

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Resilient Networks)	PS Docket No. 21-346
)	
Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications)	PS Docket No. 15-80
)	
New Part 4 of the Commission’s Rules Concerning Disruptions to Communications)	ET Docket No. 04-35
)	

**COMMENTS OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (NTCA) hereby files these Comments pursuant to the Second Further Notice of Proposed Rulemaking and its accompanying Initial Regulatory Flexibility Analysis in the above-captioned proceedings.¹ In the order accompanying the FNPRM, the Federal Communications Commission (Commission) mandated Disaster Information Reporting System (DIRS) reporting for cable communications, wireline, wireless and VoIP providers. In the FNPRM, the Commission seeks comment on outage reporting by broadcast entities, satellite providers and FirstNet, similar reporting by Broadband Internet Access Service (BIAS) providers and the reporting of mobile recovery assets in DIRS. NTCA’s comments herein are limited to responding to the Commission’s questions and proposals regarding including BIAS providers within the mandatory reporting rules for the Network Outage Reporting System (NORS) and DIRS.

¹ *Resilient Networks, et.al.*, Second Report and Order and Second Further Notice of Proposed Rulemaking, PS Docket No. 21-346, *et. al.*, FCC 24-5 (Rel, Jan. 26, 2024) (Second R&O and/or FNPRM, as applicable).

As an initial matter, NTCA reiterates its concerns that obligations to collect and report information during an emergency situation, and on an ongoing basis, impose tremendous costs and burdens on small providers.² The Commission argues that “[t]he size of the provider a consumer uses should not affect a consumer’s right to public safety and potentially life-saving information, nor should small rural communities be less entitled to functioning networks that provide alerts and 911 capability than communities served by large providers.”³ NTCA agrees. NTCA’s members are committed to the reliability and resiliency of networks that serve their rural areas. However, requiring daily infrastructure reports does nothing to hasten repair or restoration of service to consumers and, in fact, compelling time-consuming reporting in the midst of emerging issues is more likely to divert resources from the very job of restoring service. A lesser burden that would accomplish the Commission’s goal of obtaining relevant information should be considered, particularly as the Commission considers expanding the pool of providers subject to the regulatory mandate.

A small provider’s ability to file a daily report is not always simply a matter of a person logging in and spending 10 minutes typing in a short report, as the Commission assumes.⁴ A provider’s ability to comply depends upon technical feasibility, the scope of an emergency and its impacts, and the needs of consumers and staff. There is also an opportunity cost in that it may take an employee who would otherwise be engaged in restoration efforts to complete the report, especially for smaller rural operators. Unlike large providers with multiple offices spread throughout the United States, small providers are situated in the communities they serve. When

² See, e.g., Comments of NTCA – The Rural Broadband Association, *Resilient Networks, et. al.*, PS Docket6 No 21-345, *et. al.* (filed Dec. 16, 2021)

³ Second R&O and FNPRM, ¶ 11.

⁴ Second R&O Appendix B, Final Regulatory Flexibility Analysis, ¶ 71.

disaster strikes, it often affects not just infrastructure, but also operations. Offices may be damaged, and employees' homes may be destroyed. Piling on additional regulatory considerations and compliance measures during a disaster would be counterproductive. And, in the immediate aftermath of a disaster, these small companies are immersed in the business of assessing damage and restoring service.

In its Second R&O, the Commission stated that it is taking action mandating DIRS to “ensure the nation’s communications providers are maintaining the resiliency of networks, advancing their ability to enhance network reliability, and supporting the tools necessary to mitigate and eliminate threats to their systems.”⁵ It added that such reporting will be enable the Commission to “determine whether the outages likely could have been prevented or mitigated had the service providers involved followed certain network reliability best practices, and whether such practices are employed broadly in the industry.”⁶ Once DIRS is activated in an area, providers are required to file reports daily, even in the event there is no change in status or circumstance from the previous day, or if they are fully operational and not affected by the event.⁷

The assessments the Commission seeks to do with the information will take place after the fact of a disaster and likely, after service restoration efforts are completed. While the Commission may be frustrated at not having daily information about a company’s challenges and restoration efforts, a daily infrastructure report will do little to inform the Commission and will

⁵ Second R&O and FNPRM, ¶ 6.

⁶ *Id.* ¶ 7.

⁷ Second R&O, ¶10.

be less useful than a more detailed and thoughtful report completed by the provider with a reasonable period of time after services are substantially restored.

The Commission also suggests that it mandated DIRS because not having the daily report “reduces the Commission’s situational awareness, including awareness of the availability of 911, emergency alerting and other emergency services in locations served by smaller providers.”⁸ Yet the Commission fails to explain why the network outage reporting requirements, which require covered providers to report information including the incident date/time and location details and whether 911 service was affected, failed to accomplish that goal, thus necessitating the DIRS mandate.

It is misguided for the Commission to consider extending its burdensome mandatory daily reporting requirements to additional service providers, including BIAS providers, particularly under the auspices of a desire to improve responsiveness to customer needs and demands in the event of an emergency. Nevertheless, if it is going to do so, the Commission should consider lesser burdensome reporting requirements for smaller providers, consistent with the agency’s required regulatory flexibility analysis.⁹ If the Commission seeks situational awareness to “effectively manage and mitigate the short-term and long-term impacts of disasters on communications networks, ultimately increasing network resiliency and availability during

⁸ Second R&O and FNPRM, ¶ 9.

⁹ The Regulatory Flexibility Act of 1980, as amended, requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include (among others) (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rules for such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities. 5 U.S.C. § 603(c)(1)-(4).

and after disasters to enable viable access to emergency communications”¹⁰ it should encourage providers who seek the agency’s assistance during a disaster to file according to a schedule that meets their needs and abilities, which may, or may not, be on a daily basis at their discretion. It could also then mandate a report from providers within a reasonable period AFTER the immediate needs of a disaster are addressed and service is restored. The Commission’s goals in collecting the information so that it may perform an analysis would be met, while simultaneously reducing the burden on small providers.

To the extent the Commission will require NORS and DIRS from BIAS providers, providers who already have an obligation to report with respect to other services offered using the same network should be required to do no more than “check a box” indicating that the outage also affects broadband subscribers in the same area. There is certainly no need to compel duplicative form-filling in the midst of a disaster or recovery efforts related thereto.

NTCA urges the Commission to consider lesser regulatory burdens for small providers. In the situation of an outage, it may be possible for the Commission to collect a single report after service is restored, rather than a daily report submitted during an emergency situation. As it completes its Regulatory Flexibility Analysis, NTCA implores the Commission to consider not just the time burden of a single report, but the collective burden of new regulatory requirements

¹⁰ Second R&O and FNPRM, ¶ 10.

on small providers. While any one report or regulatory requirement may appear inconsequential, the sum-total may be unworkable.

Respectfully submitted,



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May 13, 2024