

**FCC FACT SHEET\***  
**Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline**  
**Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications**  
**Implementation of the National Suicide Hotline Improvement Act of 2018**

Notice of Proposed Rulemaking - PS Docket Nos. 23-5 and 15-80; and WC Docket No. 18-336

**Background:**

On December 1, 2022, the 988 Suicide & Crisis Lifeline (988 Lifeline) suffered a nationwide outage lasting several hours. The 988 Lifeline facilitates suicide and crisis counseling through a national network of more than 200 crisis centers that help thousands of people overcome crisis situations every day.

In this *988 Outage Reporting NPRM*, the Federal Communications Commission (Commission) proposes to implement reporting and notice requirements for service outages potentially affecting 988 special facilities that are similar to those currently required when outages potentially affect 911 special facilities.

**What the Notice of Proposed Rulemaking Would Do:**

- The *988 Outage Reporting NPRM* proposes to require a new category of “covered 988 service providers” to report certain outages that potentially affect the 988 Lifeline to the Commission’s Network Outage Reporting System (NORS), similar to the Commission’s existing rules that require the reporting of outages that potentially affect 911.
- The Commission proposes to define an outage that potentially affects a 988 special facility as events that result in a loss of the ability of the 988 Suicide & Crisis Lifeline to receive, process, or forward calls for at least 30 minutes in duration.
- The *NPRM* seeks comment on whether to also require cable, satellite, wireless, wireline, and interconnected VoIP providers to report outages that potentially affect a 988 special facility to NORS and seeks comment on the appropriate reporting thresholds.
- The *NPRM* also proposes that covered 988 service providers provide notice to the Substance Abuse and Mental Health Services Administration (SAMHSA), the Veteran Administration (VA), and the 988 Lifeline administrator when an outage that potentially affects a 988 special facility occurs, including follow up notices for longer outages. The *NPRM* seeks comment on whether cable, satellite, wireless, wireline, and interconnected VoIP providers should also be required to provide this notice.
- The proposed rules are designed to ensure that the Commission, SAMHSA, the VA, and the 988 Lifeline administrator receive timely and actionable information about 988 service outages to hasten restoration of 988 Lifeline services and ensure the public is aware of alternate ways to contact the 988 Lifeline.

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\* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in PS Docket Nos. 13-75 and 15-80, and ET Docket No. 04-35, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR § 1.1200 *et seq.*

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of )
Ensuring the Reliability and Resiliency of the 988 ) PS Docket No. 23-5
Suicide & Crisis Lifeline )
Amendments to Part 4 of the Commission’s Rules ) PS Docket No. 15-80
Concerning Disruptions to Communications )
Implementation of the National Suicide Hotline ) WC Docket No. 18-336
Improvement Act of 2018 )

NOTICE OF PROPOSED RULEMAKING\*

Adopted: [ ]

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Comment Date: (30 days after date of publication in the Federal Register)

Reply Comment Date: (60 days after date of publication in the Federal Register)

By the Commission:

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\* This document has been circulated for tentative consideration by the Commission at its January 2023 open meeting. The issues referenced in this document and the Commission’s ultimate resolution of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairwoman has determined that, in the interest of promoting the public’s ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The Commission’s ex parte rules apply and presentations are subject to “permit-but-disclose” ex parte rules. See, e.g., 47 C.F.R. §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR §§ 1.1200(a), 1.1203.

## I. INTRODUCTION

1. The 988 Suicide & Crisis Lifeline (988 Lifeline) is a national network of more than 200 crisis centers that helps thousands of people overcome crisis situations every day. Dialing “9-8-8” serves as a crucial lifeline for people in need of immediate help. The ability to call 988 and reach help on a timely, consistent basis is of utmost importance to provide support and care to those who may be experiencing a suicidal crisis or mental health-related distress. On December 1, 2022, however, the 988 Lifeline suffered a nationwide outage that lasted several hours, rendering this vital service inaccessible to voice callers.<sup>1</sup> The Department of Health and Human Services announced the outage on Twitter, indicating they were “tracking a widespread national system outage at Intrado, a contractor for crisis providers that supports emergency response needs across the country, including the 988 Suicide & Crisis Lifeline...”<sup>2</sup> The outage left callers reliant on alternative means to contact the hotline, such as text or webchat hosted at 988lifeline.org, to which the public were directed by the Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration (SAMHSA)<sup>3</sup> once it was made aware of the outage.<sup>4</sup>

2. To address this serious issue, in this Notice of Proposed Rulemaking, we propose rules designed to ensure that the Federal Communications Commission (Commission) and those parties that provide life-saving crisis intervention services to people calling the 988 Lifeline, which includes the Veterans Crisis Lifeline, receive timely and actionable information about 988 service outages that potentially affect those services’ ability to meet the immediate health needs of people in suicidal crisis and mental health distress.

## II. BACKGROUND

3. According to the Centers for Disease Control and Prevention (CDC), the suicide rate in this country increased by 35% from 1999 to 2018.<sup>5</sup> In 2020, suicide was a leading cause of death in the United States for people aged 10 to 64 and the second leading cause of death among young people aged 10 to 24.<sup>6</sup> Suicide claimed the lives of nearly 46,000 Americans in 2020, resulting in about one death every 11 minutes.<sup>7</sup> And each year, many more Americans think about or attempt suicide. For every one

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<sup>1</sup> See, e.g., Associated Press, *Widespread outage shuts down 988 mental health hotline*, (Dec. 1, 2022), <https://apnews.com/article/health-mental-service-outages-government-and-politics-d39ecadd27541c7c37c71caff95f975e> (“Those trying to reach the line for help with suicide, depression, or other mental health crises [were] greeted with a message that [said] the line is ‘experiencing a service outage’”).

<sup>2</sup> Sarah Lovenheim (@HHS-Spox), Twitter (Dec. 1, 2022, 2:02 PM), [https://twitter.com/HHS\\_Spox/status/1598392052903026689?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1598392056510029824%7Ctwgr%5E9fd47fdbff186683a34e9b324826c395adb0af67%7Ctwcon%5Es2\\_&ref\\_url=https%3A%2F%2Fwww.washingtonexaminer.com%2Fnews%2F988-mental-health-hotline-shuts-down-amid-widespread-outage](https://twitter.com/HHS_Spox/status/1598392052903026689?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1598392056510029824%7Ctwgr%5E9fd47fdbff186683a34e9b324826c395adb0af67%7Ctwcon%5Es2_&ref_url=https%3A%2F%2Fwww.washingtonexaminer.com%2Fnews%2F988-mental-health-hotline-shuts-down-amid-widespread-outage).

<sup>3</sup> The Substance Abuse and Mental Health Services Administration (SAMHSA) is the agency within the U.S. Department of Health and Human Services responsible for overseeing the National Suicide Prevention Lifeline.

<sup>4</sup> See Amanda Seitz, Associated Press, *National 911 mental health hotline back up after outage*, (Dec. 2, 2022), <https://apnews.com/article/health-business-mental-government-and-politics-f94c8b5d5bc74e7df254bb5e846bf3a1>.

<sup>5</sup> Holly Hedegaard, Sally C. Curtin, and Margaret Warner, *Increase in Suicide Mortality in the United States, 1999-2018*, National Center for Health Statistics (NCHS) Data Brief No. 362, at 1 (Apr. 2020), <https://www.cdc.gov/nchs/data/databriefs/db362-h.pdf>.

<sup>6</sup> Centers for Disease Control and Prevention, *Suicide Prevention*, <https://www.cdc.gov/suicide/> (last visited Dec. 15, 2022). See also The Trevor Project, *Facts About LGBTQ Youth Suicide*, <https://www.thetrevorproject.org/resources/article/facts-about-lgbtq-youth-suicide/> (Dec. 15, 2021).

<sup>7</sup> Centers for Disease Control and Prevention, *Preventing Suicide Fact Sheet*, [https://www.cdc.gov/suicide/pdf/NCIPC-Suicide-FactSheet-508\\_FINAL.pdf](https://www.cdc.gov/suicide/pdf/NCIPC-Suicide-FactSheet-508_FINAL.pdf) (last visited Dec. 15, 2022).

person who dies by suicide annually, 316 people seriously consider suicide.<sup>8</sup>

4. Suicide also disproportionately impacts various at-risk populations. In 2020, there were 6,146 Veteran suicides – an average of 16.8 per day – and adjusting for population age and sex differences, the suicide rate for Veterans was 57.3% greater than for non-veteran U.S. adults.<sup>9</sup> LGBTQ youth are “four times more likely to seriously consider suicide, to make a plan for suicide, and to attempt suicide versus their peers.”<sup>10</sup> A large proportion of youths ages 13-24 have attempted suicide, with the proportion particularly high among Native/Indigenous youths or youths who are members of certain minorities. Twelve percent of white youth attempted suicide compared to 31% of Native/Indigenous youth, 21% of Black youth, 21% of multiracial youth, 18% of Latinx youth, and 12% of Asian/Pacific Islander youth.<sup>11</sup> The American Academy of Child and Adolescent Psychiatry has found that suicide rates in 10-19 year old Black males has increased by 60% over the past two decades.<sup>12</sup> Suicide rates are also higher among Native Americans as well as rural Americans. According to the CDC, American Indians/Alaska Natives have the highest rates of suicide of any racial or ethnic group in the United States, and the rates of suicide among this population have been increasing since 2003.<sup>13</sup> And in 2017, the suicide rate for the most rural counties in the country was nearly double the rate for the most urban counties.<sup>14</sup> Recent research also highlights that adults with disabilities are more likely to consider suicide. For example, a 2021 survey found that adults with disabilities are three times more likely to report suicidal ideation in the past month compared to persons without disabilities.<sup>15</sup> A 2020 study showed that college students who are deaf or hard of hearing are twice as likely to consider or attempt suicide than

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<sup>8</sup> 988 Suicide & Crisis Lifeline, *Suicide Prevention by the Numbers*, <https://988lifeline.org/by-the-numbers/> (last visited Dec. 15, 2022).

<sup>9</sup> U.S. Dept. of Veterans Affairs, Veterans Health Administration, Office of Mental Health and Suicide Prevention, National Veteran Suicide Prevention Annual Report at 7 (2022), <https://www.mentalhealth.va.gov/docs/data-sheets/2022/2022-National-Veteran-Suicide-Prevention-Annual-Report-FINAL-508.pdf>.

<sup>10</sup> The Trevor Project, *Estimate of How Often LGBTQ Youth Attempt Suicide in the U.S.*, <https://www.thetrevorproject.org/research-briefs/estimate-of-how-often-lgbtq-youth-attempt-suicide-in-the-u-s/> (March 11, 2021).

<sup>11</sup> The Trevor Project, *National Survey on LGBTQ Youth Mental Health 2021*, <https://www.thetrevorproject.org/survey-2021/> (last visited Dec. 15, 2022).

<sup>12</sup> American Academy of Child & Adolescent Psychiatry, *AACAP Policy Statement on Increased Suicide Among Black Youth in the U.S.*, [https://www.aacap.org/aacap/Policy\\_Statements/2022/AACAP\\_Policy\\_Statement\\_Increased\\_Suicide\\_Among\\_Black\\_Youth\\_US.aspx](https://www.aacap.org/aacap/Policy_Statements/2022/AACAP_Policy_Statement_Increased_Suicide_Among_Black_Youth_US.aspx) (March 2022).

<sup>13</sup> Rachel A. Leavitt, Allison Ertl, Kameron Sheats, Emiko Petrosky, Asha Ivey-Stephenson, and Katherine A. Fowler, *Suicides Among American Indian/Alaska Natives – National Violent Death Reporting System, 18 States, 2003-2014*, Morbidity and Mortality Weekly Report, Centers for Disease Control and Prevention, 67(8) (Mar. 2, 2018), <https://www.cdc.gov/mmwr/volumes/67/wr/mm6708a1.htm#>.

<sup>14</sup> See Centers for Disease Control and Prevention, *Disparities in Suicide*, <https://www.cdc.gov/suicide/facts/disparities-in-suicide.html#print>, (Nov. 2, 2022) *citing* Stone DM, Jones CM, Mack KA. *Changes in Suicide Rates – United States, 2018–2019*, MMWR Morb Mortal Wkly Rep 2021;70:261–268. DOI, <https://dx.doi.org/10.15585/mmwr.mm7008a1>; *see also* Letter from Brandon E. Presley, Commissioner, Northern District, Miss. Public Service Commission, to Hon. Ajit Pai, Chairman, FCC, WC Docket No. 18-336, at 1 (dated Feb. 26, 2020) (expressing concern about how the suicide rates are affecting the health and welfare of rural communities throughout Mississippi and across the nation).

<sup>15</sup> Mark É. Czeisler, Amy Board, JoAnn M. Thierry, Charles A. Czeisler, Shantha M.W. Rajaratnam, Mark E. Howard, and Kristie E.N. Clarke, *Mental Health and Substance Use Among Adults with Disabilities During the COVID-19 Pandemic – United States, February–March 2021*, Morbidity and Mortality Weekly Report, Centers for Disease Control and Prevention, 70(34), at 1142 (Aug. 27, 2021), <https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7034a3-H.pdf>.

students without hearing loss.<sup>16</sup>

5. *988 Suicide & Crisis Lifeline.* In 2005, SAMHSA, a public health agency housed in the U.S. Department of Health and Human Services, and Vibrant Emotional Health (Vibrant) a New York-based mental health non-profit, launched the National Suicide Prevention Lifeline, a 24/7 hotline accessed through a toll-free number (1-800-273-TALK). This hotline, now known as the 988 Suicide & Crisis Lifeline and administered by Vibrant (988 Lifeline administrator) under a grant from SAMHSA, is “available to people in suicidal crisis or emotional distress at any time of the day or night.”<sup>17</sup> Since 2005, the 988 Lifeline has received over 23 million calls from people in distress looking for support.<sup>18</sup>

6. *Veterans Crisis Line.* The Veterans Crisis Line is overseen by the Department of Veterans Affairs (VA) and offers Service Members, Veterans, and their families “supportive, timely, high quality crisis intervention services” on a 24/7 basis, nationwide.<sup>19</sup> Today callers can reach the Veterans Crisis Line by dialing 988 or by dialing the 988 Lifeline toll-free number and then pressing option 1.<sup>20</sup> Veterans can also access the Veterans Crisis Line via text at 838255 and via online chat by visiting [www.veteranscrisisline.net](http://www.veteranscrisisline.net). The Veterans Crisis Line consists of three call centers located in Canandaigua, New York; Atlanta, Georgia; and Topeka, Kansas.<sup>21</sup> Following completion of a call to the Veterans Crisis Line, an electronic consult may be submitted to the Suicide Prevention Coordinator located close to the Veteran, and the Veteran’s local Suicide Prevention Coordinator will respond to this consult within 24 business hours. Since its launch in 2007, the Veterans Crisis Line has answered more than 6.4 million calls, and since launching chat services in 2009 and text services in 2011, the Veterans Crisis Line has answered more than 772,000 chats and 269,000 texts.<sup>22</sup>

7. *988 Designated as the 3-digit Dialing Code and routing calls.* In 2018, Congress, recognizing the need to enhance access to SAMHSA’s and the VA’s suicide hotline services, directed the Commission, in coordination with SAMHSA and the VA, to analyze the effectiveness of the existing Lifeline and examine the feasibility of designating an easy to remember 3-digit dialing code to be used for the national suicide prevention and mental health crisis hotline system.<sup>23</sup> The Commission issued a report recommending that designating a 3-digit dialing code solely for the purpose of a national suicide prevention and mental health hotline would likely make it easier for Americans in crisis to access potentially life-saving resources and initiated a rulemaking to consider designating 988 as this 3-digit

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<sup>16</sup> Meghan L. Fox, Tyler G. James, and Steven L. Barnett, *Suicidal Behaviors and Help- Seeking Attitudes Among Deaf and Hard-of-Hearing College Students*, *American Association of Suicidology Journal*, 50(2), 387-396 (Apr. 2020).

<sup>17</sup> See National Suicide Prevention Lifeline, *Our Network*, <https://988lifeline.org/our-network/> (last visited Dec. 9, 2022) (explaining that the Lifeline “is a national network of over 200 local crisis centers, allowing the Lifeline to provide local resources with innovative best practices and quality care across the United States”).

<sup>18</sup> 988 Suicide & Crisis Lifeline, *Suicide Prevention By the Numbers*, <https://988lifeline.org/by-the-numbers/> (last visited Dec. 8, 2022).

<sup>19</sup> U.S. Dept. of Veterans Affairs, Veterans Health Administration, *Report to the Federal Communications Commission*, WC Docket No. 18-336, CC Docket No. 92-105 at 4 (Feb. 7, 2019) (VA Report).

<sup>20</sup> In 2007, SAMHSA and the VA partnered to establish 1-800-273-8255 (TALK) as the access point for the Veterans Crisis Line. SAMHSA Report at 3; see also VA Report at 4.

<sup>21</sup> VA Report at 4.

<sup>22</sup> Veterans Crisis Line DIAL 988 then PRESS 1, *About Us*, <https://www.veteranscrisisline.net/about/about-us/> (last visited Dec. 12, 2022).

<sup>23</sup> National Suicide Hotline Improvement Act of 2018, Pub. L. No. 115-233, 132 Stat. 2424 (2018) (Suicide Hotline Improvement Act).

code.<sup>24</sup> In 2020 Congress amended the Communications Act of 1934 (the Act) to designate 988 as the universal telephone number for the national suicide prevention and mental health crisis hotline system.<sup>25</sup> In response to this Congressional directive, the Commission adopted rules establishing 9-8-8 as the national suicide prevention and mental health crisis hotline and required all telecommunications carriers, interconnected Voice over Internet Protocol (VoIP) providers, and one-way VoIP providers to make any network changes necessary to ensure that people were able dial 988 to reach the 988 Lifeline by July 16, 2022.<sup>26</sup>

8. In August 2022, the first full month that all providers needed to ensure that people could dial 988 to reach the 988 Lifeline, over 256,000 calls were routed to the Lifeline via the 988 code, a 49% increase relative to August 2021.<sup>27</sup> In November 2022, the latest month for which data is available, 222,285 calls, 72,134 chats, and 52,922 texts (totaling 347,341 contacts) were routed to a 988 Lifeline counseling center after the person listened to the greeting (call) or a counselor (chat/text).<sup>28</sup> Over 317,900 interactions resulted in engagements with a counselor for an average contact time of 21 minutes.<sup>29</sup> In addition, in the same month, 55,457 988 Lifeline calls were offered to the Veterans Crisis Line, for a total of 402,798 routed contacts to the 988 Lifeline.<sup>30</sup> According to SAMHSA, “the Lifeline works... Almost 98% of people who call, chat or text the 988 Lifeline get the crisis support they need and do not require additional services in that moment.”<sup>31</sup>

9. *Calling the 988 Lifeline.* When someone dials 988, the call is routed by the calling party’s originating service provider – such as a wireline, wireless, or VoIP provider – to 1-800-273-8255, which is the toll free access number for the 988 Lifeline and Veterans Crisis Line.<sup>32</sup> Once the call is received at the 988 Lifeline, the caller encounters an interactive voice response system, where the caller selects routing options. A caller may press “1” for Veterans Affairs, which routes the call to the Veterans Crisis Line, press “2” for Spanish, or stay on the line to be routed to a specialist. The call is routed to the closest accredited local crisis center according to the caller’s area code, and if the closest center is unable to respond due to call volume is experiencing a disruption in service, or the center has temporarily

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<sup>24</sup> Federal Communications Commission, *Report on the National Suicide Hotline Improvement Act of 2018*, (WCB, OEA, Aug. 14, 2019).

<sup>25</sup> See National Suicide Hotline Designation Act of 2020, Pub. L. No. 116-172, 134 Stat. 832 § 3 (2020) (adding subsection (e)(4) to section 251 of the Communications Act of 1934, as amended (the Act)).

<sup>26</sup> *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Report and Order, 35 FCC Rcd 7373, 7385-92, paras. 28-36 and 41-45 (2020) (*988 Report and Order*) (Commission adopts centralized routing approach, which requires providers to route 988 calls to 1-800-273-8255 (TALK), the toll free access number for the Lifeline and the Veterans Crisis Line rather than routing calls directly to the local crisis centers.)

<sup>27</sup> See 988 Suicide & Crisis Lifeline, *Vibrant Emotional Health Report Aug 1-Aug 31, 2021*, [https://988lifeline.org/wp-content/uploads/2022/10/FINAL-2021-08\\_988-National-Report.pdf](https://988lifeline.org/wp-content/uploads/2022/10/FINAL-2021-08_988-National-Report.pdf) and *988 Suicide & Crisis Lifeline, Vibrant Emotional Health, Report Aug 1-Aug 31, 2022*, [https://988lifeline.org/wp-content/uploads/2022/10/FINAL-2022-08\\_988-National-Report.pdf](https://988lifeline.org/wp-content/uploads/2022/10/FINAL-2022-08_988-National-Report.pdf).

<sup>28</sup> SAMHSA Substance Abuse and Mental Health Services Administration, *988 Suicide & Crisis Lifeline, 988 Lifeline Performance Metrics*, <https://www.samhsa.gov/find-help/988/performance-metrics#answered> (Dec. 21, 2022).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> SAMHSA, *988 Suicide & Crisis Lifeline, 988 Frequently Asked Questions, Does calling/texting/chatting the 988 Lifeline really help?* <https://www.samhsa.gov/find-help/988/faqs> (last visited Dec. 19, 2022).

<sup>32</sup> 47 CFR § 52.200(b). The Commission’s rules do not require multi-line telephone systems (MLTS) to allow callers to reach the Lifeline by dialing 988 and no other digits. *988 Report and Order* at note 187.

removed itself the network, the system automatically routes callers to a backup center.<sup>33</sup> Trained 988 Lifeline counselors “assess callers for suicidal risk, provide crisis counseling, crisis intervention, engage emergency services when necessary, and offer referrals to mental health and/or substance use services.”<sup>34</sup> In addition to taking calls, 30 crisis centers answer online chats on a 24/7 basis.<sup>35</sup>

10. *Text-to-988*. In November of 2021, the Commission expanded the availability of critical mental health and crisis counseling resources by requiring covered text providers<sup>36</sup> to allow Americans to reach the 988 Lifeline by texting 988.<sup>37</sup> The Commission determined that “[t]ext messaging to the Lifeline will facilitate access to critical mental health resources for all, and particularly for at-risk populations who tend to prefer communicating through text rather than phone calls.”<sup>38</sup> The Commission highlighted that “individuals who send texts or online chats to the Lifeline both skew younger and are more likely to experience current suicidal ideation relative to the categories of individuals who typically access the 988 Lifeline via phone.”<sup>39</sup> The Commission’s rules require covered text providers to route covered 988 text messages to the 988 Lifeline’s current 10-digit number.<sup>40</sup> In May 2022, the Wireline Competition Bureau granted a waiver to allow covered text providers to route covered 988 text messages<sup>41</sup> to the Lifeline using the short code protocol without translation to the Lifeline’s current toll free access number, which allows return texts from the Lifeline to appear on consumer devices as coming from 988 rather than 1-800-273-TALK.<sup>42</sup>

11. *Outage Reporting and Notification to 911 Special Facilities*. Under Part 4 of the Commission’s rules, cable, satellite, wireless, wireline, interconnected VoIP and other communications providers are required to file reports with the Commission when they experience outages to their communications services that meet certain magnitude and duration thresholds.<sup>43</sup> Providers must notify the Commission’s Network Outage Reporting System (NORS) within 120 minutes of discovery of the outage, which must include: the name of the reporting entity; the date and time of onset of the outage; a brief description of the problem; service effects; the geographic area affected by the outage; and a contact name and contact telephone number by which the Commission’s technical staff may contact the reporting

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<sup>33</sup> See SAMHSA Report at 5.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> A covered text provider “includes all CMRS providers as well as all providers of interconnected text messaging services that enable consumers to send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones.” 47 CFR § 52.201(c)(3).

<sup>37</sup> *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Second Report and Order, 36 FCC Rcd 16901, para. 2 (2021) (*Text to 988 Second Report and Order*); see also 47 CFR § 52.201.

<sup>38</sup> *Text to 988 Second Report and Order* at para 10.

<sup>39</sup> *Id.* at para 12 (citing SAMHSA Aug. 4 *Ex Parte* Letter at 3).

<sup>40</sup> 47 CFR § 52.201(a).

<sup>41</sup> A “covered 988 text message means a 988 text message in SMS format and any other format that the Wireline Competition Bureau has determined must be supported by covered text providers.” 47 CFR § 52.201(c)(2).

<sup>42</sup> *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Order, DA-22-519 (WCB 2022).

<sup>43</sup> 47 CFR § 4.9. See also 47 CFR § 4.5(a) (defining an “outage” as “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”).

entity.<sup>44</sup> Providers must then submit an initial report within 72 hours of discovery of the outage that contains all pertinent information then available.<sup>45</sup> Finally, providers must submit a final report within 30 days of discovery that contains all pertinent information on the outage, including any information that was not contained in, or that has changed from the information provided in, the initial report.<sup>46</sup> The Commission monitors the reliability of communications services, including 911 networks, through these mandatory outage reporting requirements that, among other things, provide the federal government with situational awareness when outages occur, enable statistical analysis of outage trends, and inform recommendations to improve network reliability. This information is also shared with other agencies of the federal government, the 50 states, the District of Columbia, Tribal Nations, and the U.S. territories that have a need to know.<sup>47</sup>

12. In November of 2022, the Commission adopted a report and order updating its 911 notification rules.<sup>48</sup> For disruptions to 911, the Commission's adopted rules require providers that deliver traffic to 911 special facilities (i.e., covered 911 service providers)<sup>49</sup> and cable, satellite, wireless, wireline, and interconnected VoIP providers that handle other aspects of 911 call processing (Originating Service Providers (OSPs))<sup>50</sup> to notify 911 special facilities when an outage potentially affects the 911

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<sup>44</sup> See 47 CFR §§ 4.9(a), (c)(1)-(2), (d), (e)(1), (f), 4.11. *But see* 47 CFR § 4.9(g) (allowing interconnected VoIP service providers 240 minutes to submit a notification when the outage potentially affects a 911 special facility, and 24 hours for other outages).

<sup>45</sup> See 47 CFR §§ 4.9(a)(4), (c)(3), (d), (e)(4), (f)(4), 4.11. Interconnected VoIP service providers are not required to submit initial reports.

<sup>46</sup> See 47 CFR §§ 4.9(a)(4), (c)(3), (d), (e)(4), (f)(4), (g)(2), 4.11.

<sup>47</sup> See 47 CFR § 4.2.

<sup>48</sup> *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications, Improving 911 Reliability, New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket Nos. 15-80, 13-75, 04-35, Second Report and Order, FCC-22-88 (Nov. 18, 2022) (*PSAP Notification Order*). The rules the Commission adopted in the *PSAP Notification Order*, which require originating service providers (OSPs) to modify the means, timing, and frequency of their outage notification templates to conform with those provided by covered 911 service providers, and for covered 911 service providers and OSPs to adjust the content of their outage notifications to conform with the information template designed by ATIS, will require review of the new and modified information collection requirements by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). Following the completion of that review, the Bureau will publish a notice in the *Federal Register* announcing the relevant effective date, which will be 120 days after such publication. See *PSAP Notification Order* at para. 33. The rules the Commission adopted in the *PSAP Notification Order* requiring covered 911 service providers and OSPs to gather, update, and maintain accurate contact information for officials designated to receive outage notification at each 911 special facility in areas that they serve require review by OMB pursuant to the PRA. Following the completion of that review, the Bureau will publish a notice in the *Federal Register* announcing the relevant effective date, which will be 120 days after such publication. *PSAP Notification Order* at para 32.

<sup>49</sup> 47 CFR § 9.19(a)(4) (defining a "covered 911 service provider" as "[a]ny entity that [p]rovides 911, E911, or NG911 capabilities such as call routing, automatic location information (ALI), automatic number identification (ANI), or the functional equivalent of those capabilities, directly to a . . . [PSAP], statewide default answering point, or appropriate local emergency authority . . . ; and/or [o]perates one or more central offices that directly serve a PSAP"); *Improving 911 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket Nos. 13-75 and 11-60, Report and Order, 28 FCC Rcd 17476, 17488-91, paras. 36-43 (2013) (*911 Reliability Report and Order*) (discussing the definition of a covered 911 service provider); *id.* at 17529-29, para. 147 (explicitly declining to apply covered 911 service providers' obligations to other service providers).

<sup>50</sup> 47 CFR § 4.3(a), (d), (f), (g), (h). The *Third Notice* referred to cable, satellite, wireless, wireline, and interconnected VoIP providers collectively as "originating service providers." *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications, Improving 911 Reliability, New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket No. 13-75, Third Notice of Proposed

(continued....)



special facility.<sup>51</sup> Notifications must contain all available material information about the outage, which includes, among other information, the date and time when the incident began, the types of communications services affected, the geographic area affected by the outage, how the outage affects the 911 special facility, the expected date and time of restoration, and the best-known cause of the outage.<sup>52</sup> The adopted rules require providers to notify 911 special facilities by telephone and in writing via electronic means in the absence of another method mutually agreed upon in writing in advance by the 911 special facility and the provider.<sup>53</sup> Providers will be required to transmit initial 911 special facility notifications as soon as possible, but no later than 30 minutes after discovering that they have experienced an outage that potentially affects a 911 special facility;<sup>54</sup> and must communicate additional material information to potentially affected 911 special facilities as the information becomes available, but no later than two hours after the initial notification.<sup>55</sup> For outages lasting longer than two hours, service providers will need to continue to follow up with additional material information as soon as possible after it becomes available, which continues until the outage is completely repaired and service is fully restored.<sup>56</sup> Providers must also exercise special diligence to identify, maintain, and, on an annual basis, confirm current contact information appropriate for 911 outage notification for each 911 special facility that serves areas that the service provider serves.<sup>57</sup> In adopting this obligation, the Commission noted that timely, accurate, and actionable information is essential to ensuring that Public Safety Answering Points (PSAPs) have the means to determine how to engage with the public to best maintain access to emergency services during an outage.<sup>58</sup>

### III. DISCUSSION

#### A. Reporting 988 Special Facility Outages

13. The Commission's rules do not currently require notification when access to the 988 Lifeline is compromised or the 988 Lifeline system experiences an outage. To improve the resiliency of the 988 Lifeline system and ensure the Commission, SAMHSA, the VA, and the 988 Lifeline

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Rulemaking, 36 FCC Rcd 7860 (2021) (*Third Notice*). We continue to use that term here, but note that the communications services that they provide are not limited to call origination. See 47 CFR § 4.3 (identifying by type the various service providers covered by our Part 4 rules); 47 CFR § 4.9 (identifying outage reporting requirements by type of service provider). These providers are subject to our part 4 outage reporting rules including when they experience outage in a location other than their call origination networks (*e.g.*, in “middle mile” or wholesale transport network facilities).

<sup>51</sup> The Commission's rules provide that “[a]n outage that potentially affects a 911 special facility occurs whenever: (1) There is a loss of communications to PSAP(s) potentially affecting at least 900,000 user-minutes and: The failure is neither at the PSAP(s) nor on the premises of the PSAP(s); no reroute for all end users was available; and the outage lasts 30 minutes or more; or (2) There is a loss of 911 call processing capabilities in one or more E-911 tandems/selective routers for at least 30 minutes duration; or (3) One or more end-office or MSC switches or host/remote clusters is isolated from 911 service for at least 30 minutes and potentially affects at least 900,000 user-minutes; or (4) There is a loss of ANI/ALI (associated name and location information) and/or a failure of location determination equipment, including Phase II equipment, for at least 30 minutes and potentially affecting at least 900,000 user-minutes (provided that the ANI/ALI or location determination equipment was then currently deployed and in use, and the failure is neither at the PSAP(s) or on the premises of the PSAP(s)).” 47 CFR § 4.5(e); see also 47 CFR § 4.9(a)(4), (c)(2)(iv), (e)(1)(v), (f)(4), (g)(1)(i), (h).

<sup>52</sup> 47 CFR § 4.9(h)(2).

<sup>53</sup> 47 CFR § 4.9(h)(3).

<sup>54</sup> 47 CFR § 4.9(h)(4).

<sup>55</sup> 47 CFR § 4.9(h)(5).

<sup>56</sup> *PSAP Notification Order* at para. 23.

<sup>57</sup> 47 CFR § 4.9(h)(1).

<sup>58</sup> *PSAP Notification Order* at paras 19, 37.

administrator have timely outage information so they can provide the public with alternative ways to access the 988 Lifeline, we propose to require providers that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls to report outages that potentially affect the 988 Lifeline to the Commission's NORS. We seek comment on this proposal.

14. We believe, as in the 911 context, that improving situational awareness of significant network outage issues affecting 988 Lifeline services would provide the Commission (as well as other federal, state, Tribal, and territorial agencies with public safety responsibilities) with critical insight into the availability and reliability of a vital public health service. In the short term, we expect that these reporting requirements would improve public safety by allowing the Commission and other agencies to assess the magnitude of major outages and, in the long term, to identify network reliability trends and determine whether the outages likely could have been prevented or mitigated had the service providers followed certain network reliability best practices.<sup>59</sup>

15. We seek comment on how we should define the universe of providers that would be subject to this new requirement. We propose to define "covered 988 service providers" as those providers that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls. Are there additional entities that provide services or functionalities in the 988 call pathway that should be included in the definition of a covered 988 service provider? Would the category as drafted be limited solely to service providers that have contracted with the 988 Lifeline administrator to provide communications services and functionality in support of 988, or are there other service providers that would fall within the scope of that definition? If other providers would qualify as "covered 988 service providers" under our proposed definition, we seek comment on the nature of the services they provide and whether the public interest would be served by requiring them to report outages to the Commission.

16. We propose that 988 outage reports be filed with the Commission in NORS, consistent with current outage filing processes. In this regard, we expect that the use of the NORS database will minimize costs to providers of implementation as providers already file outage reports in NORS, and we expect that the vast majority of outages that potentially affect 988 special facilities are already being reported in this system. We also propose that covered 988 service providers be required to notify the Commission in this regard when the provider experiences a service outage that results in a loss of the ability of the 988 Suicide & Crisis Lifeline to receive, process or forward calls for at least 30 minutes. We seek comment on this proposal. Is this time frame too long or too short? Are there capabilities or call attributes related to 988, such as degradation to calls resulting from processing time outs or connection drops, that the Commission should consider?

17. In addition to our proposal that covered 988 service providers file outage notifications in NORS, we seek comment whether we should require cable, satellite, wireless, wireline, and interconnected VoIP providers to report outages that potentially affect the 988 Lifeline to the Commission's NORS. The Commission's existing rules that require the reporting of outages that potentially affect 911 include as outages triggering reporting obligations those that are associated with more general outages as well as those specific to the emergency number. We seek comment on whether we should adopt a similar requirement for 988. If we were to do so, what outage threshold should we consider, e.g., outages impacting the toll free access number lasting at least 30 minutes in duration and potentially affecting at least 900,000 user minutes? Should the absence of a reroute be a consideration? Are there any special characteristics of 988 calls that would make it more effective or efficient for the Commission to adopt alternative outage reporting thresholds that do not resemble the reporting requirements for other communications outages? If so, what are those differentiating characteristics and how should outage reporting requirements reflect those characteristics? For example, are there thresholds other than outages of 30 minutes in duration or potentially affecting at least 900,000 user-minutes that

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<sup>59</sup> See *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket No. 15-80, Second Report and Order, 36 FCC Rcd 6136, 6138, para.6 (2021) (Information Sharing Report and Order) (describing how the Commission analyzed NORS outage reports).

would be more appropriate for reporting on outages to 988 special facilities? Calls to 988 may require lengthier engagements with callers than would a typical 911 call; does this impact the appropriate threshold or counsel in favor of an alternative measure? Will using either the 30 minute outage duration and/or outages potentially affecting 900,000 user minutes result in too many outage reports for SAMHSA, the VA, or the 988 Lifeline administrator to manage and act upon?

18. We seek comment on whether outages affecting covered 988 texts should be reported, and if they should be reported what thresholds should apply and why? We ask for specific comments addressing the costs associated with requiring reporting of outages to covered 988 text messages.<sup>60</sup>

19. Is there information that is unique to 988 outages that we should require to be included in an outage report due to its value in understanding the cause or impacts of such an outage? Should service providers be required to explicitly indicate in their outage reports if an outage potentially affects 988 special facilities? Should the required deadlines for the filing of 988 outage reports be different from the deadlines for filing other types of outage reports? Should the reporting requirements be different for originating service providers that deliver calls to the 988 Lifeline in the first instance versus the covered 988 service provider that handles the call thereafter?

### **B. Providing Notice of Outages That Potentially Affect 988 Special Facilities**

20. We propose to require covered 988 service providers to notify 988 special facilities about outages that potentially affect a 988 special facility. We further propose that this outage notification obligation mirror our existing 911 special facility notification requirements, as discussed below. We seek comment on our proposal. Are there any differences between 911 and the 988 Lifeline that would warrant a different approach to 988 special facility notification? If so, what alternative notification requirements should be considered to ensure that 988 special facilities receive effective notifications about 988 Lifeline outages?

21. *Notification to 988 special facilities.* We propose to designate SAMHSA, the VA, and the 988 Lifeline administrator as 988 special facilities that will receive notifications of outages that potentially affect a 988 special facility. We believe this approach balances the benefit of allowing 988 Lifeline officials to take steps to maintain the public's access to crisis intervention services, while minimizing the notification burdens on service providers. We seek comment on this proposal. The Commission seeks comment on its belief that timely notice of a 988 Lifeline outage will assist SAMHSA, the VA, and the 988 Lifeline administrator to quickly inform the public of alternative ways of contacting the Lifeline while one type of communication is unavailable, such as texting or using the online chat function if calls are not getting through. The Commission does not propose to impose any obligations on SAMHSA or the VA. From what other sources might consumers seek information on a 988 outage?

22. We propose that reliance upon a third-party service provider to manage, route, or otherwise contribute to 988 call processing would not relieve covered 988 service providers of the obligation to provide notification to 988 special facilities under these proposed rules. This is consistent with our current treatment of 911 notification obligations.<sup>61</sup> We seek comment on this approach.

23. In addition to our proposal to require notification by covered 988 service providers, we seek comment on whether to require cable, satellite, wireless, wireline, and interconnected VoIP providers to make similar notifications.

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<sup>60</sup> The Commission notes that in the month of November 2022, the 988 Lifeline routed 52,922 text messages to a center and 52,337 texts were connected to a center and then engaged by a counselor, which is 99% of all texts received. In comparison, the 988 Lifeline routed 222,285 calls to a center and 195,083 calls were connected to a center and then engaged by a counselor, which is 88% of all calls received. See SAMHSA Substance Abuse and Mental Health Services Administration, 988 Suicide & Crisis Lifeline, *988 Lifeline Performance Metrics*, <https://www.samhsa.gov/find-help/988/performance-metrics#answered> (Dec. 21, 2022).

<sup>61</sup> *PSAP Notification Order* at para. 13.

24. *Notification to other entities.* We seek comment on whether there are additional entities that should receive notice of an outage that potentially affects a 988 special facility. For example, should the local crisis centers to which 988 calls are routed be considered 988 special facilities that should receive 988 outage notifications? If notifications are to be made to local crisis centers, should the notice be limited to the local crisis center(s) that are directly impacted by the specific 988 outage? If so, how would providers identify the appropriate local crisis center(s) to notify? Absent access to local crisis center contact information, how should that information be compiled and maintained? Should originating service providers experiencing an outage that potentially affects 988 special facilities be required to notify the covered 988 service provider of the outage? Are there steps these centers could take to maintain public access to their services that SAMHSA, the VA, and the 988 Lifeline administrator could not take alone? Should SAMSHA or the 988 Lifeline administrator effectuate or manage notifying the crisis centers of outages?

25. We seek comment on whether covered 988 service providers should be required to notify originating service providers about 988 outages, enabling originating service providers to voluntarily notify their customers of the outage and alternative ways to obtain crisis assistance.<sup>62</sup> Should originating service providers be required to provide notice to covered 988 service providers of 988 outages? Would these notice requirements provide another avenue for consumers to be made aware of 988 service outages? Would these notices provide for increased coordination between the carriers for remedying the outage and coordinating workarounds? Should PSAPs be notified so they can be prepared for call volume increases? If notice should be required to originating service providers and/or PSAPs, should the content of the notice be the same or different than the notice 988 special facilities receive? We encourage commenters to address the specific costs and benefits of providing notice to these entities.

26. *Content of 988 notification.* In the 911 context, the Commission determined that PSAPs should receive consistent, timely, and actionable notice of 911 service outages that potentially affect them in order to empower them to lessen the impacts of outages on the provision of emergency services by rerouting calls or communicating alternatives to the public.<sup>63</sup> We believe that it is similarly important that the information provided during a 988 outage is clear and actionable so that 988 special facilities can make swift judgments as to whether to inform the public about alternative means to contact mental health and suicide prevention services. As required for 911 outages, we propose that covered 988 service providers must provide the following material information in their 988 special facility outage notifications:

- An identifier unique to each outage;
- The name, telephone number, and email address at which the notifying service provider can be reached for follow-up;
- The name of the service provider(s) experiencing the outage;
- The date and time when the incident began (including a notation of the relevant time zone);
- The type of communications service(s) affected;
- The geographic area affected by the outage;
- A statement of the notifying service provider's expectations for how the outage potentially affects the 988 special facility (e.g., dropped calls);
- The expected date and time of restoration, including a notation of the relevant time zone;
- The best-known cause of the outage; and

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<sup>62</sup> *But see PSAP Notification Order* at paras. 25-26 (declining to require originating service providers and covered 911 service providers to directly notify their customers about 911 outages).

<sup>63</sup> *PSAP Notification Order* at para 2.

- A statement of whether the message is the notifying service provider's initial notification to the 988 special facility, an update to an initial notification, or a message intended to be the notifying service provider's final assessment of the outage.

We seek comment on this proposal. Are there differences between 911 and 988 that would warrant different content requirements for notifications? If we were to adopt rules for originating providers in addition to covered 988 service providers, should we require the same content requirements for notifications?

27. *Means of notification.* We propose to require covered 988 service providers to notify 988 special facilities of outages that potentially affect them by telephone and in writing by electronic means and by alternative means if mutually agreed upon in writing in advance by the 988 special facility and the service provider, which is the same manner of notification that originating service providers follow when notifying 911 special facilities of outages that potentially affect them.<sup>64</sup> We seek comment on our belief that dual notification will provide the greatest assurance that a 988 special facility, regardless of its size or capability, will receive the outage notification.

28. We seek comment on whether there are differences between notifications to 911 special facilities and 988 special facilities that warrant a different form of notification. Should providers have the same formal notification requirements as they do in the 911 setting? If their notifications should be different, why should they differ and what forms of notification should be adopted? In addition to our proposal for covered 988 service providers, should we apply similar requirements to originating cable, satellite, wireless, wireline, interconnected VoIP providers?

29. *Maintain contact information.* To better ensure that potentially affected 988 special facilities receive actionable notice about 988 outages, we propose to require that covered 988 service providers exercise special diligence to maintain accurate, up-to-date contact information for 988 special facilities, which includes the name and contact information of the person designated by each of these entities to receive notification of 988 outages. "Special diligence" is the diligence expected from a person practicing in a particular field of specialty under circumstances like those at issue.<sup>65</sup> The Commission has imposed this higher level of care in circumstances where a failure to take sufficient care can lead to particularly serious public harms.<sup>66</sup> In these circumstances, "special diligence" would require, for example, actively seeking to confirm the accuracy of contact information and not relying on the absence of a response. Once providers have a 988 special facility contact list in place, special diligence would require them to annually verify the accuracy of their contact list to maintain it up-to-date.<sup>67</sup> We seek comment on this proposal. In considering whether we should also designate local crisis centers to be 988 special facilities that are required to receive outage notifications, we seek comment on how providers can obtain contact information for these centers. Does SAMHSA or the 988 Lifeline administrator maintain an updated and accurate list of contacts at each of the counseling centers, and could these contacts also be designated to receive notice of 988 Lifeline outages? If so, can this list be made available to service providers? If this list was available, would it mitigate the burdens associated with providing these local crisis centers with notice of 988 outages? Parties should address the costs that are involved with keeping an up to date contact list. We seek comment on whether we should extend this requirement to originating

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<sup>64</sup> See *PSAP Notification Order* at paras. 17-18.

<sup>65</sup> See *Black's Law Dictionary* (11<sup>th</sup> ed., 2019).

<sup>66</sup> See, e.g., *Revocation of License of CS WIGO, Inc.*, Decision, 85 FCC 2d 196, 202, para. 16, n.26 (1981) ("[A] broadcaster must . . . exercise special diligence to ensure that the promotion or contest is not in fact conducted as a lottery."); *Application of KMAP, Inc.*, Memorandum Opinion and Order, 63 FCC 2d 470, 480, para. 34 (1977) ("special diligence" required to prevent "payola"); *Crowell-Collier Broadcasting Corp.*, 14 FCC 2d 358, 358 (1966) ("special diligence" required to prevent "conflict between . . . private interests and . . . roles as employees of the station").

<sup>67</sup> See *PSAP Notification Order* at para 32.

providers, in addition to our proposal for covered 988 service providers.

30. *Timing of initial notification.* We propose that covered 988 service providers be required to provide 988 outage notifications to potentially affected 988 special facilities as soon as possible, but no later than within 30 minutes of discovering that they have experienced, on any facilities that they own, operate, lease, or otherwise utilize, an outage that potentially affects a 988 special facility. We believe this 30-minute timeframe is consistent with notifications that are made to 911 special facilities, which we have found strikes a balance between the need for timely and actionable 911 outage information and the accuracy of that information.<sup>68</sup> We seek comment on whether this timeframe is appropriate for 988 outage notification and whether the reporting timeframe should be shortened or extended and if so, why.

31. *Follow-up notification.* We propose that covered 988 service providers communicate additional material information, which includes, among other information, the date and time when the incident began, the types of communications services affected, the geographic area affected by the outage, how the outage affects the 988 special facility, the expected date and time of restoration, and the best-known cause of the outage, to potentially affected 988 special facilities in notifications subsequent to the initial notification as soon as possible after that information becomes available, but no later than two hours after the initial contact. We propose that for outages lasting longer than two hours, covered 988 service providers would be required to continue to follow up with additional material information to 988 special facilities, SAMHSA, the VA, and 988 Lifeline administrator as soon as possible after discovery of the new material information, and continue providing additional material information until the outage is completely repaired and service is fully restored. Similar to the follow-up notification requirement for 911 special facilities, we believe this proposal will produce predictability in notification frequency that will significantly assist 988 special facilities in analysis and mitigation of network outages.<sup>69</sup> We seek comment on this proposal. We also seek comment on whether we should extend this requirement to originating providers.

32. *988 Lifeline Resiliency and Reliability.* The Commission's Part 4 rules require covered 911 service providers to annually file 911 reliability certifications,<sup>70</sup> which the Commission has found are necessary to ensure the 911 network remains resilient and robust as the use of the 911 network continues to expand.<sup>71</sup> The Commission seeks comment on whether covered 988 service providers should similarly be required to file 988 reliability certifications to ensure the network supporting the 988 Lifeline remains resilient and robust. What should those certifications entail, or to what resiliency actions should those certifications attest? Are there other measures or requirements the Commission could adopt that would further improve the resiliency and reliability of the 988 Lifeline?

33. *Legal Authority.* As noted above, in 2020, similar to its prior action with respect to 911, Congress further amended Section 251 of the Communications Act of 1934 to specify 988 as the universal telephone number for the National Suicide Prevention Lifeline.<sup>72</sup> Our proposed reporting and notice rules are intended to ensure the 988 Lifeline remains operational in accordance with the policies identified by Congress in that 2020 legislation and that any outages are quickly identified and reported, with notice provided to parties who would notify the public of alternative means to access crisis counselors, all of which promotes the safety of life and property. The Commission seeks comment on its legal authority to require the 988 outage reporting and 988 special facility notice requirements proposed

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<sup>68</sup> *Id.* at para 22.

<sup>69</sup> *See id.* at para. 23.

<sup>70</sup> *See* 47 CFR § 9.19(c) (requiring certification as to certain annual actions to ensure resiliency related to circuit diversity, backup power for certain network components, and network monitoring; or certification to alternative measures to mitigate risks associated with these elements).

<sup>71</sup> *See PSAP Notification Order* at para. 27.

<sup>72</sup> *See* National Suicide Hotline Designation Act of 2020, Pub. L. No. 116-172, 134 Stat. 832 § 3 (2020) (adding subsection (e)(4) to section 251 of the Communications Act of 1934, as amended).

herein, including its rulemaking authority pursuant to titles II and III of the Communications Act as well as its authority under Section 4(i) of the Communications Act, as amended, to “perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions”<sup>73</sup> which includes “the purpose of promoting safety of life and property....”<sup>74</sup>.

### C. Assessing the Benefits and Costs

34. We seek comment on the potential benefits and costs of the proposals addressed in this Notice. The 988 Lifeline directly benefits people in crisis and saves lives. When the 988 Lifeline is interrupted, people’s lives are put into jeopardy. In November 2022, the 988 Lifeline answered 195,083 calls, which is an average of over 6,500 answered calls per day.<sup>75</sup> We believe our proposed outage reporting requirements would improve public safety by providing the Commission and other impacted entities with situational awareness of 988 outages, including the magnitude and causes of those outages, and allow for the identification of network reliability trends that can help identify best practices that could improve network reliability by helping to mitigate future outages. Our proposed notice and contact information retention requirements are intended to ensure that when 988 calling is disrupted, parties responsible for the varying aspects of the 988 call pathway notify 988 special facilities, share critical information in a timely and standardized manner, and are motivated to hasten the timely restoration of 988 Lifeline services. We describe below how even a very small increase in the speed of restoration of access to 988 Lifeline services could provide benefits that outweigh the costs of adopting the proposed requirements.

35. The benefits of reducing suicide via 988 are driven by suicides’ staggering societal costs. In 2020, there were 45,979 deaths by suicide in the United States, which, as noted above, averages out to almost one death every 11 minutes.<sup>76</sup> For every suicide death, there were 4 hospitalizations for suicide attempts, 8 suicide-related emergency department visits, and 27 self-reported suicide attempts.<sup>77</sup> In addition to lives saved, time saving network outage protocols will also alleviate the devastating emotional toll wrought by suicide on victims’ families, friends, and communities.

36. Notifying SAMHSA, the VA, and the 988 Lifeline administrator of the disruption of access to 988 Lifeline services should allow these parties to manage the impact of outages on their operations, quickly notify the public of the 988 service outage, and promote alternative ways for people to access 988 Lifeline services while 988 Lifeline service is out, which may include notifying the public of alternative call numbers, or encouraging people to text to 988 or use the <https://988lifeline.org/> link to chat with a crisis management counselor. This, in turn, should enhance the 988 Lifeline’s ability to direct scarce resources toward mitigating outages rather than seeking out information to whether an outage is occurring, the scope of such an outage or its impact. The Commission can turn its attention to administering the 988 rules and the providers to fulfilling their service obligations. One of the benefits of implementing short dialing for calls to the Lifeline was to reduce the burdens on 911 and other emergency services arising from calls related to mental health and suicide. We believe that our proposed rules will further reduce the burden on 911 and other emergency services by promoting 988 reliability so that 988

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<sup>73</sup> 47 U.S.C. § 154(j).

<sup>74</sup> 47 U.S.C. § 151.

<sup>75</sup> SAMHSA Substance Abuse and Mental Health Services Administration, 988 Suicide & Crisis Lifeline, 988 Lifeline Performance Metrics, <https://www.samhsa.gov/find-help/988/performance-metrics#answered> (Dec. 21, 2022).

<sup>76</sup> Centers for Disease Control and Prevention, *Preventing Suicide Fact Sheet*, [https://www.cdc.gov/suicide/pdf/NCIPC-Suicide-FactSheet-508\\_FINAL.pdf](https://www.cdc.gov/suicide/pdf/NCIPC-Suicide-FactSheet-508_FINAL.pdf) (last visited Dec. 15, 2022).

<sup>77</sup> *Id.*

calls go through when callers need 988 service the most.<sup>78</sup> We seek comment on the benefits associated with our proposed rules and whether these requirements will help to preserve the public's continuity of access to the 988 special facilities that support them. Are there any other benefits to public health and safety that arise from our proposed rules that we have not described?

37. We also seek comment on the burdens associated with the proposed rules. To the extent that there are 988 outages that are not currently reported to the Commission, we expect that those would be outages experienced by covered 988 service providers that are responsible for receiving, processing, or forwarding 988 calls. We expect that these service providers are already submitting outage reports to the Commission related to other aspects of their operations, so initial compliance costs would be negligible. Assuming that one covered 988 service provider experiences a maximum of one reportable outage per month, we estimate an annual compliance cost for that one covered 988 service provider of \$1,000.<sup>79</sup> As a consequence, we expect the actual cost for implementation and compliance of the proposed outage reporting rules will be extremely low. We seek comment on our analysis.

38. With regard to the proposed requirements to maintain updated contact information for 988 special facilities and to notify those facilities about outages that affect them, we expect that the costs of compliance will also be relatively low when compared to the benefits to the public. We estimate a one-time industry-wide cost of \$56,000 to create an e-mail survey to biannually solicit 988 special facility contact information.<sup>80</sup> We do not expect any costs arising from the creation or updating of outage

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<sup>78</sup> In the Commission's proceeding designating 988 as the 3-digit dialing code for the Lifeline, the North American Numbering Council (NANC) issued a report considering each existing N11 code, and while the Commission determined designating a unique 3-digit code was superior to using an existing code, NANC determined that "[a]llowing 211 operators to act as a first line of defense in suicide prevention calls might alleviate the pressure on 911 call takers and allow the caller to obtain assistance for other non-suicide related services in addition to mental health referrals." *Report and Recommendation on the Feasibility of Establishing a 3-Digit Dialing Code for a National Suicide Prevention and Mental Health Crisis Hotline* from Travis Kavulla, Chair, North American Numbering Council, to Kris Anne Monteith, Chief, FCC Wireline Competition Bureau, WC Docket No. 18-336, CC Docket No. 92-105, at 7 (May 10, 2019) (NANC Report).

<sup>79</sup> We estimate a maximum of two hours total time would be necessary to submit all of the required reports to the Commission. We estimate that each notification would take 15 minutes to complete, each initial report would take a maximum of 45 minutes to complete, and each final report would take a maximum of one hour to complete. We assume a labor cost of \$43 per hour for a miscellaneous media and communication worker who would likely be the type of employee responsible for preparing and submitting outage reports. Our total cost estimate = \$43/hr x 2 hrs x one reportable outage per month x 12 months = \$1,032, rounded to \$1,000.

We use the job category of "Miscellaneous Media and Communication Worker" in this estimate. See Economic News Release, Bureau of Labor Statistics, National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2021 (May 2021) <https://www.bls.gov/news.release/ocwage.t01.htm>. We begin with the average hourly wage [\$28.68] and multiply by 1.5 to account for benefits [\$43.02] then round down to \$43. According to Bureau of Labor Statistics, benefits (including paid leave, supplementary pay, insurance, retirement and savings, and legally required benefits) add approximately 50% to compensation in the information industry as a whole. See Bureau of Labor Statistics, Economic News Release, Table 4. Private industry workers by occupational and industry group, Information Industry (September 2022).

<sup>80</sup> To create an e-mail survey, we estimate that for each of 3,124 providers, one worker earning \$36/hour would spend ½ hour for a total of \$56,000 [\$36/hour x ½ hour x 3,124 = 56,232, rounded down to \$56,000]. See, e.g., Anthony Smith, *How to Create a Survey in Outlook*, <https://www.techwalla.com/articles/how-to-create-a-survey-in-outlook> (last visited Mar. 12, 2020) (requiring five steps to create an e-mail survey).

We use the job category of "Communications Equipment Operators, All Other" in this and other estimates, to avoid under-estimating labor costs for tasks that are likely performed by lower-paid workers. See Economic News Release, Bureau of Labor Statistics, National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2021 (May 2021) <https://www.bls.gov/news.release/ocwage.t01.htm>. We begin with the average hourly wage [\$23.79] and multiply by 1.5 to account for benefits [\$35.69] then round up to \$36. According to Bureau of Labor Statistics, benefits (including paid leave, supplementary pay, insurance,

(continued....)



notification templates, as the 988 outage notification requirements that we propose today share the same content and timing as the 911 outage notification requirements with which service providers already comply. We estimate maximum annually recurring costs of \$1,354,000, which consist of \$1,326,000 for notifying 988 special facilities of outages that potentially affect them pursuant to the standards that we propose today<sup>81</sup> and \$28,000 for soliciting appropriate contact information for outage notification from 988 special facilities.<sup>82</sup> We expect that no costs will be incurred related to identifying the 988 special facilities that could potentially be affected by an outage, as we have proposed that the same three special facilities (SAMHSA, the VA, and the 988 Lifeline administrator) be notified regardless of the geographic area affected by the outage.

39. We seek comment on this analysis. How many outages that potentially affect 988 special facilities are estimated to be occurring annually that would be subject to the notification requirements that we propose today, and what is the basis for that estimate? In the event that we were to designate local crisis centers as 988 special facilities, we seek comment on the costs related to the notification of those facilities. Are there steps that can be taken to minimize those costs, such as SAMHSA or the 988 Lifeline administrator agreeing to regularly share updated lists of designated contacts directly with service providers so the local crisis centers do not need to be contacted individually? To what extent have service providers already implemented a notification framework for 911 or other services that would reduce any costs associated with our proposal? We seek comment on the extent to which service providers have set up automated triggers for other forms of notifications, whether they may be able to leverage automatic triggers they may already have in place for PSAP notifications, and what costs would be involved.

40. We seek comment on additional benefits and costs as well as alternative quantifications of benefits and costs from our proposed rules. We recognize that it is difficult to quantify the value of continuity of access to 988 service, which includes its capacity to save lives and mitigate and prevent injuries. However, we believe the considerable public safety value of the proposals adopted today as

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retirement and savings, and legally required benefits) add approximately 50% to compensation in the information industry as a whole. See Bureau of Labor Statistics, Economic News Release, Private industry workers by occupational and industry group (2021).

We estimate that there are 3,124 cable, satellite, wireless, wireline, and interconnected VoIP providers in the United States. This consists of four satellite providers, 947 wireline providers, 423 wireless providers, and 1,750 interconnected VoIP-related entities. Our satellite figure consists only of those service providers that offer service that could potentially affect 911. See generally, *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102 (including five satellite providers' 911 Post-Implementation Status Report filings in the Commission's Electronic Comment Filing System regarding the deployment of 911 call center service and the forwarding of 911 calls to PSAPs). Our wireless figure is calculated based on staff analysis of 2022 Form 499-A data, consisting of holding companies and affiliated entities who report end-user mobile telecommunication revenue. Our wireline and interconnected VoIP-related figures are sourced from the June 2021 Voice Telephone Services Report. See also FCC, *Voice Telephone Services Report*, <https://www.fcc.gov/voice-telephone-services-report> (last visited Dec. 22, 2022). Because cable providers generally rely on either (wireline) switched access or interconnected VoIP to provide 988-related services, these providers are already subsumed by our other estimates.

<sup>81</sup> To notify 988 special facilities, we propose that a communications equipment operator, earning \$34/hour, would spend a total of 1 hour per outage to send out two notifications for each of an estimated 39,000 outages, for a total of \$1,326,000 [ $\$34/\text{hour} \times 1 \text{ hour} \times 39,000$ ]. Our estimate of 39,000 outages is based on the incidence of outages that potentially affected 911 in NORS reports during 2021. We assume that the maximum number of 988 outages that would require notifications annually will not exceed the number of 911 outages. We expect that our estimate of the cost will reduce significantly over time as the Commission collects better data on the actual number of 988 outages experienced annually.

<sup>82</sup> To transmit an e-mail survey, we estimate that for each of the 3,124 affected carriers, one worker, earning \$36/hour, would spend at most 15 minutes each year to e-mail the survey of contact information to the three 988 special facilities, and to follow up with those special facilities if needed, for a total of \$25,000 [ $\$36/\text{hour} \times 0.25 \text{ hours} \times 3,124 = \$28,116$ , rounded down to \$28,000]

described above will exceed the limited costs of implementation. We seek comment on our assessment. We encourage commenters to quantify both specific costs and benefits that would result from adoption of the proposed notice and reporting requirements.

#### **D. Promoting Digital Equity**

41. The Commission, as part of its continuing effort to advance digital equity for all,<sup>83</sup> including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations<sup>84</sup> and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority.

#### **E. Timelines for Compliance**

42. We propose to set a compliance date for these proposed rules at the later of (1) 30 days after the Commission issues a Public Notice announcing that OMB has completed review of any new information collection requirements associated with the adopted Report and Order; or (2) 90 days after the publication of final rules in the Federal Register. We believe that the revisions proposed today constitute only minor changes to existing procedures and it will take a modest amount of time for covered 988 service providers to adjust their processes to meet the proposed rules because, as noted above, the proposed requirements are closely aligned with the notice and reporting requirements for 911 network outages. We seek comment on this assessment. We also seek comment on whether allowing additional time for small- and medium-sized businesses to comply with the requirements we propose today would serve the public interest.

### **IV. PROCEDURAL MATTERS**

43. *Paperwork Reduction Act.* This document contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

44. *Ex Parte Rules - Permit-But-Disclose.* This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>85</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the

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<sup>83</sup> Section 1 of the Communications Act of 1934 as amended provides that the FCC "regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex." 47 U.S.C. § 151.

<sup>84</sup> The term "equity" is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. See Exec. Order No. 13985, 86 Fed. Reg. 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021).

<sup>85</sup> 47 CFR §§ 1.1200 *et seq.*

Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with Rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

45. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>86</sup> requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."<sup>87</sup> Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible impact of the rule and policy changes contained in this *Notice of Proposed Rulemaking*. The IRFA is set forth in Appendix B.

46. *Filing Requirements—Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.<sup>88</sup>
- During the time the Commission's building is closed to the general public and until further

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<sup>86</sup> See 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601–612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>87</sup> *Id.*

<sup>88</sup> See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (2020).

notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

47. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice).

48. *Additional Information.* For further information regarding Notice of Proposed Rulemaking please contact Tara B. Shostek, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, (202) 418-8130, or by email to [Tara.Shostek@fcc.gov](mailto:Tara.Shostek@fcc.gov).

## V. ORDERING CLAUSES

49. ACCORDINGLY IT IS ORDERED that, pursuant to the authority contained in sections 1, 4(i), 4(j), 4(n), 201(b), 214, 218, 251(e)(3), 251(e)(4), 301, 303(b), 303(g), 303(r), 307, 309(a), 332, and 403, of the Communications Act of 1934, as amended, and sections 3(b) and 6 of the Wireless Communications and Public Safety Act of 1999, as amended, 47 U.S.C. §§ 151, 154(i), 154(j) 154(n), 201(b), 214, 218, 251(e)(3), 251(e)(4), 301, 303(b), 303(g), 303(r), 307, 309(a), 332, 403, 615, 615a-1, the National Suicide Hotline Improvement Act of 2018, Pub. L. No. 115-233, 132 Stat. 2424 (2018), and the National Suicide Hotline Designation Act of 2020, Pub. L. No. 116-172 (2020), this *Notice of Proposed Rulemaking* IS hereby ADOPTED.

50. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A—Proposed Rules**

The Federal Communications Commission proposes to amend chapter I of title 47 of the Code of Federal Regulations as follows:

**PART 4 – DISRUPTIONS TO COMMUNICATIONS**

1. The authority citation for part 4 continues to read as follows: [TO BE INSERTED PRIOR TO FEDERAL REGISTER SUMMARY PUBLICATION]

**Section 4.3 is amended by adding paragraph (j) to read as follows:**

**§ 4.3 – Communications providers covered by the requirements of this part.**

\* \* \* \* \*

(j) **Covered 988 Service Providers** are providers that provide the 988 Suicide & Crisis Lifeline with capabilities such as the ability to receive, process, or forward calls.

**Section 4.5 is amended by adding paragraph (f) to read as follows:**

**§ 4.5 – Definitions of outage, special offices and facilities, 911 special facilities and 988 special facilities.**

\* \* \* \* \*

(f) An outage that potentially affects a 988 special facility occurs whenever There is a loss of the ability of the 988 Suicide & Crisis Lifeline to receive, process, or forward calls for at least 30 minutes duration.

**Section 4.9 is amended by revising paragraphs (a)(4), (c)(2)(iv), (e)(1)(v), (f)(4), (g)(1)(i), and (h) to read as follows:**

**§ 4.9 – Outage reporting requirements - threshold criteria.**

(a) *Cable*.

\* \* \*

(4) Potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) of this section. Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than 30 days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with all of the requirements of § 4.11.

\* \* \* \* \*

(c) *Satellite*.

\* \* \*

(2)

\* \* \*

(iv) Potentially affecting a 911 special facility (as defined in § 4.5(e)) or potentially affecting a 988 special facility (as defined in § 4.5(f)), in which case the affected facility shall be notified in the manner described in paragraph (h) of this section.

\* \* \* \* \*

(e) *Wireless.*

\* \* \*

(1) \* \* \*

(v) That potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) of this section.

\* \* \* \* \*

(f) *Wireline.*

\* \* \*

(4) Potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) of this section. Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than 30 days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with all of the requirements of § 4.11.

(g) *Interconnected VoIP Service Providers.* (1) All interconnected VoIP service providers shall submit electronically a Notification to the Commission:

(i) Within 240 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) of this section; or

\* \* \*

(i) *988 Special Facility Outage Notification.* All covered 988 service providers shall notify any official at a 988 special facility who has been designated by the affected special facility as the provider's contact person(s) for communications outages at the facility of any outage that potentially affects that 988 special facility (as defined in § 4.5(f)) in the following manner:

(1) *Appropriate Contact Information.* To ensure prompt delivery of outage notifications to 988 special facilities, covered 988 service providers shall exercise special diligence to identify, maintain, and, on an annual basis, confirm current contact information appropriate for outage notification for each 988 special facility that serves areas that the service provider serves.

(2) *Content of Notification.* Covered 988 service providers' outage notifications must convey all available material information about the outage. For the purpose of this paragraph (h), "material information" includes the following, where available:

(A) An identifier unique to each outage;

(B) The name, telephone number, and email address at which the notifying 988 service provider can be reached for follow up;

(C) The name of the covered 988 service provider experiencing the outage;

(D) The date and time when the incident began (including a notation of the relevant time zone);

(E) The types of communications service(s) affected;

(F) The geographic area affected by the outage;

(G) A statement of the notifying covered 988 service provider's expectations for how the outage potentially affects the special facility (e.g., dropped calls or missing metadata);

- (H) Expected date and time of restoration, including a notation of the relevant time zone;
- (I) The best-known cause of the outage; and
- (J) A statement of whether the message is the notifying covered 988 service provider's initial notification to the special facility, an update to an initial notification, or a message intended to be the service provider's final assessment of the outage.
- (3) *Means of Notification.* Covered 988 service providers' outage notifications must be transmitted by telephone and in writing via electronic means in the absence of another method mutually agreed upon in writing in advance by the special facility and the service provider.
- (4) *Timing of Initial Notification.* Covered 988 service providers shall provide an outage notification to a potentially affected 988 special facility as soon as possible, but no later than within 30 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage that potentially affects a 988 special facility (as defined in § 4.5(f)).
- (5) *Follow-up Notification.* Covered 988 service providers shall communicate additional material information to potentially affected 988 special facilities in notifications subsequent to the initial notification as soon as possible after that information becomes available, but providers shall send the first follow-up notification to potentially affected 988 special facilities no later than two hours after the initial contact. After that, covered 988 service providers are required to continue to provide material information to the special facilities as soon as possible after discovery of the new material information until the outage is completely repaired and service is fully restored.

## APPENDIX B

## Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (*Notice*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Notice*. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>2</sup> In addition, the *Notice* and IRFA (or summaries thereof) will be published in the *Federal Register*.<sup>3</sup>

**A. Need for, and Objectives of, the Proposed Rules**

2. In this proceeding, the Commission takes steps to improve the reliability and resiliency of telecommunications networks nationwide and 988 Lifeline network specifically, so that the American public can continue to reach the 988 Suicide & Crisis Lifeline (988 Lifeline) without undue delay or disruption. The *Notice* seeks comment on 988 Lifeline outage reporting and notification requirements that are similar to the Commission's rules for reporting 911 outages that would be applicable to originating service providers<sup>4</sup> and proposes outage reporting and notification requirements for a new category of "covered 988 service providers." The new "covered 988 service providers" category would be defined as those providers that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls. Both the originating service providers and the covered 988 service providers would be required to file 988 outage reports with the Commission, in the Commission's Network Outage Reporting System (NORS).

3. The *Notice* seeks comment on whether cable, satellite, wireless, wireline, and interconnected VoIP providers should be required to notify 988 special facilities about outages that affect these facilities pursuant to notification obligations that mirror the Commission's existing 911 special facility notification requirements. The *Notice* seeks comment on the appropriate threshold to trigger reporting, including whether it should include outages potentially affecting at least 900,000 user-minutes and/or the outage lasts 30 minutes or more, or whether the absence of a call reroute should be a factor. For covered 988 service providers, the *Notice* proposes to require these providers notify the Commission of outages resulting in a loss of the ability of the 988 Suicide & Crisis Lifeline to receive, process, or forward calls for at least 30 minutes in duration.<sup>5</sup> The *Notice* also proposes to designate the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA), the Department of Veterans Affairs (VA), and the 988 Lifeline administrator as the 988 special facilities that must be notified of an outage that potentially affects a 988 facility.

4. Additionally, for covered 988 service providers the *Notice* proposes that the 988 outage notification to 988 special facilities include specific content requirements, the means by which notification must be made, the timing to file the initial and follow-up notice, and the filing of an annual verification that a provider's information for 988 special facilities is up to date. Further, in the *Notice* we

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-12, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> See 5 U.S.C. § 603(a).

<sup>3</sup> *Id.*

<sup>4</sup> The reporting requirements would be applicable to cable, satellite, wireless, wireline, and interconnected VoIP providers (jointly referred to as "originating service providers").

<sup>5</sup> A service provider would remain directly responsible to provide the 988 special facilities notification even where it relies on a third-party service provider to manage, route, or otherwise contribute to 988 call processing.



set a proposed compliance deadline of the later of 30 days after the Commission issues a Public Notice announcing that OMB has completed review of any new information collection requirements associated with the final rules adopted in a Report and Order; or (2) 90 days after the publication of final rules in the Federal Register. We seek comment on all of the proposals we make in the *Notice*, and on the benefits and costs analyses we discuss for the proposals. We also seek comment on applying similar provisions to originating service providers as to notice parameters and implementation timeframes.

5. The Commission believes the significant public safety benefits which include the capacity to save lives, mitigate, and prevent injuries furthers the public interest and outweighs the implementation costs for service providers if the proposed rules are adopted. Since the 988 outage notification requirements proposed in the *Notice* are closely aligned with the existing notice and reporting requirements for 911 network outages, we also believe implementation by cable, satellite, wireless, wireline, interconnected VoIP, and covered 988 service providers will only require minor changes to existing processes and procedures.

### **B. Legal Basis**

6. The proposed action is authorized pursuant Sections 1, 4(i), 4(j), 4(n), 201(b), 214, 218, 251(e)(3), 251(e)(4), 301, 303(b), 303(g), 303(r), 307, 309(a), 332, and 403, of the Communications Act of 1934, as amended, and sections 3(b) and 6 of the Wireless Communications and Public Safety Act of 1999, as amended, 47 U.S.C. §§ 151, 154(i), 154(j) 154(n), 201(b), 214, 218, 251(e)(3), 251(e)(4), 301, 303(b), 303(g), 303(r), 307, 309(a), 332, 403, 615, 615a-1, the National Suicide Hotline Improvement Act of 2018, Pub. L. No. 115-233, 132 Stat. 2424 (2018), and the National Suicide Hotline Designation Act of 2020, Pub. L. No. 116-271 (2020).

### **C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply**

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>6</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>7</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>8</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>9</sup>

8. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.<sup>10</sup> First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA’s Office of Advocacy, in general a small business is

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<sup>6</sup> 5 U.S.C. § 603(b)(3).

<sup>7</sup> 5 U.S.C. § 601(6).

<sup>8</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>9</sup> 15 U.S.C. § 632.

<sup>10</sup> See 5 U.S.C. § 601(3)-(6).

an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.<sup>11</sup>

9. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>12</sup> The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.<sup>13</sup> Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.<sup>14</sup>

10. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>15</sup> U.S. Census Bureau data from the 2017 Census of Governments<sup>16</sup> indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.<sup>17</sup> Of this number, there were 36,931 general purpose governments (county,<sup>18</sup> municipal, and town or township<sup>19</sup>) with populations of

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<sup>11</sup> *Id.*

<sup>12</sup> *See* 5 U.S.C. § 601(4).

<sup>13</sup> The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number small organizations in this small entity description. *See* Annual Electronic Filing Requirement for Small Exempt Organizations – Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

<sup>14</sup> *See* Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2020 with revenue less than or equal to \$50,000 for Region 1-Northeast Area (58,577), Region 2-Mid-Atlantic and Great Lakes Areas (175,272), and Region 3-Gulf Coast and Pacific Coast Areas (213,840) that includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

<sup>15</sup> *See* 5 U.S.C. § 601(5).

<sup>16</sup> *See* 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with “2” and “7”. *See also* Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

<sup>17</sup> *See* U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). *See also* tbl.2. CG1700ORG02 Table Notes\_Local Governments by Type and State\_2017.

<sup>18</sup> *See id.* at tbl.5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

<sup>19</sup> *See id.* at tbl.6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

less than 50,000 and 12,040 special purpose governments—independent school districts<sup>20</sup> with enrollment populations of less than 50,000.<sup>21</sup> Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”<sup>22</sup>

11. *Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis.<sup>23</sup> The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources.<sup>24</sup> The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.<sup>25</sup> The SBA small business size standard for this industry classifies firms with annual receipts less than \$41.5 million as small.<sup>26</sup> Based on U.S. Census Bureau data for 2017, 378 firms operated in this industry during that year.<sup>27</sup> Of that number, 149 firms operated with revenue of less than \$25 million a year and 44 firms operated with revenue of \$25 million or more.<sup>28</sup> Based on this data, the Commission estimates that a majority of firms in this industry are small.

12. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standard for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers nationwide.<sup>29</sup> Based on industry

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<sup>20</sup> See *id.* at tbl.10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes\_Special Purpose Local Governments by State\_Census Years 1942 to 2017.

<sup>21</sup> While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

<sup>22</sup> This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations tbls.5, 6 & 10.

<sup>23</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “515210 Cable and Other Subscription Programming,” <https://www.census.gov/naics/?input=515210&year=2017&details=515210>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> See 13 CFR § 121.201, NAICS Code 515210.

<sup>27</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515210, <https://data.census.gov/cedsci/table?y=2017&n=515210&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. The US Census Bureau withheld publication of the number of firms that operated for the entire year to avoid disclosing data for individual companies (see Cell Notes for this category).

<sup>28</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in all categories of revenue less than \$500,000 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>29</sup> 47 CFR § 76.901(d).

data, there are about 420 cable companies in the U.S.<sup>30</sup> Of these, only seven have more than 400,000 subscribers.<sup>31</sup> In addition, under the Commission’s rules, a “small system” is a cable system serving 15,000 or fewer subscribers.<sup>32</sup> Based on industry data, there are about 4,139 cable systems (headends) in the U.S.<sup>33</sup> Of these, about 639 have more than 15,000 subscribers.<sup>34</sup> Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

13. *Cable System Operators (Telecom Act Standard)*. The Communications Act of 1934, as amended, contains a size standard for a “small cable operator,” which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.”<sup>35</sup> For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 677,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator based on the cable subscriber count established in a 2001 Public Notice.<sup>36</sup> Based on industry data, only six cable system operators have more than 677,000 subscribers.<sup>37</sup> Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.<sup>38</sup> Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

14. *Incumbent Local Exchange Carriers*. Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired

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<sup>30</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

<sup>31</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q* (last visited May 26, 2022); S&P Global Market Intelligence, *Multichannel Video Subscriptions, Top 10* (April 2022).

<sup>32</sup> 47 CFR § 76.901(c).

<sup>33</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

<sup>34</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q* (last visited May 26, 2022).

<sup>35</sup> 47 U.S.C. § 543(m)(2).

<sup>36</sup> *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, 16 FCC Rcd 2225 (CSB 2001) (*2001 Subscriber Count PN*). In this Public Notice, the Commission determined that there were approximately 67.7 million cable subscribers in the United States at that time using the most reliable source publicly available. *Id.* We recognize that the number of cable subscribers changed since then and that the Commission has recently estimated the number of cable subscribers to traditional and telco cable operators to be approximately 58.1 million. *See Communications Marketplace Report*, GN Docket No. 20-60, 2020 Communications Marketplace Report, 36 FCC Rcd 2945, 3049, para. 156 (2020) (*2020 Communications Marketplace Report*). However, because the Commission has not issued a public notice subsequent to the *2001 Subscriber Count PN*, the Commission still relies on the subscriber count threshold established by the *2001 Subscriber Count PN* for purposes of this rule. *See* 47 CFR § 76.901(e)(1).

<sup>37</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q* (last visited May 26, 2022); S&P Global Market Intelligence, *Multichannel Video Subscriptions, Top 10* (April 2022).

<sup>38</sup> The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority’s finding that the operator does not qualify as a small cable operator pursuant to § 76.901(e) of the Commission’s rules. *See* 47 CFR § 76.910(b).

Telecommunications Carriers<sup>39</sup> is the closest industry with an SBA small business size standard.<sup>40</sup> The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>41</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.<sup>42</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>43</sup> Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 1,227 providers that reported they were incumbent local exchange service providers.<sup>44</sup> Of these providers, the Commission estimates that 929 providers have 1,500 or fewer employees.<sup>45</sup> Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

15. *Local Exchange Carriers. (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers<sup>46</sup> is the closest industry with an SBA small business size standard.<sup>47</sup> Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.<sup>48</sup> The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>49</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>50</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>51</sup> Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were fixed local exchange

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<sup>39</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>40</sup> See 13 CFR § 121.201, NAICS Code 517311.

<sup>41</sup> *Id.*

<sup>42</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>43</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>44</sup> Federal-State Joint Board on Universal Service, *Universal Service Monitoring Report at 26, Table 1.12 (2021)*, <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

<sup>45</sup> *Id.*

<sup>46</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>47</sup> See 13 CFR § 121.201, NAICS Code 517311.

<sup>48</sup> Fixed Local Exchange Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.

<sup>49</sup> *Id.*

<sup>50</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>51</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

service providers.<sup>52</sup> Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees.<sup>53</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

16. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.<sup>54</sup> This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.<sup>55</sup> Providers of Internet services (e.g. dial-up ISPs) or voice over Internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry.<sup>56</sup> The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small.<sup>57</sup> U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.<sup>58</sup> Of those firms, 1,039 had revenue of less than \$25 million.<sup>59</sup> Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

17. *Satellite Telecommunications.* This industry comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."<sup>60</sup> Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small.<sup>61</sup> U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.<sup>62</sup> Of this number, 242 firms had revenue of less than \$25 million.<sup>63</sup> Additionally, based on Commission data in the 2021 Universal Service Monitoring Report,

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<sup>52</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pub/Id.lic/attachments/DOC-379181A1.pdf>.

<sup>53</sup> *Id.*

<sup>54</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517919 All Other Telecommunications," <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> See 13 CFR § 121.201, NAICS Code 517919.

<sup>58</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>59</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>60</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517410 Satellite Telecommunications," <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

<sup>61</sup> See 13 CFR § 121.201, NAICS Code 517410.

<sup>62</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>63</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and

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as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services.<sup>64</sup> Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees.<sup>65</sup> Consequently, using the SBA's small business size standard, a little more than of these providers can be considered small entities.

18. *Telecommunications Resellers.* The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households.<sup>66</sup> Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.<sup>67</sup> Mobile virtual network operators (MVNOs) are included in this industry.<sup>68</sup> The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>69</sup> U.S. Census Bureau data for 2017 show that 1,386 firms operated in this industry for the entire year.<sup>70</sup> Of that number, 1,375 firms operated with fewer than 250 employees.<sup>71</sup> Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 811 providers that reported they were engaged in the provision of local or toll resale services.<sup>72</sup> Of these providers, the Commission estimates that 784 providers have 1,500 or fewer employees.<sup>73</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

19. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks.”<sup>74</sup> Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services.<sup>75</sup> By exception, establishments providing satellite television distribution services using facilities

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revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>64</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

<sup>65</sup> *Id.*

<sup>66</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517911 Telecommunications Resellers,” <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> See 13 CFR § 121.201, NAICS Code 517911.

<sup>70</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFFIRM, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFFIRM&hidePreview=false>.

<sup>71</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>72</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

<sup>73</sup> *Id.*

<sup>74</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517311 Wired Telecommunications Carriers,” <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>75</sup> *Id.*

and infrastructure that they operate are included in this industry.<sup>76</sup> Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.<sup>77</sup>

20. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>78</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>79</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>80</sup> Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were engaged in the provision of fixed local services.<sup>81</sup> Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees.<sup>82</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

21. *Wireless Communications Services.* Wireless Communications Services (WCS) can be used for a variety of fixed, mobile, radiolocation, and digital audio broadcasting satellite services. Wireless spectrum is made available and licensed for the provision of wireless communications services in several frequency bands subject to Part 27 of the Commission's rules.<sup>83</sup> Wireless Telecommunications Carriers (*except* Satellite)<sup>84</sup> is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>85</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>86</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>87</sup> Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small. The Commission's small business size standards with respect to WCS involve eligibility for bidding credits and installment payments in the auction of licenses for the

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<sup>76</sup> *Id.*

<sup>77</sup> Fixed Local Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, and Other Local Service Providers. Local Resellers fall into another U.S. Census Bureau industry group and therefore data for these providers is not included in this industry.

<sup>78</sup> See 13 CFR § 121.201, NAICS Code 517311.

<sup>79</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>80</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>81</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pub/Id.lic/attachments/DOC-379181A1.pdf>.

<sup>82</sup> *Id.*

<sup>83</sup> See 47 CFR §§ 27.1 – 27.1607.

<sup>84</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite)"*, <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>85</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>86</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>87</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.



various frequency bands included in WCS. When bidding credits are adopted for the auction of licenses in WCS frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in the designated entities section in Part 27 of the Commission's rules for the specific WCS frequency bands.<sup>88</sup>

22. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

23. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.<sup>89</sup> Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.<sup>90</sup> The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>91</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.<sup>92</sup> Of that number, 2,837 firms employed fewer than 250 employees.<sup>93</sup> Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services.<sup>94</sup> Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees.<sup>95</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

24. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable industry with an SBA small business size standard is *Wireless Telecommunications Carriers (except Satellite)*.<sup>96</sup> The size standard for this industry under SBA rules is that a business is small if it has 1,500 or fewer employees.<sup>97</sup>

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<sup>88</sup> See 47 CFR §§ 27.201 – 27.1601. The Designated entities sections in Subparts D – Q each contain the small business size standards adopted for the auction of the frequency band covered by that subpart.

<sup>89</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517312 Wireless Telecommunications Carriers (except Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>90</sup> *Id.*

<sup>91</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>92</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIRM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false>.

<sup>93</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard

<sup>94</sup> Federal-State Joint Board on Universal Service, *Universal Service Monitoring Report at 26*, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

<sup>95</sup> *Id.*

<sup>96</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517312 Wireless Telecommunications Carriers (except Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>97</sup> See 13 CFR § 121.201, NAICS Code 517312.

For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year.<sup>98</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>99</sup> Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 407 providers that reported they were engaged in the provision of cellular, personal communications services, and specialized mobile radio services.<sup>100</sup> Of these providers, the Commission estimates that 333 providers have 1,500 or fewer employees.<sup>101</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

25. *Wireless Carriers and Service Providers.* Wireless Telecommunications Carriers (*except Satellite*) is the closest industry with a SBA small business size standard applicable to these service providers.<sup>102</sup> The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>103</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>104</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>105</sup> Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services.<sup>106</sup> Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees.<sup>107</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

#### **D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

26. The *Notice* proposes revisions to outage notification requirements that will impose new or additional reporting, recordkeeping, notice and other compliance requirements on small entities required to report outages affecting 988 Lifeline services. If the rules proposed in the *Notice* are adopted, covered 988 service providers would be required to report to the Commission and provide notice to 988 special facilities about outages that potentially affect 988 special facilities. These service providers would be required to: (1) report outages that potentially affect 988 special facilities using NORS, and following processes and procedures similar to the Commission's existing reporting for outages that potentially

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<sup>98</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

<sup>99</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>100</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

<sup>101</sup> *Id.*

<sup>102</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite)"*, <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>103</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>104</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

<sup>105</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>106</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

<sup>107</sup> *Id.*

affect 911; (2) submit notifications, initial reports, and final reports to the Commission consistent with the timing and content requirements proposed in the *Notice*, when they experience an outage that potentially affects a 988 special facility; (3) provide notice of 988 outages that potentially affect a 988 special facility to the designated 988 special facilities, including SAMHSA, the VA, and the 988 Lifeline administrator; and (4) make an annual filing verifying that they are maintaining up-to-date contact information for 988 special facilities. The Notice seeks comment on similar obligations for cable, satellite, wireless, wireline, and interconnected VoIP providers.

27. The Commission is not currently in a position to determine whether, if adopted, the proposed rules in the *Notice* will require small entities to hire attorneys, engineers, consultants, or other professionals to comply. We note, however, that some originating service providers and covered 988 service providers are already subject to compliance with outage reporting obligations that would facilitate their ability to comply, and may reduce any compliance burdens associated with the proposed 988 outage reporting and notification requirements, if adopted. For example, some originating service providers and covered 988 service providers already must comply with the Commission's rules on network outage reporting and 911 outage reporting. In addition, many service providers are likely to already have documented procedures for notifying affected facilities of outages that potentially affect them, and for those that do not, Alliance for Telecommunications Industry Solutions (ATIS) Network Reliability Steering Committee (NRSC) Task Force documents can serve as a useful guide.

28. As discussed in the *Notice*, we anticipate that originating service providers are already required to report the vast majority of outages (if not virtually all outages) that prevent 988 calls from successfully completing to the Commission under our existing outage reporting requirements. Therefore we expected small entities who are subject to these requirements will only incur incremental costs to implement the proposed 988 outage reporting requirements. To the extent that there are 988 outages that are not currently reported to the Commission, we expect that those would be outages experienced by covered 988 service providers that are responsible for receiving, processing, or forwarding 988 calls. We expect that these service providers are already submitting outage reports to the Commission related to other aspects of their operations, and anticipate that these providers will likewise only incur incremental costs to comply with the proposed 988 requirements.

29. In the assessment of the potential costs for service providers to report 988 outages to the Commission discussed in the *Notice*, we assume that one covered 988 service provider experiences a maximum of one reportable outage per month. We estimate an annual compliance cost of \$1,920 for a provider that experiences a reportable outage based on the estimate that a maximum of two hours total time would be necessary for an employee to prepare and submit all of the required reports to the Commission - 15 minutes to complete each notification, a maximum of 45 minutes for each initial report, 60 minutes for each final report, and a labor cost of \$80 per hour for one employee. Based on this assessment. We do not expect the actual cost for implementation and compliance with the proposed outage reporting rules for small entities to be significant, however we have requested comments on our estimates and assessment. With regard to the proposed requirements for providers to maintain updated contact information for 988 special facilities and to notify those facilities about 988 outages that potentially affect them, we expect the costs of compliance for providers will also be very low and should not be significant for small entities. More specifically, we estimate a one-time total cost of \$50,000 for all providers to create an e-mail survey to biannually solicit 988 special facility contact information. We further estimate maximum annually recurring costs of \$1,283,000, for all providers, consisting of \$1,258,000 for notifying 988 special facilities of outages pursuant to the standards that we propose today<sup>108</sup> and \$25,000 to maintain up to date 988 special facility contact information for outage

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<sup>108</sup> To notify 988 special facilities, we propose that a communications equipment operator, earning \$34/hour, would spend a total of 1 hour per outage to send out two notifications for each of an estimated 39,000 outages, for a total of \$1,326,000 [\$34/hour x 1 hour x 39,000]. Our estimate of 39,000 outages is based on the incidence of outages that potentially affected 911 in NORS reports during 2021. We assume that the maximum number of 988 outages that

(continued....)

notifications.<sup>109</sup> No costs should be incurred related to identifying the 988 special facilities that could potentially be affected by an outage since we have proposed that the three designated special facilities (SAMHSA, the VA, and the 988 Lifeline administrator) be notified regardless of the geographic area affected by the outage.

30. Based on the above discussion, we do not believe that the costs associated with any of the proposal rule changes in the *Notice* will unduly burden small entities. However, we have sought comments from the parties in the proceeding and requested cost and benefit information which may help the Commission identify and evaluate relevant costs and other matters for small entities. We anticipate the proposed rule changes will enable 988 special facilities to accelerate the public's ability to reach the 988 Lifeline during an outage, thereby reducing the probability of lives being lost during such an outage. Moreover, the value of this result and the other public safety benefits generated by our 988 outage notification and reporting requirement proposals outweigh the estimated costs to providers, and therefore is in the public.

**E. Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered**

31. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (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 and reporting requirements under the rule 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.”<sup>110</sup>

32. In the *Notice*, the Commission continues to facilitate the reliability of the 988 Lifeline network and meet its public safety obligations for oversight of the integrity of the 988 communications infrastructure by proposing measures to ensure that 988 special facilities can expect consistent and timely outage notifications whenever there is an outage that potentially affects 988 Lifeline service. While doing so, the Commission is mindful that small entities and other covered 988 service providers may incur costs should the proposals we make, and the alternatives upon which we seek comment in the *Notice*, be adopted.

33. The Commission has taken several steps that could reduce the economic impact for small entities. First, the elements for 988 outage reporting that we propose largely track the same standards applicable to 911 outage reporting. For example, the *Notice* proposes to use NORs for 988 outage reporting, which is already used for 911 outage reporting. The *Notice* also seeks comment on using the 911 outage duration and user minute thresholds to trigger the 988 outage reporting requirements. Therefore, to the extent small entities have or will implement the 911 outage reporting requirements already adopted by the Commission, compliance with 988 reporting requirements should not impose significant additional costs.

34. We considered whether there are any special characteristics of 988 calls that would make it more effective or efficient for the Commission to adopt alternative outage reporting requirements that do not resemble the reporting requirements for 911 or other communications outages; whether our

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would require notifications annually will not exceed the number of 911 outages. We expect that our estimate of the cost will reduce significantly over time as the Commission collects better data on the actual number of 988 outages experienced annually.

<sup>109</sup> To transmit an e-mail survey, we estimate that for each of the 2,890 affected carriers, one worker, earning \$34/hour, at most 15 minutes each year to e-mail the survey of contact information to the three 988 special facilities, and to follow up with those special facilities if needed, for a total of \$25,000 [ $\$34/\text{hour} \times 0.25 \text{ hours} \times 2,890 = \$24,565$ , rounded up to \$25,000].

<sup>110</sup> 5 U.S.C. § 603(c)(1)-(4).

proposed outage duration and user minute thresholds are appropriate, and whether there may be information that is unique to 988 outages that we should require to be included in an outage report due to its value in understanding the cause or impacts of such an outage, and determined that seeking comment from providers on these issues could provide more comprehensive insight on these issues. In comments, small entities can include any steps that we have not already proposed to prevent the costs of our proposals from being unduly burdensome for them. Small entities can also identify which proposed requirements are particularly difficult or costly for them, and how different, simplified, or consolidated requirements would address those difficulties, and propose any modifications or exemptions from the proposed requirements discussing the effect of any such modifications on public safety, and the reliability of 988 Lifeline operations. For the alternatives we discuss in the *Notice*, or that are subsequently filed in comments, we have requested that commenters address the costs and benefits. We have also sought comment on the costs and benefits of implementing and maintaining the 911 procedures for 988 outage notification and reporting.

35. To increase public awareness of 988 availability and to help protect the public's safety when 988 services are disrupted, we have proposed SAMHSA, the VA, and the 988 Lifeline administrator as the designated 988 special facilities to receive notification of outages. In the *Notice* however, we also seek comment on whether there are additional entities that should receive notice, whether covered 988 service providers should give notice to originating service providers when an outage occurs to notify their customers of 988 outages, and whether PSAPs should be notified so they can be prepared for call volume increases. We propose that notifications be made by telephone and in writing by electronic means, and also give providers the flexibility to provide notice by alternative means if mutually agreed upon in writing in advance by the 988 special facility and the provider, as we currently allow covered 911 service providers to do. We believe that this means of communication will not be a very resource intensive or costly method for small entities and other service providers to provide notice. We seek comment on this approach in the *Notice* and on requiring other methods of notification, which may identify additional opportunities to reduce costs for small entities and other providers.

36. Next, our actions specifically seeking comment on whether the public interest would be served by allowing additional time for small and medium-sized businesses to comply, could reduce the economic impact for small entities. In doing so, we have provided small entities the opportunity to address whether and how they would benefit from different reporting requirements or timetables that take into account their limited resources; simplification or consolidation of reporting requirements for small entities; or an exemption from any reporting requirements.

37. The Commission expects to consider more fully the economic impact on small entities following its review of any comments filed in response to the *Notice*, including any costs and benefits information we receive. The Commission's evaluation of the comments filed in this proceeding will shape the final alternatives we consider, the final conclusions we reach, and any final actions we ultimately take in this proceeding to minimize any significant economic impact that may occur on small entities.

**F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules**

38. None.