



February 23, 2000

Via Email

Dear NRIC Council Member:

I am writing as the Chairman of the National Reliability and Interoperability Council V (NRIC), created under the Federal Advisory Committee Act, 5 U.S.C. App. 2 to urge your participation in NRIC's voluntary outage reporting trial. NRIC is a Federal Advisory Committee established after Congressional inquiries to the industry and the Federal Communications Commission (FCC) following several major network outages in the early 1990's resulted in the appearance that the industry was not adequately prepared for major network outages. NRIC advises the FCC on how the industry can optimize reliability and interoperability among the nation's networks.

Under existing FCC regulations (47 C.F.R. Section 63.100), wireline common carriers are required to report major network outages. Other communications service providers, such as cable telephony, satellite, Internet, wireless, etc. are not required by FCC rule to report major network outages. The FCC asked NRIC two years ago whether these additional communications providers should be required under FCC rules to report major outages.

Rather than suggesting that the FCC extend its rules to require reporting from providers in addition to wireline common carriers, NRIC recommended in January 2000 that the industry develop a one-year voluntary trial for reporting outages by additional providers that are likely to have significant public impact. That trial began in August 2001, with my first letter on this subject. Only one provider has voluntarily reported an outage since the trial began.

In order to demonstrate to the FCC and Congress that additional rules on Internet, satellite, cable telephony, wireless and other providers are unnecessary, the voluntary trial must succeed. Self-regulation is preferable to new rules in this area, but self-regulation must be effective to prevent the application of new rules. I therefore urge you to report your major network outages, as defined in the attached template, pursuant to the process laid out in the attached.

One of the concerns voiced by some members following the commencement of the trial is the treatment of the outage data by the National Communications System/National

Coordinating Center for Telecommunications (NCS), an entity within the Department of Defense. Under procedures developed for the voluntary trial, outage data would be reported to NCS for their analysis. Some in the industry have expressed concerns that once provided to NCS, outage data would not be protected against disclosure to third parties.

Outage data is proprietary information currently exempt under the Freedom of Information Act, 5 U.S.C. Section 552(b)(4), from third-party requests to the NCS for disclosure. Moreover, NCS is prohibited under the Trade Secrets Act, 18 U.S.C. Section 1905, from disclosing proprietary information. Nonetheless, to address industry concerns, NRIC has entered into an Agreement with NCS under which NCS agrees that it will evoke the proprietary information exemption under FOIA if presented with third-party requests for disclosure of outage data reported under the voluntary trial.

In addition, the Agreement prohibits disclosure of voluntarily-reported unscrubbed outage data (containing the provider's and vendors' names, and other provider-identifiable information) and obligates NCS to limit access to outage data reported under the voluntary trial to authorized personnel that "need to know" the contents of the outage reports. Under the voluntary trial procedures, the NCS will provide scrubbed outage data to the FCC and the FBI's National Infrastructure Protection Center (NIPC). The Agreement provides that if NCS wishes to provide unscrubbed data to the FCC or NIPC, it must obtain the written consent of the provider that reported the outage.

The Agreement has been reviewed and approved by FCC Chairman Michael Powell. We are hopeful that with this Agreement, members of the industry can more comfortably participate in the trial. Some in industry have also suggested that a request to participate in the trial would meet with better response if it came from Chairman Powell. We would prefer to demonstrate that the industry can effectively self-regulate, without the need to have the FCC request us to report major outages, or to adopt rules mandating that we do so. Providers of Internet, wireless, cable telephony, satellite, and other traditionally less regulated services have an opportunity to demonstrate that self-regulation, with a minimal FCC role, are possible in the area of network reliability and interoperability.

At the upcoming NRIC Council, on February 27, 2001, 2:00-4:00 pm in the FCC's Commission Meeting Room in Washington, D.C., I will ask that the Council adopt an extension of the voluntary trial from the current end-date of August 15, 2001, to November 15, 2001. The remainder of 2001 can then be used to analyze the success of the voluntary trial and to make a Recommendation to the FCC of whether it should continue to rely on self-regulation or extend its current rules to these less-regulated providers.

I hope you share with me a preference for self-regulation and I again urge you to participate in the trial. At the upcoming Council meeting, I will ask those present whether they intend to participate in the trial, and if not, their reasons for declining. I will also distribute copies of the Agreement to those NRIC Members present at the Council meeting. If you have any questions about the process for reporting outage data or how it

will be analyzed, please contact the NRIC V Focus Group Subgroup 2.B.1 Chair P.J. Aduskevicz at 908-234-5790 or the NRIC V Steering Committee Chair Patricia Paoletta at 703-762-0147.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Crowe".

James Q. Crowe
Chairman, NRIC V

Attachments: Voluntary Trial Criteria
 Voluntary Flow Chart
 Voluntary Trial Template

Cc: Chairman John McCain
 Chairman Billy Tauzin
 Chairman Michael Powell