

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
The Proposed Extension of Part 4 of the)	PS Docket No. 11-82
Commission's Rules Regarding Outage)	
Reporting to Interconnected Voice Over)	
Internet Protocol Service Providers and)	
Broadband Internet Service Providers)	
)	

**COMMENTS
OF THE ALLIANCE FOR TELECOMMUNICATIONS INDUSTRY SOLUTIONS**

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SUMMARY

ATIS NRSC does not believe that the expansion of the Commission's outage reporting rules to interconnected voice over internet protocol (VoIP) service providers or broadband internet service providers (ISPs) is warranted. ATIS NRSC notes that the Commission has not demonstrated that the benefits of such an expansion outweigh the significant costs that would be associated with the reporting obligations. ATIS NRSC further observes that voluntary, collaborative efforts are more effective than regulatory mandates in fostering cooperation, promoting innovation and accommodating the flexibility required to meet new and evolving challenges.

To the extent that the Commission does indeed impose such reporting obligations on interconnected VoIP service providers and broadband ISPs, ATIS NRSC notes that these obligations must be reasonable. Therefore, ATIS urges the Commission to ensure that any data collected is already readily available to reporting entities via the normal network management process. ATIS also opposes reporting obligations that would require the submission of performance characteristic data, such as latency or jitter.

If outage reporting is required for interconnected VoIP service providers, ATIS NRSC recommends that this reporting be based on criteria similar to those used for other service providers under Part 4 of the Commission's Rules. ATIS recommends that these criteria require the submission of: (1) an electronic Notification within 240 minutes of discovering an outage lasting at least 120 minutes and resulting in a complete loss of service; (2) an Initial Communications Outage Report within three business days of the submission of a Notification; and (3) a Final Communications Outage Report within thirty days of the submission of a Notification.

ATIS NRSC believes that any outage reporting scheme for broadband ISPs should be based on a common network architecture that identifies and defines three regions: (1) access; (2) metro; and (3) national. While a threshold based on a user minute metric may be appropriate for edge devices, such a metric would not be appropriate for outages impacting Metro or National regions. Instead, ATIS recommends that any filing of outage reports for these regions be based on the discovery of an outage lasting a minimum of 120 minutes resulting in the complete loss of service and impacting a minimum of 100,000 customers. ATIS NRSC further recommends a streamlined, two-tiered process for the submission of broadband ISP outage information that would include the filing of: (1) an electronic Notification within 240 minutes of discovering an outage; and (2) a Final Communications Outage Report within thirty days of the filing of a Notification.

ATIS NRSC disagrees that new mandatory reporting obligations should be established and instead urges that any new obligations be voluntary. ATIS NRSC recommends that the Commission work with the industry to refine any reporting program prior to its implementation and to provide an implementation period of at least twelve months.

Finally, ATIS NRSC urges that any outage information collected from broadband ISPs and interconnected VoIP service providers be treated as presumptively confidential.

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**COMMENTS
OF THE ALLIANCE FOR TELECOMMUNICATIONS INDUSTRY SOLUTIONS**

The Alliance for Telecommunications Industry Solutions (ATIS) on behalf of its Network Reliability Steering Committee (NRSC), hereby submits these comments in response to the Commission’s *Notice of Proposed Rulemaking (NPRM)* in the above-referenced docket. As explained more fully below, ATIS NRSC does not believe that the expansion of the Commission’s outage reporting rules to interconnected voice over internet protocol (VoIP) service providers or broadband internet service providers (ISPs) is warranted. However, to the extent that the Commission does indeed impose such reporting obligations on these providers, ATIS NRSC urges the Commission to ensure that these obligations are reasonable.

I. Background

ATIS is a global standards development and technical planning organization that leads, develops and promotes worldwide technical and operations standards for information, entertainment and communications technologies. ATIS' diverse membership includes key stakeholders from the information and communications technologies industry –wireless and wireline service providers, equipment manufacturers, broadband providers, software developers, consumer electronics companies, public safety agencies, digital rights management companies, and internet service providers. Nearly 600 industry subject matter experts work collaboratively in ATIS' open industry committees.

Formed in 1993 at the recommendation of the first Network Reliability and Interoperability Council, the ATIS NRSC strives to improve network reliability by providing timely consensus-based technical and operational expert guidance to all segments of the public communications industry. The NRSC addresses network reliability improvement opportunities in an open environment and advises the communications industry through the development of standards, technical requirements, reports, bulletins, Best Practices, and annual reports. The NRSC is comprised of industry experts with primary responsibility for examining, responding to, and preventing service disruptions for communications companies. NRSC participants are the industry subject matter experts on communications network reliability and outage reporting.

II. Collaborative Efforts are More Effective than Regulatory Mandates

In the *NPRM*, the Commission proposes to expand its mandatory communications outage reporting rules to include interconnected VoIP providers and broadband ISPs. While ATIS NRSC provides input regarding the Commission's specific proposals below, as an initial matter, it reiterates its preference for voluntary industry collaboration over governmental mandates.

ATIS has previously noted the success and effectiveness of voluntary industry collaboration. Such voluntary, collaborative efforts are more effective than regulatory mandates in fostering cooperation, promoting innovation and accommodating the flexibility required to meet new and evolving challenges. Regulatory mandates, on the other hand, can stifle cooperation by creating an environment in which industry participants must focus limited resources inwardly toward compliance with reporting requirements, rather than on the proactive development of Best Practices, standards and guidelines. The fact that groups like the NRSC have been effective under the current regulatory structure is a testament to the industry's commitment to collaborative work. However, the Commission should be aware that there are finite resources available and, as the Commission continues to expand its outage reporting requirements, the burden may begin to adversely impact the industry's ability to collaborate as effectively.

ATIS NRSC also notes, as it and many others have many times before, that reporting mandates create rigid and stagnant frameworks that are ill-suited to the dynamic nature of today's communications systems. Any reporting mandates can quickly become obsolete as new technologies are developed and implemented, just as some of the reporting obligations established as recently as 2005 have clearly become less relevant to understanding network reliability today. Once irrelevant or obsolete, these requirements continue to impose unnecessary

burdens until/unless the rules are changed, while providing no ongoing useful benefit to the public interest.

ATIS NRSC observes that the Commission's proposals to expand its outage reporting rules seem to ignore a fundamental fact – the industry is already highly incented to provide reliable service to its customers. ATIS NRSC is therefore puzzled by the Commission's statement that "currently providers are not incentivized" to build reliable nationwide broadband infrastructure.¹ This is simply not true. A communication provider's core business depends on the provision of reliable service and no regulatory mandate could be more effective than the incentive already created by the competitive marketplace. Even the Commission itself has noted that the communications industry spends billions of dollars annually to improve the capabilities of its networks.² Clearly, this money is not spent because of regulatory mandates, but because of marketplace incentives.

The need to offer reliable service to customers also incents the industry to take self-imposed steps to proactively address and respond to network reliability issues. The industry has not and does not wait for the Commission to raise concerns or ask questions. In fact, virtually all issues are resolved without Commission intervention or use of Commission mandated outage report data. The industry has well-established mechanisms to monitor, analyze and mitigate issues, and significant resources are expended in development and implementing mechanisms that meet the specific and unique business needs of individual service providers. Again, these resources are expended not because of a regulatory mandate, but because the marketplace demands it.

¹ *NPRM* at ¶ 21.

² See <http://www.fcc.gov/reports/seventh-broadband-progress-report> (noting that the industry invested \$65 billion in capital expenditures in 2010 alone).

In the *NPRM*, the Commission acknowledges the effectiveness of the industry in taking appropriate and effective steps in resolving issues. The Commission notes, for example, the dramatic reduction in 9-1-1 outages and outages affecting back-up paths in high capacity circuits.³ However, the Commission seems to tie the industry's effectiveness to the outage reporting rules. While ATIS NRSC agrees that the industry was effective in addressing these issues and that the cooperation between the industry and the Commission was beneficial, ATIS disagrees that the results can be directly connected to outage reporting mandates. Instead, the "tangible positive results" identified by the Commission are better attributed to the effective collaboration among the industry members participating in the NRSC.

Another indicator of the industry's effectiveness in proactively responding to issues pertaining to network reliability and resiliency can be seen in the development of Best Practices. Many of these practices generally have been developed independent of the Commission's outage reporting mandates. For example, during the last Communications Security, Reliability and Interoperability Council (CSRIC), the industry affirmed, revised or created approximately 400 Best Practices pertaining to cybersecurity.⁴ This significant work was done in the absence of any outage reporting mandates.

Based on the above, ATIS NRSC continues to believe that the Commission should be focused on fostering on-going industry voluntary efforts, rather than on developing new and unnecessary regulatory mandates.

³ *NPRM* at ¶16.

⁴ Working Group 2A Cyber Security Best Practices, *Final Report* (March 2011) at p. 7. Of the 397 cyber security Best Practices, 41% were new and 41% were modified NRIC VII Best Practices. Only 18% of the NRIC VII Best Practices remained the same.

III. Before Imposing Any New Reporting Requirements, the Commission Must Ensure that the Benefits of Such Requirements Outweigh the Costs

In the *NPRM*, the Commission acknowledges that many commenters have argued that the burdens of extending the Part 4 rules outweigh the benefits or are otherwise not justified.⁵ ATIS NRSC is one of those commenters and is not persuaded with the Commission's arguments to the contrary.

To justify its view that the benefits outweigh the burden, the Commission describes how the burdens of such reporting can be mitigated ("such burdens can be mitigated through online, automated reporting mechanisms"), how the proposed rules are less intrusive than other possible rules (the "[b]urdens associated with reporting and transparency would be significantly less intrusive than those associated with direct operational mandates") and how the information required would be already available ("the types of information that would be needed in such outage reporting are already readily available").⁶ However, the Commission provides less information about the benefits of expanded mandatory outage reporting requirements, stating simply that service providers will be incentivized to build reliable broadband infrastructure and mandatory reporting will help move the industry toward a critical public safety objective.⁷

ATIS NRSC does not believe that the Commission's vague articulation of the benefits of mandatory outage reporting justifies the clear burdens associated with this reporting. As ATIS NRSC has noted above, it strongly disagrees with the assertion that outage reporting obligations provide a more effective incentive than those that stem from the competitive marketplace. Similarly, there is no evidence that outage reporting will better fulfill public safety objectives.

⁵ *NPRM* at ¶ 21.

⁶ *Id.*

⁷ *Id.*

As ATIS and many others have explained previously, IP-enabled networks are actually more robust, reliable, and resilient than legacy switched networks. IP-enabled networks, for example, perform error-checking and retransmission functions and use multi-path communications, which enhance their reliability. There is simply no evidence to suggest that outage reporting requirements are necessary or that IP-enabled networks cannot fulfill public safety objectives.

The fact that the proposed mandatory outage reporting obligations are less burdensome than possible alternative obligations or that these burdens could be reduced through online mechanisms is irrelevant. The core issue is whether the burden is justified. In order to make this judgment, the Commission should carefully consider the totality of the impact of any new rules on the industry, including: (1) infrastructure costs, including the costs of implementing any new systems or modifying existing systems; and (2) labor costs, including those related to the collection, processing and reporting of outage information. These costs are significant; ATIS has previously estimated that labor costs alone can run annually between \$300,000 and \$5 million per provider.⁸ Based on recently-updated Commission data indicating that an average of 11,000 annual outage reports are filed, ATIS NRSC believes that this total burden may be even greater than it originally estimated.⁹ History supports the fact that the Commission clearly underestimated the burden and level of difficulty in applying mandated outage reporting in 2004,

⁸ See, e.g., ATIS Letter to Paul de Sa, Chief of the Commission's Office of Strategic Planning and Policy Analysis, dated September 23, 2009.; ATIS Comments to *Public Notice* In the Matter of New Part 4 of the Commission's Rules concerning Disruptions to Communications, Consumer Protection in the Broadband Era, Broadband Data Improvement Act, A National Broadband Plan for Our Future and Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act (ET Docket No. 04-35, WC Docket No. 05-271, GN Docket Nos. 09-47, 09-51, and 09-137), released July 2, 2010.

⁹ Initial Regulatory Flexibility Analysis, Appendix B to the *NPRM*, at ¶ 42. One carrier has indicated that its average labor costs associated solely with the preparation of outage reports is approximately \$300 per report. This cost does not include other costs such as infrastructure and labor costs associated with the compilation/collection of data. If this cost were multiplied by the number of reports filed since the new rules became effective, it would amount to over \$15 million.

requiring industry to make significant and costly investments to comply with the existing rules. Yet, the Commission is suggesting that further mandated reporting is justified before fully evaluating the adverse impact the complex existing rules have already had on the industry; including all related enforcement actions.¹⁰

Another factor that must be considered in estimating the burden associated with outage reporting is the impact that the new rules could have on the ability of providers to restore service. The costs associated with outage reporting demonstrate that significant resources are devoted to compliance with reporting obligations. The reporting obligations can divert important resources that could otherwise be available for restoration efforts. Such adverse impacts are not theoretical concerns but are practical challenges that should be considered when weighing the costs and benefits of proposed (and existing) reporting requirements.

ATIS NRSC does not believe that the justification for the expanded outage reporting rules would comply with the recent *Executive Order* mandating the consideration of the costs and benefits of regulations by independent regulatory agencies.¹¹ This *Executive Order* states that:

Wise regulatory decisions depend on public participation and on careful analysis of the likely consequences of regulation. Such decisions are informed and improved by allowing interested members of the public to have a meaningful opportunity to participate in rulemaking. To the extent permitted by law, such decisions should be made only after consideration of their costs and benefits (both quantitative and qualitative).

Pursuant to this order, ATIS NRSC believes that additional information about the quantitative

¹⁰ Since the implementation of the current Part 4 rules in 2005, there have been no less than nine enforcement actions against the industry resulting in Consent Decrees and an excess of \$3.5 million dollars in voluntary contributions. Analysis shows that 55% of these voluntary contributions occurred in 2010 alone – **five** years after the rules went into effect. This is another clear indicator that the existing rules are overly complex, burdensome and unsustainable in their current form.

¹¹ Exec. Order No. 13,579, 76 Fed. Reg. 135 (July 14, 2011), §1(a).

and qualitative benefits of the proposed mandates must be provided. Only after actual costs and benefits have been carefully identified and considered can the Commission consider whether new rules are warranted.

Finally, ATIS NRSC urges the Commission to consider reducing the burdens of its existing outage reporting rules before imposing new burdens. Because many of the newly proposed mandates would impact those providers that are already subject to existing outage reporting obligations, the new rules would increase the already significant burdens on the industry. Additionally, reducing unnecessary and overly burdensome existing reporting requirements would be consistent with the recent *Executive Order*, which requires agencies to review current rules that are excessively burdensome, and to modify, streamline or repeal them.¹²

IV. Any New Outage Reporting Rules Must Be Reasonable

A. Interconnected VoIP Service Provider and Broadband ISP Reporting Mechanisms Should Be Consistent with the Principles Outlined Previously by the NRSC

As noted above, ATIS NRSC does not believe that the Commission has justified the need to extend reporting obligations to VoIP providers or to broadband ISPs. However, to the extent that outage reporting rules are established for these providers, ATIS recommends that the new rules be consistent with the principles that ATIS NRSC outlined in its presentation to the Commission on October 6, 2010. Below is a summary of relevant principles from this filing:

- **Jurisdiction.** ATIS NRSC strongly believes that jurisdictional issues must be resolved before the Commission adopts any rules pertaining to the reporting of interconnected VoIP and broadband ISPs. ATIS NRSC observes that there are significant questions pertaining to the Commission's authority to expand its outage reporting rules, particularly to broadband ISPs.

¹² *Id.* at §2(a).

- The nature of any new broadband reporting. While ATIS NRSC recognizes the Commission’s desire for visibility into events that could potentially impact homeland security and public safety, it urges that any future guidelines for information exchange on such events:
 - Be voluntary, evolutionary, reasonable, and based on existing measurements used to internally monitor and/or track these events;
 - Include thresholds and timeframes that are achievable and create a level playing field for all interconnected VoIP and broadband ISPs; and
 - Be developed through a strong collaborative government-industry relationship that includes a role for the industry in evaluating and providing feedback and input on information collected and on information exchange mechanisms.

- Architectural components. ATIS NRSC recommends that any information exchange be based on a standard network architecture that includes (and defines) key architectural components, including Access, Metro, and National regions. These regions should be the basis for developing any broadband information exchange guidelines.

B. Interconnected VoIP Service Providers and Broadband ISPs Should Only Report Data that Is Readily Available

In the *NPRM*, the Commission notes that the data that would be reportable under the proposed new rules would be “already readily available to reporting entities via the normal network management process.”¹³ ATIS NRSC supports the Commission’s statement and believes that this should be an overriding governing principle to any new outage reporting rules.

However, ATIS NRSC strongly urges the Commission to take a cautious approach in determining what is “readily available.” For example, the Commission should not assume, simply because it believes that data is “readily available” via the normal network management process, that all service providers similarly gather and/or utilize that data to actively manage the daily needs of their customers. Much network management data is not collected in real time and is not presented as useful alarms or input to network monitoring systems. Instead, much of this data is primarily used as trouble shooting tools on an “as needed basis” to facilitate the

¹³ *NPRM* at ¶ 21.

restoration of services. It should also be noted that the Internet Engineering Task Force's Requests for Comments (RFC) referenced in the *NPRM* are not widely adopted by the industry as a measure of network performance due to the costs associated with implementing such solutions from source to destination.¹⁴ As ATIS has said previously, the Commission's goal pertaining to network reliability and resiliency should not be to mandate a reengineering of systems or to require the installation of new data collection or data processing mechanisms.

The NRSC would welcome the opportunity to collaborate with the Commission to ensure that any new reporting obligations are readily available to reporting entities via the normal network management process.

C. Performance Data Should Not Be Reportable

In the *NPRM*, the Commission seeks input regarding how to define "outages" for the purposes of identifying reportable events affecting interconnected VoIP service providers and broadband ISPs. In particular, the Commission seeks input on whether this definition should encompass measurements pertaining to packet loss, round-trip latency, or jitter.¹⁵

ATIS NRSC strongly opposes the collection/use of such performance data for outage reporting. ATIS NRSC does not believe that such data would necessarily provide a clear indication as to whether an event significantly degrades the ability of an end user to establish and maintain communications.¹⁶ Instead, this data is more akin to static/noise on legacy communications systems or error rates on DS3 lines, neither of which is reportable under the current rules. Moreover, such data is not necessarily monitored or collected by all carriers in a

¹⁴ *NPRM* at ¶ 27, nn. 71-74.

¹⁵ *NPRM* at ¶¶ 27, 40, 47.

¹⁶ ATIS NRSC notes that, while such performance data may be referenced in some Service Level Agreements, service providers do not provide guarantees pertaining to jitter or latency in these agreements. Instead, the focus is on peak throughput based on best efforts.

similar manner that is suitable for consistent outage reporting. For example, such data is not collected on consecutive five-minute time intervals as defined across all end points of the network, nor does the industry deploy performance monitoring capabilities to all its end points as defined from source to destination host.¹⁷ In fact, the term “destination host” in most cases takes into consideration networks and components outside of the service provider’s direct control. Further, adopting these performance measurements as outage criteria would require service providers to install additional probes throughout their networks at significant cost and effort.

D. Interconnected VoIP Service Providers Should Report Under Similar Terms as Other Providers of Voice Services

To the extent that reporting is required for interconnected VoIP service providers, ATIS NRSC recommends that the reporting be based on similar criteria as is currently used for other service providers under Part 4 of the Commission’s Rules.¹⁸ ATIS NRSC believes that there are significant similarities between interconnected VoIP and other providers of voice services currently subject to the outage reporting rules such that the same basic criteria should apply to both. Moreover, because many service providers use both VoIP and TDM networks to offer services, the application of consistent criteria for outage reporting would be less burdensome than the establishment of different VoIP outage reporting criteria.

ATIS NRSC strongly urges the Commission to modify the outage reporting criteria that would apply to both interconnected VoIP service providers and to those providers currently subject to the Commission’s outage reporting rules to reduce the burden on these providers. ATIS believes, for example, that outage reports should be filed only for outages that last at least

¹⁷ See Appendix A to the *NPRM*, proposed amendments to 47 C.F.R. §4.9 (g), (h).

¹⁸ 47 C.F.R. Pt. 4.

120 minutes, noting that the current 30 minute threshold is too low and imposes a significant burden on the industry.

Based on this, ATIS NRSC recommends that interconnected VoIP service providers be required to submit reports only for outages lasting a minimum of 120 minutes that potentially affect at least 900,000 user minutes of interconnected VoIP service and result in complete loss of service or that potentially affect a 9-1-1 special facility.

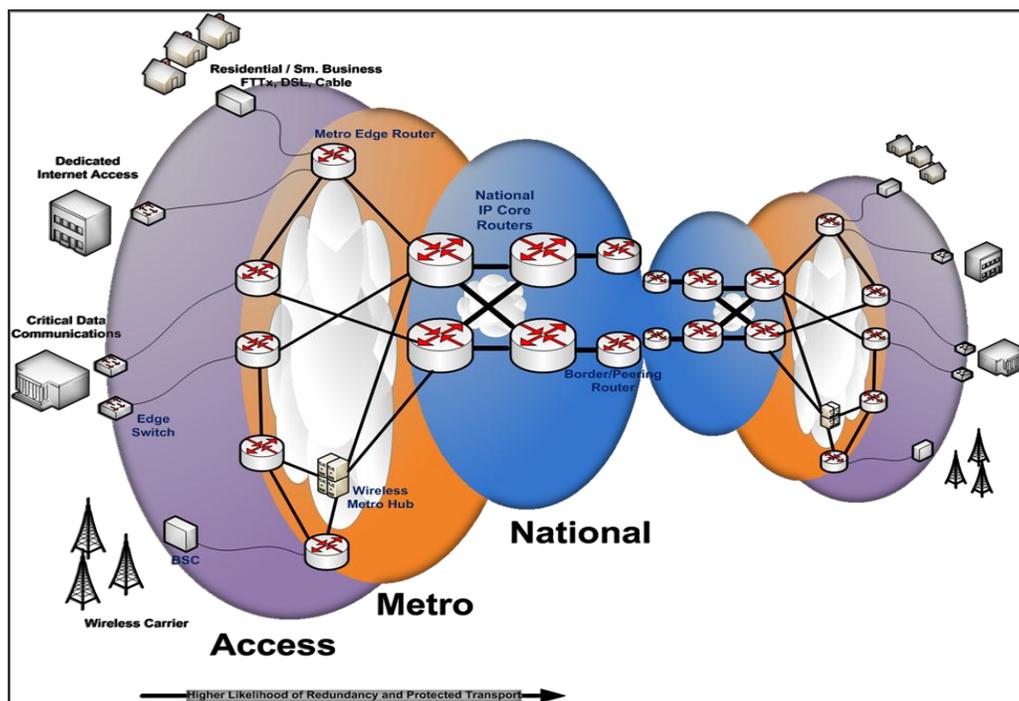
ATIS NRSC also believes that the reporting process itself should be reexamined and streamlined to avoid unnecessary burdens. First, ATIS recommends that the Commission extend the time for the filing of Notifications from 120 minutes to 240 minutes from the discovery of an outage. Allowing an additional two hours for these reports will afford providers additional time to investigate these outages, will ensure that the data reported is representative of an actual network issue, and will reduce the strain on service provider personnel, many of whom may be the same personnel that have responsibilities for coordinating their organizations' responses to outages. Second, ATIS recommends that the Commission require the submission for an Initial Report within three (3) business days, rather than 72 hours, from the filing of a Notification. Allowing three business days would not significantly delay the filing of these reports but would minimize the burden on providers by not requiring the filing of these reports on weekends or on holidays. Third, ATIS believes that the deadline for the filing of both Initial Reports and Final Reports should be based on date/time on which the Notification was filed. This change, while relatively minor, would afford additional time for providers to complete reports, thereby minimizing errors in submissions and reducing the overall burden on communications personnel.

Therefore, ATIS recommends that interconnected VoIP service providers, as well as service providers subject to the existing reporting rules, would submit: (1) an electronic

Notification within 240 minutes of discovering an outage meeting the thresholds above; (2) an Initial Communications Outage Report within three business days of filing a Notification; and (3) a Final Communications Outage Report within thirty days of filing a Notification.

E. Reporting by Broadband ISPs Must Be Based on Different Thresholds

As ATIS NRSC indicated in its October 2010 *ex parte* presentation regarding broadband outage reporting, it believes that any outage reporting scheme should be based on a common network architecture that identifies and defines three regions: (1) access; (2) metro; and (3) national.



Because ATIS NRSC does not believe that a single reporting threshold can or should be applied to all three regions, it recommends the following:

- Outages impacting Access Region. ATIS believes that a threshold based on a user minute metric may be appropriate for edge devices (e.g., switches, routers, etc.). ATIS further believes that the same reporting criteria as outlined above would be appropriate (i.e., that the filing of outage reports be based on the discovery of an outage resulting in complete loss of service and lasting a minimum of 120 minutes).

- Outages impacting Metro or National Regions. ATIS believes that a user minute metric would not be appropriate for outages impacting Metro or National Regions. Instead, ATIS recommends that any filing of outage reports should be based on the discovery of an outage lasting a minimum of 120 minutes resulting in the complete loss of service and impacting a minimum of 100,000 customers.

ATIS NRSC also recommends that the Commission consider a different outage reporting process for broadband ISPs than is used for existing outage reporting. While the three-tiered notification process may be appropriate for interconnected VoIP service providers, a different process may be appropriate for broadband ISPs. ATIS NRSC therefore urges that the Commission consider a streamlined, two-tiered process under which the submission of: (1) an electronic Notification would be required within 240 minutes of discovering an outage; and (2) a Final Communications Outage Report would be required within thirty days of the submission of a Notification. ATIS NRSC does not believe that Initial Reports are necessary for outages affecting Broadband ISPs and suggests that the submission of the Notification would provide the Commission with sufficient knowledge of an event to allow it to determine whether to contact the provider to offer assistance or inquire about the event.¹⁹

¹⁹ While ATIS NRSC is recommending a three-tiered reporting process for existing and interconnected VoIP providers, ATIS NRSC would support the application of a two-tiered reporting process to all providers subject to the Commission's outage reporting rules.

F. VoIP and Broadband Reporting Should be Voluntary

The Commission also proposes in the *NPRM* that reporting obligations of VoIP providers and broadband ISPs be mandatory.²⁰ ATIS NRSC disagrees that new mandatory reporting obligations should be established and instead urges that any new obligations be voluntary.

ATIS NRSC observes that a voluntary reporting program would be superior in many ways. First, it would allow the industry and the Commission to more easily adapt the reporting program to reflect changes in network technologies and in consumer uses of those technologies. Second, a voluntary program would better encourage industry experts to collaborate without fear that such collaboration would result in additional regulatory restrictions and/or penalties. Such collaboration would be particularly important when the Commission is looking to apply a reporting mechanism in a new and generally untested way to new technologies, as it is in this proceeding. Third, a voluntary reporting program would more effectively allow the Commission and the industry to benefit from the “lessons learned” from outage reporting.²¹ For instance, through its experience in reporting under the current rules, it has become apparent to the industry that certain types of outages (such as those that impact less than three DS3’s, copper cables, or pair gain systems) do not provide any glimpse into terrorist activity or threats to homeland security and could be reported in a more reasonable timeframe, such as via a monthly or quarterly electronic report. A voluntary program would allow the industry and Commission to use this experience to better tailor the reporting program to eliminate unnecessary reporting

²⁰ *NPRM* at ¶ 24.

²¹ ATIS NRSC believes that the industry would benefit from its experience under the previous and existing voluntary reporting programs and that such a voluntary program could be effective. While the Commission often refers to the shortcomings of the Industry Led Outage Reporting Initiative (ILORI) that predated the Commission’s 2005 mandates, the Commission seems more reluctant to acknowledge the success of the voluntary Disaster Information Reporting System (DIRS) and DIRS-Lite processes jointly developed by the ATIS NRSC and the Commission.

requirements and burdens. ATIS NRSC would welcome the opportunity to work with the Commission on a voluntary reporting program.

A mandatory program, on the other hand, is rigid and would not necessarily reflect the current state of the network, but would be based on the state of the network at a particular point in time as is now the case with the current Part 4 rules. Further, such a program cannot easily be updated to reflect the Commission's or the industry's experience and, instead, would require a formal rulemaking proceeding. Finally, ATIS NRSC believes that the proposed mandatory regime, like the current regime, may be too complicated to be consistently implemented across the industry. ATIS NRSC notes that the industry has undertaken significant efforts to review and provide guidance for reporting under the current rules, but there remain fundamental flaws in the reporting regime that make it impossible to ensure consistent implementations, particularly by those who do not have the resources to engage in industry efforts such as the NRSC.

The Commission states that some, including ATIS, have suggested that the Disaster Information Reporting System (DIRS) should be used as a model for any new reporting program, but notes that there are significant differences between the purposes of DIRS and proposed outage reporting program.²² ATIS NRSC believes that the Commission may have misunderstood ATIS' position regarding this matter. ATIS was not, and is not, suggesting that DIRS be used for broadband communications outage reporting. Instead, ATIS NRSC is recommending that the same collaborative process that was used to develop DIRS be used to develop any new interconnected VoIP or broadband ISP reporting mechanism. As ATIS noted in comments last August regarding this matter, under the process used to develop DIRS:

²² *NPRM* at ¶ 57.

The Commission sought industry input early in the development and testing of DIRS, a web-based information system through which service providers voluntarily submit daily status updates on critical infrastructure and service outages during government-declared disasters and national emergencies. During collaborative meetings, the Commission and industry developed data sets that could be effectively and efficiently collected and reported during real time disaster events. These efforts resulted in the quick development of a fully functional system.²³

This process worked extremely well and resulted in a program that the industry and Commission fully support, and one in which there has been active industry participation. ATIS NRSC believes that the development of an outage reporting program using a similar iterative, collaborative process would be more effective than the establishment of a program via a rulemaking.

To this end, ATIS NRSC urges the Commission to work with the industry to refine any reporting program prior to its implementation. The focus of this collaboration should be to promote consistent implementation by the industry and to identify any proposed reporting requirements that should be modified or eliminated. An implementation period of at least twelve months should be provided between the refinement of any new reporting requirements through this collaborative effort and the effective date of the program. This implementation period will allow the industry to make any appropriate modifications to its data collection systems and to acquire new resources, including new personnel.

Regardless of whether any new reporting is voluntary or mandatory, ATIS NRSC urges the Commission to allow the filing of reports using an electronic reporting template via the

²³ ATIS Comments to *Public Notice* In the Matter of New Part 4 of the Commission's Rules concerning Disruptions to Communications, Consumer Protection in the Broadband Era, Broadband Data Improvement Act, A National Broadband Plan for Our Future and Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act (ET Docket No. 04-35, WC Docket No. 05-271, GN Docket Nos. 09-47, 09-51, and 09-137), released July 2, 2010 at p. 7.

existing Network Outage Reporting System (NORS) or a similar system. NORS has been used effectively by the industry for outage reporting and many providers that would be impacted by the new rules are already familiar with the use of the system. ATIS NRSC strongly recommends that the Commission work with the industry to develop a tutorial for use of these systems that highlights any new reporting requirements.

V. Confidentiality

The Commission seeks input regarding whether to treat outage reporting information from VoIP providers and broadband ISPs as presumptively confidential.²⁴ ATIS NRSC urges that any outage information collected from broadband ISPs and interconnected VoIP service providers be treated as presumptively confidential. ATIS NRSC believes that such information, if made publically available, could pose the same, if not greater, risk that disclosure of existing outage reporting information poses. As described by the Commission in its August 2004 *Report and Order* adopting the existing outage reporting rules, “[t]he disclosure of outage reporting information to the public could present an unacceptable risk of more effective terrorist activity” because such data could be used by hostile parties to attack communications networks.²⁵

Finally, ATIS NRSC notes that the Commission also seeks information pertaining to the public reporting of aggregated data. ATIS NRSC does not oppose such disclosure, but urges the Commission to work with industry to ensure that this data does not result in any misunderstandings or confusion regarding network reliability or resiliency.

²⁴ *NPRM* at ¶ 66.

²⁵ *Report and Order and Further Notice of Proposed Rulemaking*, ET Docket No. 04-35 (rel. August 4, 2004) at ¶ 3.

VI. Conclusion

ATIS NRSC does not believe that the expansion of the Commission's outage reporting rules to interconnected VoIP service providers or broadband ISPs is warranted. However, to the extent that reporting obligations are imposed on these providers, ATIS NRSC urges the Commission to ensure that these obligations are reasonable.

Respectfully submitted,

Alliance for Telecommunications Industry Solutions

By:

A handwritten signature in black ink, appearing to read "Thomas Goode", written in a cursive style.

Thomas Goode
General Counsel

Dated: August 8, 2011