

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, to investigate practices related to network reliability and requirements governing notification for service interruptions. ) Application No. C-4272 / PI-169 ) **COMMENTS OF COX NEBRASKA TELCOM, LLC** )

**INTRODUCTION**

Cox Nebraska Telcom, LLC (“Cox”) hereby files these comments for the Public Service Commission’s (“Commission’s”) consideration in Application C-4272 / PI-169, as provided in the Commission Order entered March 15, 2011. Cox appreciates the opportunity to provide written input on this subject through the filing of these comments and was grateful for the participation the Commission permitted the industry at the technical workshop held July 13, 2010. Cox will continue to work with the Commission as this docket proceeds to ensure service interruptions are minimized to the greatest extent possible and to create a reasonable notification process that adequately serves the Commission and the public interest.

**SIGNIFICANT CHANGES REGARDING NOTIFICATION OF OUTAGES ARE NOT WARRANTED**

Overall, Cox believes the reporting requirements contained in the Commission’s current rules are satisfactory and provide adequate notice concerning service interruptions and outages. There are two modifications that could improve the current rules. First, Cox believes carriers should be afforded the opportunity to provide notice to the Commission of service outage reports via secure electronic mail. Second, Cox supports

adopting a provision that allows for the submission of service outage information on a confidential basis, consistent with the FCC's processes.

Based on the record created in this proceeding to date, Cox does not see a significant need for any other widespread changes to the Commission's present outage reporting process, as there does not seem to be any strong justification or rationale that the current system is inadequate. It is true that the Commission's outage reporting requirements have not changed for many years, but that alone is not a sufficient reason to create regulations that would impose a substantial, new, costly regulatory burden on companies that stands to inhibit the development of increased competition and lessen investment, with little – if any – corresponding benefit to consumers or the public interest.

Since the mid 1980s, the telecommunications industry in the State of Nebraska has had a regulatory environment intended to foster competition between providers for the benefit of consumers through a regulatory approach that recognized the increasingly important role played by competition. The Commission's proactive regulatory policies have allowed Nebraskans to enjoy truly robust competition in the local telecommunications market in Omaha. But detailed service outage reports that exceed FCC requirements will move Nebraska backwards towards a more costly, regulated environment.

State-specific outage reporting was considered recently in the state of Nevada.<sup>1</sup> The Reliability Engineering and Network Assets Department for Cox Communications in Atlanta, Georgia estimated that rules requiring separate Nevada-specific outage reporting

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<sup>1</sup> *Rulemaking to Consider Revising the NV Admin. Code Sections Applicable to the Reporting of Accidents by Public Utilities and Requiring the Reporting of Service Outages*; NV PUC Docket No. 09-06017.

would cost Cox approximately \$208,000 to implement and \$192,000 in annual recurring costs.<sup>2</sup> Similar costs would have to be expended in Nebraska to comply with reporting regulations that differ from those already required by the FCC.

The Commission should refrain from seeking state-specific service outage data, as the cost incurred would far outweigh any potential benefits. While Cox believes the Commission's existing rules are sufficient, if the Commission desires to make changes to its reporting rules, Cox encourages the Commission to adopt the Federal Communications Commission ("FCC") service outage reporting requirements and mirror the FCC's format. Receiving the same information that is already being gathered would at least minimize carriers' obligations and the burden of compliance. In fact, the FCC's reporting requirements were implemented with the hope and expectation that they would discourage the creation of differing state-by-state requirements.<sup>3</sup>

The substantial cost required for companies to gather and create duplicative data and reports for the same outage does not make sense. Specialized state-level reporting effectively doubles the regulatory burden on companies when they are already complying with the federal requirements set forth in Part 4 of the FCC's rules.<sup>4</sup> Absent persuasive and convincing justification that specialized, state-specific outage reporting is necessary, the Commission should refrain from increasing regulatory burdens and imposing significant costs on the telecommunications industry.

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<sup>2</sup> Id. See Supplemental Comments of Cox Nevada Telcom, LLC, filed October 28, 2010.

<sup>3</sup> In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications; FCC 04-188, 19 FCC Rcd 16,830 ¶ 158 (2004). The Commission noted that its reporting requirements could provide a common framework that would be of assistance to state, commonwealth and territorial governments, and could reduce the number of outage reports that might otherwise be required by those jurisdictions.

<sup>4</sup> 47 C.F.R. §4.3 *et seq.*

## RESPONSES TO THE COMMISSION'S QUESTIONS

In the Order entered March 15, 2011 seeking further comment, the Commission asked interested parties to comment on several questions. Cox provides the following responses for the Commission's consideration.

- Cox works diligently to achieve network redundancy and diversity, and Cox is continually making infrastructure improvements and financial investments to ensure its network remains as robust and secure as possible. In this competitive era, Cox must maintain a state of the art network in order to provide quality customer service and to minimize customer churn. Cox is mindful that each of its customers has a choice to select among multiple providers of its telephone and its affiliates' other services, such as high-speed Internet and video.
- Cox has not experienced any weaknesses in the reliability or redundancy of any other provider's network, and as such has not reported any problems to any underlying carriers.
- The Commission should define "service outage" consistently with 47 C.F.R. 4.5. Outage is defined as a significant degradation in the ability of an end user to establish and maintain a channel of communication as a result of failure or degradation in the performance of a communications provider's network.
- The Commission's reporting rules should be consistent with FCC requirements. Reportable criteria and timelines should mirror the FCC's rules found in 47 C.F.R., Part 4. At most, an outage report should contain details of what happened, when the event started, when the event ended, who was impacted, how users were impacted, why it happened and what will prevent it from recurring.
- Information related to the impact of an outage on wireless, wireline competitive carriers, broadband connections, etc. cannot be readily ascertained particularly in a time of crisis. But even once service is restored and operations are functioning normally, carriers will be unable to accurately inform the Commission of the impact experienced by its competitors given they do not possess such confidential information. For example, while Cox may be able to ascertain that an outage affected Verizon Wireless, it has no way of knowing the number of subscribers on the Verizon network. Carriers also use alternate carrier's circuits to provide diversity and to increase redundancy and resiliency of their services. Alternate carrier outages may not impact a carrier's ability to continue to provide service, depending on the circuit architecture employed by the carrier. Finally, the Commission should be mindful of the limits of its jurisdictional authority, that being it does not have regulatory oversight over broadband, cable and wireless.

- Cox believes first responders are accurately and timely notified of outages. In Cox's service territory, which is the Omaha metropolitan area, fire and police are notified of services outages by the Public Safety Answering Points ("PSAPs") over an emergency paging network. The PSAPs do not use a traditional phone line to transmit notifications so a wireline service outage does not hinder the delivery of outage information. Furthermore, the public and media are accurately and timely made aware of widespread services outages through television and radio streaming via the Emergency Alert System. Cox believes the combination of the redundant network design of services to PSAPs and the current notification process is sufficient and that placing requirements on carriers to notify multiple sources beyond the Commission stands to increase confusion and the potential for the distribution of misinformation. Most significantly, a carrier's primary responsibility should be to restore service as quickly as possible, not focusing on complex notification requirements. Multiple notifications detract from the most important issue at hand, that being for the carrier to focus its energy and efforts on service restoration. Cox certainly understands that notice regarding the outage should be provided to the Commission as quickly as possible, but urges that a reasonable balance be struck by permitting carriers to report the existence of the outage to the Commission but that many other details, such as the root cause and any remedial action taken be provided after service is restored.
- Cox supports the Commission modifying its rules to permit Commission notification of outages through electronic means, such as secure electronic mail. The Commission may wish to consider using language that is broad enough to incorporate future technological advancements, rather than specifically identifying "e-mail" so that the need for rule changes to accommodate changes in technology can be minimized.

### **CONCLUSION**

Cox takes its responsibility to provide reliable, quality telecommunications services to its customers seriously. Cox's network is continually monitored and internal processes reviewed in efforts to consistently deliver the highest quality service possible. In addition, Cox participates on over a dozen boards, councils and committees dedicated to addressing service quality issues and network reliability, including the FCC's Communications Security, Reliability and Interoperability Council ("FCC CSRIC") and the Alliance for Telecommunications Industry Solutions Network Reliability Steering

Committee (“ATIS NRSC”), with the intent to utilize and incorporate in its own planning and operations the standards and “best practices” developed in such forums.

Cox understands the need for the Commission to have direct knowledge of communications network conditions that impair citizens’ ability to communicate and conduct business. Now that greater than 90 percent of all households (and virtually all businesses) also have wireless communications, the restraining effects of a particular wireline network outage are much more limited than even a few years ago. Regulations must also consider that a carrier’s primary responsibility is to restore its network while maintaining the safety of its employees. Redirecting key personnel to focus on outage reporting requirements will hinder these efforts. Since carriers are already reporting service interruption activity to the FCC, any regulations the Commission adopts should be consistent with the FCC in order to minimize regulatory burdens at a time when attention should be devoted towards service restoration.

Respectfully submitted this 22<sup>nd</sup> day of April, 2011.

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