

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

In the Matter of)
)
New Part 4 of the Commission's Rules)
Concerning Disruptions to) ET Docket No. 04-35
Communications)

MEMORANDUM OF ORAL EX PARTE PRESENTATION

On November 3, 2004, the following people met to discuss the new outage reporting order, In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications, ET Docket No. 04-35, Report and Order and Further Notice of Proposed Rulemaking, FCC 04-188 (Aug. 19, 2004): (a) Susan Bahr, Law Offices of Susan Bahr, PC, representing the Rural ILECs in this docket; (b) Jeff Goldthorp, Chief, Network Technology Division, OET; and (c) Kent Nilsson, Deputy Chief, Network Technology Division, OET.

We discussed the five issues listed on the enclosed summary which was distributed at the meeting. In particular, the conversation focused on the possibility that, for technical reasons, a carrier may not be able to file a report within the time specified in the rules. The Rural ILECs therefore suggest that the Commission issue a policy statement stating that it will refrain from taking enforcement action against such a carrier, as long as the carrier provides the report as soon as technically feasible.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, this memorandum is being filed via ECFS in the captioned docket. A copy of this memorandum is being sent via email to Jeff Goldthorp and Kent Nilsson.

Respectfully submitted,



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DETAILS OF FILING

1. Fax number
2. Internet URL
3. Address for courier delivery. Available 24/7?

TIME DEADLINES - For example, the two-hour rule in Section 4.9(f).

4. Feasibility Filing a report within the time specified (e.g., two hours) may not be feasible due to lack of communications capability and/or distances to be traveled.
 - a. See Rural ILECs Comments at 3 (noting possible technical infeasibility)
 - b. Suggestion solution OET policy statement that Commission will refrain from taking enforcement action against the carrier, as long as the carrier provides the notification/report as soon as practicable; issued pursuant to Section 0.241
5. Calculation Time should start when the outage has reached a reporting threshold.
 - a. For example, suppose a local exchange carrier serving 15,000 telephone numbers has an outage lasting 1 hour (i.e., 900,000 user-minutes). The two hours in Section 4.9(f) should start when the outage has lasted 1 hour, not when the outage is first discovered.
 - b. See Rural ILECs Comments at 5 (requesting clarification on this issue)
 - c. Compare
 - i. Section 4.9(f) stating that the notification is required within 120 minutes of the discovery of an outage that potentially affects 900,000 user- minutes
with
 - ii. Paragraph 75 of the R&O, referring to notification "within two hours of the provider's first knowledge of the outage," and paragraph 166, referring to reporting "within 2 hours of discovery of the outage"
 - d. Suggested solution OET clarification that time deadlines are calculated from when the outage has lasted long enough to become reportable; issued pursuant to Section 0.241