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

In the Matter of	)	
	)	
Improving the Resiliency of Mobile Wireless Communications Networks	)	PS Docket No. 13-239
	)	
Reliability and Continuity of Communications Networks, Including Broadband Technologies	)	PS Docket No. 11-60
	)	

COMMENTS OF THE
BLOOSTON RURAL CARRIERS

The Blooston Rural Carriers,[1] by their attorneys, hereby submit the following comments on the Notice of Proposed Rulemaking (NPRM) of September 27, 2013 in the above-captioned proceeding,[2] in which the Commission seeks comment on, "measures to promote transparency to consumers as to how mobile network wireless service providers compare in keeping their networks operational in emergencies."[3] Specifically, the Commission proposes to require mobile wireless service providers to file daily reports during disaster situations detailing the percentage of cell sites that are operational. As demonstrated fully below, the Blooston Rural Carriers believe that the costs associated with such a reporting requirement would far outweigh the predicted benefits. Network outages are, even outside of disaster scenarios, complex in nature and any attempt to simplify them runs a real risk of painting a very inaccurate portrait. Data such as the proposed operational cell tower percentage cannot be understood in a vacuum; rather, context is necessary to properly interpret the data. At the same time, the Commission's record contains multiple, specific examples of emergency telecommunications shortcomings that should

[1] The carriers participating in these comments are listed in Attachment A.
[2] *In re: Improving the Resiliency of Mobile Wireless Communications Networks*, Notice of Proposed Rulemaking, PS Dockets No. 13-239, 11-60, FCC 13-125, released September 27, 2013 (NPRM).
[3] *Id.* at ¶1.

be addressed. Therefore, the Blooston Rural Carriers respectfully submit that broad reporting requirements such as the one proposed in the NPRM are not appropriate; rather, the Commission should focus its efforts on the already-identified failures in the record. At a minimum, to the extent the Commission adopts a broad-scale reporting requirement, small and rural carriers should be exempt.

I. Additional Reporting Requirements Always Increase Costs

There can be no serious dispute that reporting requirements increase the costs of service and detract from the resources a carrier would otherwise employ improving and maintaining its network, and these costs are disproportionately higher for small rural carriers. As the Commission is no doubt aware, rural carriers have limited personnel and are already faced with numerous reporting requirements. Often, employees that prepare and file Commission reports have other responsibilities within the company; therefore, outside consultants may be necessary to prepare some reports. Beyond the man hours associated with complying with Commission reporting requirements, the Commission must also take into account the costs associated with all aspects of regulatory compliance, including training, oversight, and recordkeeping. Although the Commission seeks comment on whether such aspects of compliance should be required by the rules,[4] most of them are necessary regardless of whether the rule explicitly so provides, due to the potential for enforcement action for even minor errors. Combined with the ongoing universal service and intercarrier compensation reductions, rural carriers are also facing significantly reduced revenues with which to meet these unfunded government mandates.

Any increase in cost to a service provider is ultimately borne by the customer. That cost must then be distributed across the entire customer base. Therefore, unfunded government mandates such as this are more easily dealt with by large carriers such as Verizon, AT&T, and Sprint, who enjoy a nationwide customer base over which to spread the added costs. On the other hand, as the Commission has recognized in other contexts, rural carriers simply do not enjoy

[4] NPRM at ¶54.

such economies of scale.[5] Such costs, in the case of rural carriers, are spread over a much smaller customer base, and result in a disproportionately larger increase in cost than in urban areas.

Rather than diverting scarce resources to compliance with these unfunded government mandates, rural wireless carriers should be encouraged to invest their resources in infrastructure and spectrum. But beyond the dollars and cents of the issue, the Commission's analysis of cost in the NPRM must also take into account for the fact that the proposed requirement dictates that the reports be prepared and filed during emergency conditions. As stated above, personnel at rural wireless carriers often wear many hats, and as detailed in the next section, it is unclear that spending time filing reports during an emergency is the best use of their time.

II. The Benefits Associated with the Proposed Requirement are Unclear

In contrast to the certain costs associated with additional reporting requirements, the benefits of this particular requirement are questionable. As Commissioner Pai correctly points out in his dissenting statement, the percentage of out-of-service cell sites within a county during certain natural disasters may not actually say anything important about a network's reliability or resiliency.[6] On the contrary, the statistic can be quite misleading for a number of reasons.

First, the operational status of a cell tower may have varying degrees of correlation with network resilience. Not all cell towers provide the same level of coverage, and not all coverage areas include the same number of customers. A carrier that relies upon a relatively lower number of larger cell sites may lose one tower representing 15% of its network and still provide reliable service to more consumers than a carrier that relies upon a larger number of smaller cell sites and only loses 10%. Additionally, a tower may be considered operational without necessarily

[5] *See, e.g., In re High-Cost Universal Serv. Support et al.*, 25 FCC Rcd 4072, 4091 (F.C.C. 2010)(" ...rural carriers generally serve fewer subscribers, serve more sparsely populated areas, and generally do not benefit from economies of scale and scope to the same extent as non-rural carriers.")

[6] *In re: Improving the Resiliency of Mobile Wireless Communications Networks*, Dissenting Statement of Commissioner Ajit Pai, PS Dockets No. 13-239, 11-60, FCC 13-125, released September 27, 2013.

providing emergency functions. For example, in January of 2011 the Commission received reports that 8,300 wireless 9-1-1 calls to the Montgomery County, Maryland Public Safety Answering Point (PSAP) and 1,700 wireless calls to the Prince George's County, Maryland PSAP were not connected during a snowstorm.[7] According to the Commission's letter, it appeared that the trunks that handled the wireless 9-1-1 calls were automatically taken offline, and that Verizon failed to notify PSAPs of the failure after alarms went off. It is unclear under the proposed rule whether the Verizon cell towers in this example would be considered operational for the purpose of the proposed report. If so, the reliability of Verizon's network in an emergency situation would necessarily be overstated in the report.

Second, even if there is a correlation, the small sample size of DIRS-scale disasters (the scenarios in which the Commission proposes the new reporting requirement become active) per year will further distort the data by overstating the effect simple luck can have on the resulting data. As the Commission recognized, DIRS is activated very infrequently, having occurred only three times in 2012.[8] Indeed, DIRS has only been activated thirteen times since its inception in 2007[9] - an average of twice a year. This means that a carrier that has a one bad outage during a disaster may never have the chance to report any improvement that year, which in turn may paint an unfairly poor picture of the network's true reliability. The same is true in reverse – a carrier with a less reliable network could "get lucky," and consumers would be led to believe that network is more reliable. This is a particularly important consideration because, if the Commission's assumption that consumers will base their choice of carrier to any extent on this sort of data, it is unlikely that they will wait for a sufficient track record to develop. A tornado capable of destroying the even the most robust cell site may turn a few degrees north, slamming into a rural carrier's network, or a few degrees south, slamming into a larger carrier's network, and could mean sudden death regardless of how reliable the network may be otherwise.

Third, the operational tower metric overgeneralizes the data. In rural, sparsely populated counties, not all carriers cover all parts of every county. Through years of study area

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[7] *See*, Letter from James Arden Barnett, Jr., Chief of Public Safety & Homeland Security Bureau, to Kathleen M. Grub, Senior Vice President, Public Affairs, Policy & Communications, Verizon Communications (Feb. 17, 2011).
[8] NPRM at ¶45.
[9] NPRM at Appendix C.

redefinitions and partitioning agreements, the degree of carrier overlap even within a single county can vary greatly. As a result, carriers can be disproportionately impacted by natural disasters, and two carriers with similarly reliable networks may appear to have vastly divergent "reliability" ratings, simply because one network was tested more strenuously by the forces of nature than the other within the same county.

III. The Reporting Requirement Represents Questionable Public Policy

Beyond the costs and the nebulous benefits associated with it, the proposed report also represents questionable public policy because it takes a broad approach where a more narrowly tailored solution is available; potentially discourages participation in voluntary programs; and may encourage network designs that maximize the reported metric but may not actually represent increased reliability. The Commission's record clearly reflects the fact that the emergency telecommunications failures of 2012 and 2013 primarily involved only a few large carriers. There is no need for a broader approach through high-level industry-wide reporting requirements. Rather, the Commission should focus its efforts on correcting the emergency communications issues that have already been identified. The Derecho Report, for example, only identified a handful of carriers beyond Verizon with various levels of failures in their provisioning of 9-1-1 service during the Derecho storm, including Frontier, CenturyLink, AT&T and US Cellular.[10] There was no indication in the Derecho Report that there were significant failures by other carriers, in particular small rural carriers that would justify the implementation of additional reporting requirements or rules on these carriers. The Commission can reduce the burden of its proposed rules by targeting them to the carriers with demonstrated shortcomings.

Further, as the Commission recognizes in the NPRM, DIRS is a highly successful but <u>voluntary</u> program. Despite the voluntary nature of the program, participation is very high, such that only a few carriers do not participate.[11] However, the reporting requirement contemplated by the NPRM effectively makes DIRS (or at least, the data collection associated with DIRS)

[10] FCC Public Safety and Homeland Security Bureau, "Impact of the June 2012 Derecho on Communications Networks and Services: Report and Recommendations" (PSHSB, rel. Jan. 10, 2013) (Derecho Report).
[11] NPRM at ¶12.

mandatory. This has the effect of suggesting that if a voluntary program is popular, then there is a chance that it will become mandatory. This, in turn, could reasonably have a chilling effect on the willingness of carriers to participate in voluntary programs going forward. As has been clearly recognized in the context of the Quantile Regression Analysis, uncertainty leads to unwillingness to participate in programs.[12]

Additionally, the proposed report potentially incentivizes carriers to design their networks in such a way that allows them to maintain a high percentage of operational towers without necessarily increasing actual network reliability. As detailed above, it is unclear that the operational tower metric is closely correlated with network reliability to a sufficient degree that it can act as a fair measure. At the same time, the use of an operational tower metric could reward carriers that optimize the number of such towers without necessarily increasing network reliability – for example, deploying inexpensive cell sites in areas that don't necessarily need them just to improve the overall percentage.

Finally, the Commission should not dictate to carriers in an otherwise competitive marketplace how to advertise their services. As the Commission notes in the NPRM, many carriers already have access to the data necessary to make this information available; to the extent that carriers wishes to do so, it can. Similarly, if consumers are actually interested in that information, all it will take is for one carrier to provide it before the others are forced by the laws of competition to follow suit.

[12] *Statement of Commissioner Ajit Pai*, Hearing Before the Subcommittee on Communications and Technology of the United States House of Representatives Committee on Energy and Commerce, "Oversight Of The Federal Communications Commission," (December 12, 2013) (testifying that due to the uncertainties associated with quantile regression analysis, demand for RUS loan funds dropped to roughly 37% of the total amount of loan funds appropriated by Congress in fiscal year 2012).

IV. Conclusion

For the forgoing reasons, the Commission should not adopt a mandatory reporting requirement as proposed in the NPRM. Small carriers are disproportionately affected by unfunded administrative requirements like these because of their comparatively smaller operational staff and cost economies of scale. At the same time, despite the guaranteed increase in costs, the reported information may not actually provide much consumer benefit. The proposed reporting requirement may also have negative effects beyond cost, by discouraging participation in voluntary programs and encouraging inefficient network design.

To the extent the Commission adopts a reporting requirement in this proceeding, the Blooston Rural Carriers respectfully submit that it should be narrowly tailored to apply only to carriers that have demonstrated shortcomings when it comes to emergency services during natural disasters. At a minimum, Tier III carriers should be exempt.

Respectfully submitted,

THE BLOOSTON RURAL CARRIERS

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The Blooston Rural Carriers
Participating Carriers

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Butler-Bremer Communications

Copper Valley Wireless, LLC

Eagle Telephone d/b/a Snake River PCS

Fuego Wireless, LLC

Louisiana Cellular, Inc.

Manti Telephone Company

Nucla-Naturita Telephone Co.

Peñasco Valley Telephone Cooperative, Inc.

Sagebrush Cellular, Inc.

Smithville Communications, Inc.

Webster-Calhoun Coop. Tel. Assn.

xG Technology, Inc.