Dec. 30, 2010).

² Comments of AT&T Inc., PS Docket No. 10-270 (Jan. 31, 2011); 47 C.F.R §§ 4.1 *et seq.*

³ AT&T Comments, pp. 1-2.

telecommunications infrastructure, the Commission should consider eliminating or drastically modifying the rules to meet its legitimate data collection needs.

II. Discussion

Two commenters in this proceeding—The Alliance for Telecommunications Industry Solutions (ATIS) and Verizon/Verizon Wireless (Verizon)—have ably contributed to this discussion of the best way for the Commission to collect appropriate information on network disruptions. While their approaches differ slightly from that of AT&T, AT&T can support the changes to the Part 4 rules they have proposed.

For its part, ATIS proposes modifying Section 4.9 of the rules to reserve the use of the 120-minute notification to “outages related to vandalism or terrorism, those impacting special facilities (such as airports or 911/E911 facilities), or Signaling System 7 (SS7) isolations.”⁴ ATIS, like providers who come under the purview of the Part 4 rules, knows that the Commission’s initial assumptions about the effectiveness and the burdensomeness of the 120-minute notification have proven to be in error. That is, the Commission’s critical assertions in the *Outage R&O*—that (1) the 120-minute notification would assist the Commission in determining “whether an immediate response is required” and “whether patterns of outages are emerging”⁵ and that (2) the 120-minute notification would not impose “significant burden on the provider’s restorative efforts”⁶—were in fact incorrect.

In support of its claims, ATIS points out, given the “sheer number of reportable incidents,” those incidents needing “immediate response” and for which “patterns of outages” would be critical are in fact “masked” by requiring a 120-minute notification for all classifications of outages.⁷ It is better for the Commission to focus the use of the 120-minute

⁴ ATIS Comments, p. 1.

⁵ *New Part 4 of the Commission’s Rules Concerning Disruptions to Communications, Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 16830, 16868 ¶ 69 (2004) (*Outage R&O*).

⁶ *Id.*, at 16871 ¶ 75.

⁷ ATIS Comments, pp. 4-5.

notification to a specific and limited number of outages; *i.e.*, those involving terrorism, special facilities, and SS7 isolations. ATIS also notes that the Commission wildly underestimated the actual burden that its network outage would have on providers. ATIS's analysis of the public record more than supports AT&T's own conclusions in this regard.⁸ ATIS estimates that the annual reporting burden on providers is closer to 10,000 reports a year than the 139 estimated by the Commission.⁹

Verizon strikes a similar chord. In its comments, Verizon asserts that the Commission should "limit application of the 120-minute notification requirement to outages that impact direct connections between customers and public safety answering points."¹⁰ And Verizon relies on many of the same reasons, including, but not limited to, the fact that the "120-minute notification diverts network resources away from restoring service at the most critical time merely to submit a report that the Commission is almost never in a position to address immediately upon filing in any event."¹¹

III. Conclusion

If the Commission is firmly convinced of the value of network outage reporting, it can still meet its legitimate data collection needs and reduce significantly the burden on providers by modifying its Part 4 rules. *First*, the Commission can limit the 120-minute notification to a set of outages that would best serve the Commission's stated goal of using the data collected as a way of determining "whether an immediate response is required" and "whether patterns of outages are emerging." AT&T believes the list provided by ATIS would be appropriate. *Second*, the Commission could eliminate the 72-hour Initial Report. By pointing out the necessity of the Final Report and by extension the limitations of the Initial Report, the

⁸ See AT&T Comments, pp. 4-5.

⁹ ATIS Comments, p. 5.

¹⁰ Verizon Comments, p. 15.

¹¹ *Id.*, p. 16.

Commission has all but conceded in the *Outage R&O* that the Initial Report is of little value.¹² It makes the most sense to eliminate it entirely in favor of the Final Report, which will contain all the information necessary to address the Commission's goal of obtaining information on network "vulnerabilities" to propose long-term "best practices."¹³ In the comment round, AT&T proposed that, at a minimum, the Commission should scrap the 72-hour requirement for this report in favor of a "three business days" standard.¹⁴ If the Commission is not inclined to eliminate the Initial Report, this modification would be a helpful change. And *third*, the Commission can re-instate the right to withdraw the 120-minute notification in legitimate circumstances without requiring a formal retraction letter or, as is the present procedure, filing a separate preceding report.¹⁵

Respectfully submitted,

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¹² See *Outage R&O*, 19 FCC Rcd at 16868 n.213 ("Final service disruption reports, which are due not later than thirty days from the date of the outage, shall provide 'all available information on the service outage, including any information not contained in [the] Initial Service Disruption Report and detailing specifically the root cause of the outage and listing and evaluating the effectiveness and application in the immediate case of any best practices or industry standards identified by the Network Reliability Council to eliminate or ameliorate outages of the reported type.'").

¹³ *Outage R&O*, 19 FCC Rcd 16836-16838 ¶¶ 11-14.

¹⁴ See AT&T Comments, pp. 6-7.

¹⁵ *Outage R&O*, 19 FCC Rcd at 16908 ¶ 156. See AT&T Comments, p. 7.

CERTIFICATE OF SERVICE

I, Loretia Hill, do hereby certify that on this 22nd Day of February, a copy of the foregoing "AT&T Reply Comments" in PS Docket No. 10-270 was served via electronic mail or U.S. First Class Mail to the parties below.

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