

**Before the
Federal Communications Commission
Washington, DC 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	)	

To: The Commission

**REPLY COMMENTS OF THE
TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

I. INTRODUCTION AND SUMMARY

The Telecommunications Industry Association (TIA) submits reply comments to the Federal Communications Commission (Commission) in the above captioned proceeding.¹ TIA and its members appreciate the opportunity to provide unique stakeholder comment on the issues raised by the NPRM. In this reply comment, TIA emphasizes that the Commission should strive to minimize burdens and costs to reporting providers, and should strive for reasonable and realistic outage reporting thresholds that are in parity with existing outage reporting rules the highest degree possible.

¹ 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*, PS Docket No. 11-82, FCC 11-74 (rel. May 13, 2011) (NPRM).

II. SHOULD OUTAGE REPORTING REQUIREMENTS BE EXTENDED TO INTERCONNECTED VoIP SERVICES AND/OR BROADBAND ISPs, THE COMMISSION SHOULD STRIVE TO MINIMIZE THE BURDENS AND COSTS ASSOCIATED WITH COMPLIANCE

TIA shares the concerns of other commenters to the NPRM, that the justification for extending outage reporting rules to interconnected VoIP providers and broadband ISPs is not clear or conclusive.² An environment already exists that facilitates networks' increasing reliability as they evolve through the voluntary, industry-consensus standardization system as well as the employment of best practices.³ It is clear to TIA that the extension of mandatory outage reporting requirements at this time will disregard and even discourage the current environment

² See, e.g., Comments of the Alliance for Telecommunications Industry Solutions (ATIS), PS Docket No. 11-82 (filed Aug. 8, 2011) (ATIS Comments) at 6-8; Comments of the American Cable Association (ACA), PS Docket No. 11-82 (filed Aug. 8, 2011) (ACA Comments) at 2; Comments of AT&T, Inc. (AT&T), PS Docket No. 11-82 (filed Aug. 8, 2011) (AT&T Comments) at 9-11; Comments of CTIA – the Wireless Association, PS Docket No. 11-82 (filed Aug. 8, 2011) (CTIA Comments) at 2-6; Comments of the National Cable & Telecommunications Association (NCTA), PS Docket No. 11-82 (filed Aug. 8, 2011) (NCTA Comments) at 3-4; Comments of the Telecommunications Industry Association (TIA), PS Docket No. 11-82 (filed Aug. 8, 2011) (TIA Comments) at 2; Comments of Time Warner Cable, Inc. (Time Warner), PS Docket No. 11-82 (filed Aug. 8, 2011) (Time Warner Comments) at 4; Comments of the United States Telecom Association (USTA), PS Docket No. 11-82 (filed Aug. 8, 2011) (USTA Comments) at 2-5; Comments of the Voice On the Net Coalition (VON Coalition), PS Docket No. 11-82 (filed Aug. 8, 2011) (VON Coalition Comments) at 5-7; Comments of Vonage Holdings Corporation (Vonage), PS Docket No. 11-82 (filed Aug. 8, 2011) (Vonage Comments) at 5-6.

³ See, e.g., Comments of ATIS, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) at 3-9; Comments of AT&T Services, Inc., PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) at 3-12; Comments of CTIA, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) at 3-12; Comments of Edison Electric Institute, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) at 8; Comments of NCTA, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) at 4-8; Comments of T-Mobile USA, Inc., PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) at 18; Comments of TIA, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) (TIA Network Reliability Comments) at 10-19; Comments of the USTA, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) at 2-4; Comments of Verizon and Verizon Wireless, PS Docket Nos. 11-60, 10-92, EB Docket No. 06-119 (filed Jul. 7, 2011) at 3-13.

that has ensured network resiliency, will raise jurisdictional issues that create market uncertainty in the information and communications technology (ICT) sector, and create barriers to innovation and investment in future broadband deployments. Further, arguments on the record simply do not support the policy argument that reporting rules should be extended, and do not adequately address the concerns that the Commission needs to weigh before proceeding with the proposals in the NPRM.⁴

If the Commission nonetheless chooses to extend outage reporting rules as proposed in the NPRM, TIA strongly urges the Commission to take all possible steps to mitigate the burdens and costs associated with compliance.⁵ By applying these priorities laid out by Chairman Genachowski to the NPRM, TIA believes that there are a number of ways to reduce the impact of compliance.

a. Jurisdiction

First, by resolving jurisdictional issues involved with its assertion of authority over interconnected VoIP service providers and broadband ISPs, the Commission can help provide critical certainty to the ICT market. There are legitimate jurisdictional issues with this proposal that affect or will be affected by other determinations, either within the Commission or in a court

⁴ See, e.g., Comments of the New York Public Service Commission (NYPSC), PS Docket No. 11-82 (filed Aug. 8, 2011) at 5. The NYPSC's statement that it "has observed numerous outages in IP networks due to single points of failure at a centralized call processing or critical signaling facility, or a damaged fiber cable carrying concentrated traffic that often results in a more severe impact on customers than a similarly caused failure over the legacy circuit PSTN" fails to recognize the nature of internet protocol (IP) traffic, which allows for far more dynamicism than the PSTN. See, e.g., TIA Network Reliability Comments at 5 (noting that as the transition to an all-IP network occurs, outages due to single points of failure will increasingly become a problem of the past, addressing the Commission's concerns over single points of failure and silent failures).

⁵ TIA has noted in this docket that this undertaking should not counter the FCC's broadband deployment goals. See TIA Comments at 4.

appeal.⁶ Adopting rules now that will be affected by the outcome of these outstanding issues will result in increased regulatory uncertainty. As stated in our comment, TIA strongly believes that these issues should be resolved before proceeding further as proposed in the NPRM.⁷

b. Technical Feasibility

Second, the Commission should ensure that technical feasibility issues are fully addressed before extending reporting requirements to newer, evolving interconnected VoIP and broadband services. For example, TIA believes that a compelling example demonstrating the need for this effort by the Commission is how over-the-top interconnected VoIP services should monitor networks over which they have no control over.⁸ Comments on the record also validly note that many broadband ISPs do not have the capability to determine whether a specific user is affected by a localized outage, and that ISPs would then have trouble determining whether “special facilities” are affected⁹ – while the Commission could require a report for any outage that affects a locality that the “special facility” is located in, given that the “special facility” itself may not be experiencing an outage nonetheless, the value of this data would be dubious. Feasibility concerns such as these should be fully worked through before the implementation of any such rules.

⁶ See, e.g., ATIS Comments at 9; ACA Comments at 3-5; AT&T Comments at 1-5; Comments of Comcast Corporation, PS Docket No. 11-82 (filed Aug. 8, 2011) 7-8; CTIA Comments at 12-13; TIA Comments at 2-4; USTA Comments at 13-14.

⁷ See TIA Comments at 2-4.

⁸ See ACA Comments at 8-9.

⁹ See *id.* at 9.

c. Flexibility

Third, the Commission is strongly urged to incorporate as much flexibility into the reporting requirements as possible.¹⁰ For example, TIA supports the consideration of the proposal that there to be exemptions made for providers which do not meet initial performance or service obligations under their service-specific rules.¹¹ Specifically, at least for a reasonable phase-in period if not permanently, the collection of data on interconnected VoIP and broadband outages should be effected on a voluntary basis. If made voluntary, TIA is confident that the Commission will find itself experiencing similar benefits to those of the Disaster Information Reporting System (DIRS), with increased participation directly proportionate to the amount of outreach and educational efforts undertaken as well as collaboration in public-private settings.¹² If a voluntary phase-in approach is taken, this will at least allow for industry to make reasonable adjustments over time and to work with the Commission to refine any reporting program issues that may be found. TIA, along with others, strongly supported this in comments to the NPRM.¹³

¹⁰ See TIA Comments at 4-5.

¹¹ See Comments of WCS Coalition, PS Docket No. 11-82 (filed Aug. 8, 2011).

¹² See *The FCC's Public Safety & Homeland Security Bureau Announces a Roundtable Discussion: Introducing the Disaster Information Reporting System (DIRS) to the Next Generation of Communications*, Public Notice, DA 11-164 (Sept. 29, 2011). During this roundtable event, the Commission delivered a presentation noting the success of the DIRS, as well as specific anecdotal events.

¹³ See, e.g., ATIS Comments at 10, 16-18; AT&T Comments at 17, 18; TIA Comments at 4.

**III. IF THE COMMISSION PROCEEDS AS PROPOSED IN THE NPRM,
OUTAGE REPORTING THRESHOLDS SHOULD BE AS REALISTIC AND
REASONABLE AS POSSIBLE**

If the Commission chooses to extend outage reporting requirements to interconnected VoIP and/or broadband ISPs at this time, TIA urges for outage reporting thresholds to be adopted that are technically responsible and minimize burdens to reporting entities as much as possible. TIA does not represent the service providers that these rules would apply to, and again strongly emphasizes that the only licensed network operators should be held to reporting circumstances.¹⁴ TIA notes that the record includes proposals from commenters such as the ATIS Network Reliability Steering Committee (NRSC)¹⁵ and AT&T¹⁶ regarding proposed outage thresholds for interconnected VoIP calls. We commend detailed consideration of these metrics by the Commission in a public-private partnership setting. TIA emphasizes that parity should be maintained with the current reporting structure.

Consistent with the spirit of parity, TIA reiterates that outage thresholds should lie at a significant loss of functionality for primary uses, far away from temporary degradations in service that still allow for basic uses.¹⁷ Like in the case of interconnected VoIP, the record contains a proposal for broadband outage metrics¹⁸ which the Commission is encouraged the

¹⁴ See TIA Comments at 7-9.

¹⁵ See ATIS Comments at 13-15.

¹⁶ See AT&T Comments at 23-25.

¹⁷ See TIA Comments at 6.

¹⁸ See AT&T Comments at 26-29.

carefully consider, and work on with the service providers that would potentially be subject to extended outage reporting rules. TIA notes that the determination of these thresholds using Service Level Agreements (SLAs) may be useful, but the Commission must keep in mind that SLAs which are consistently employed are qualitative and subjective, and will include metrics that are far stricter than what constitutes a loss of functionality for primary uses. Different SLAs, as well as agreements between network operators generally and equipment vendors, has resulted in a wide array of standards for performance criteria. Again, through recognition of these principles, the Commission is urged to ensure, in a public-private partnership setting, that any outage reporting for broadband ISPs is in parity with outage reporting rules as they exist to the highest degree possible in order to allow for maximum compliance and the most useful data.

IV. CONCLUSION

For the foregoing reasons, TIA urges the Commission to adopt policies consistent with the recommendations above.

Respectfully submitted,

TELECOMMUNICATIONS INDUSTRY ASSOCIATION

By: /s/ Danielle Coffey

Danielle Coffey
Vice President, Government Affairs

Mark Uncapher
Director, Regulatory and Government Affairs

Brian Scarpelli
Manager, Government Affairs

TELECOMMUNICATIONS INDUSTRY ASSOCIATION
10 G Street N.E.
Suite 550
Washington, D.C. 20002
(202) 346-3240

October 7, 2011