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Barbara S. Esbin
Admitted in the District of Columbia

February 8, 2012

Via ECFS

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: American Cable Association Notice of Ex Parte Communications; In the Matter of the Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers, PS Docket No. 11-82

Dear Ms. Dortch:

On February 7, 2012, Ross Lieberman, Vice President of Government Affairs, American Cable Association ("ACA"), Scott Friedman and the undersigned, counsel to ACA, met with Josh Gottheimer, Senior Counselor to the Chairman, Jamie Barnett, Rear Admiral (RET), Chief, Public Safety and Homeland Security Bureau ("PSHSB"), Lauren Kravetz and Vernon Mosely, PSHSB, to discuss outage reporting obligations proposed for providers of Voice over Internet Protocol ("VoIP") service in the Notice of Proposed Rulemaking ("NPRM") in the above referenced docket.¹ During the meeting, participants discussed ACA's concern about the possibility that VoIP providers would have difficulty distinguishing whether their outage of 30 minutes duration/potentially affecting 900,000 user minutes would be considered a general subscriber or a 9-1-1 special facility outage.²

Specifically, with respect to 9-1-1 special facility outage reporting, ACA highlighted the potential for confusion among providers in distinguishing between general subscriber outages that affect a VoIP provider's subscribers' ability to make outbound calls, including to 9-1-1 local emergency centers, that must be reported no later than 24 hours after discovery, from outages that affect 9-1-1 special facilities, but which must be reported within four hours of discovery, given the fact that both types of outages could be deemed "to affect" access to 9-1-1 special facilities. To avoid

¹ See *In the Matter of the Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, Notice of Proposed Rulemaking, 26 FCC Rcd 7166 (2011) ("NPRM").

² See also *In the Matter of the Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, Ex Parte Letter to Marlene Dortch, Secretary, FCC from Barbara S. Esbin, on behalf of the American Cable Association, PS 11-82, at 2 (filed Jan. 12, 2012) ("ACA Jan. 12 Ex Parte Letter"); *In the Matter of the Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, Ex Parte Letter to Marlene Dortch, Secretary, FCC from Barbara S. Esbin, on behalf of the American Cable Association, PS 11-82, at 2 (filed Dec. 9, 2011) ("ACA Dec. 9 Ex Parte Letter").

such confusion, ACA encouraged the Commission to make clear in its order that only VoIP providers who are *provisioning* connectivity to a 9-1-1- special facility — that is, providing the direct connection to the facility — would be responsible for notifying the Commission within four hours of discovery of its 9-1-1 special facility outage and for filing the more detailed report within 30 days. ACA stressed the importance of making clear that a general VoIP subscriber outage that prevents subscribers from making *any* outbound calls, including to 9-1-1 call centers, that lasts at least 30 minutes and potentially affects 900,000 user minutes, would not be considered a 9-1-1 special facility outage requiring notification to the Commission within four hours of discovery.³ In addition, ACA suggested that it would be beneficial for the Commission to clarify that a VoIP provider that interconnects with another entity who actually provisions service to a 9-1-1 special facility should not be deemed to “own, operate, lease or otherwise utilize” the other provider’s equipment connecting to the 9-1-1 special facility so as to trigger the four hour and 30 day notification and reporting requirements in the event the provisioning entity experiences a 9-1-1 special facility outage.⁴

If you have any questions, or require further information, please do not hesitate to contact me directly. Pursuant to section 1.1206 of the Commission’s rules, this letter is being filed electronically with the Commission.

Sincerely



Barbara Esbin

cc (via email): Josh Gottheimer
Jamie Barnett
Lauren Kravetz
Vernon Mosley

³ ACA Jan. 12 Ex Parte Letter at 2.

⁴ See NPRM, ¶ 29; Appendix A, Proposed Rules, 47 C.F.R. § 4.9(g)(4), Interconnected VoIP service providers outage reporting requirements – threshold criteria (“All interconnected VoIP service providers shall submit electronically a Notification to the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease or otherwise utilize, an outage of at least 30 minutes duration . . . That potentially affects a 9-1-1 special facility” Commission staff previously indicated that the time period currently under consideration has been lengthened from two to four hours after discovery of the outage. See ACA Jan. 12 Ex Parte Letter at 2; ACA Dec. 9 Ex Parte Letter at 2.