

## FCC Extends Outage Reporting Requirements to Interconnected VoIP Providers

02.28.12 By K.C. Halm and James W. (Jim) Tomlinson

On Feb. 21, 2012, the Federal Communication Commission (FCC) released a [Report and Order](#) extending its outage reporting requirements to providers of interconnected voice over Internet protocol (VoIP) service. The outage reporting requirements previously applied only to providers of traditional, circuit-switched telephone services, but the FCC determined it was necessary to extend these rules to VoIP services given their pervasive deployment and widespread use to access emergency 911 services. The FCC at one point was considering enacting even more rigorous outage reporting standards for VoIP services, but instead elected to enact rules that largely mirror the requirements that apply to circuit-switched telephone service. The new rules will become effective 90 days after their approval by the Office of Management and Budget.

### Key Provisions of the Order

**Outage Defined.** The Order applies the current definition of an “outage” to VoIP services—a “significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider’s network.” The FCC further defined a “significant degradation” to mean a “complete loss of service or connectivity to customers.” The FCC considered—and rejected—the adoption of rules that would require reporting of less severe VoIP technical issues, such as packet loss, latency or jitter.

**Applicability to VoIP Providers.** The Order extends the FCC’s mandatory outage reporting rules to both facilities-based and non-facilities-based interconnected VoIP service providers. Non-facilities-based VoIP providers generally use broadband services provided by other providers to reach their customers. Although they have no control over these facilities and may have limited information about the cause of the outage, the FCC requires non-facilities-based providers to report significant outages where their call management systems have lost connectivity to their customer’s end user devices. If applicable, non-facilities-based VoIP providers may indicate in outage reports to the FCC that the cause of the outage was outside of the provider’s control.

**Initial Notification Requirements.** The Order requires VoIP providers to submit an electronic notification to the FCC in the following outage circumstances:

- Within *four hours* of discovering that they have experienced an outage of at least 30 minutes duration that potentially affects a 911 special facility<sup>1</sup> (in which case the VoIP provider also must notify by telephone or other electronic means the designated contact

at the affected 911 facility and convey all relevant information); and

- Within 24 hours of discovering that they have experienced an outage of at least 30 minutes duration that (i) potentially affects at least 900,000 user minutes<sup>2</sup> of interconnected VoIP service and results in complete loss of service; or (ii) potentially affects any special offices and facilities (i.e., those that support military installations, key government facilities, nuclear power plants or airports).

**Final Communications Outage Report.** The Order requires VoIP providers to submit a Final Communications Outage Report to the Commission within 30 days after discovering the outage.

**Confidential Treatment.** The individual outage reports of interconnected VoIP providers will be treated by the FCC on a presumptively confidential basis.

**Effective Date.** The new rules must be reviewed by the Office of Management and Budget under the Paperwork Reduction Act and will become effective 90 days after such approval.

Davis Wright Tremaine advises VoIP providers on the full array of FCC requirements pertaining to such services and can respond to any questions you may have regarding the foregoing FCC order or other issues arising under the FCC's outage reporting rules.

---

#### FOOTNOTES

<sup>1</sup> FCC rules define an outage that potentially affects a 911 special facility as one that occurs where: (1) there is a loss of communications of 30 minutes or more to Public Safety Answering Point (PSAP) affecting at least 900,000 user-minutes and the failure is neither at the PSAP nor on the premises of the PSAP; (2) there is a loss of 911 call processing capabilities in one or more E-911 tandems/selective routers for at least 30 minutes; (3) one or more end-office switches is isolated from 911 service for at least 30 minutes that affects at least 900,000 user-minutes; or (4) there is a loss of associated name and location information or a failure of location determination equipment for at least 30 minutes that affects at least 900,000 user-minutes.

<sup>2</sup> The common metric used by the FCC is the number of "user-minutes" potentially affected by an outage and is defined as the mathematical result of multiplying the outage's duration expressed in minutes and the number of users potentially affected by the outage. For example, a 30-minute outage that potentially affects 30,000 end users also potentially affects 900,000 user-minutes (30 minutes x 30,000 users = 900,000 user-minutes).

#### [Disclaimer](#)

This advisory is a publication of Davis Wright Tremaine LLP. Our purpose in publishing this advisory is to inform our clients and friends of recent legal developments. It is not intended, nor should it be used, as a substitute for specific legal advice as legal counsel may only be given in response to inquiries regarding particular situations.