



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 4

[PS Docket Nos. 23-5, 15-80; WC Docket No. 18-336; FCC 23-57; FR ID 195997]

Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline; Rules Concerning Disruptions to Communications; Implementation of the National Suicide Hotline Improvement Act of 2018

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) requires covered 988 service providers (a new category of service provider) and cable, satellite, wireless, wireline, and interconnected voice over internet protocol (VoIP) providers (originating service providers) to report outages that potentially affect the 988 Suicide and Crisis Lifeline in the Commission's Network Outage Reporting System (NORS). The rules also require these entities to directly notify Substance Abuse and Mental Health Services Administration (SAMHSA), the Department of Veterans Affairs (VA), and the 988 Lifeline administrator about outages that potentially affect a 988 special facility, and exercise special diligence to maintain accurate, up-to-date contact information for 988 special facilities, just as the Commission's rules require for 911 special facilities. The rules also allow SAMHSA and the VA to have direct read-only access to NORS consistent with the Commission's existing NORS outage information sharing procedures. These rules are adopted with the goal of ensuring that the Commission and those parties that provide life-saving crisis intervention services to people calling the 988 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.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], except for the amendments to 47 CFR 4.9 (amendatory instruction 4), which

are delayed indefinitely. The Commission will publish a document in the Federal Register announcing the effective dates of these amendments.

FOR FURTHER INFORMATION CONTACT: Shabbir Hamid, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, (202) 418-2328, or by email to Shabbir.Hamid@fcc.gov. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Nicole Ongele, Office of Managing Director, Performance and Program Management, 202-418-2991, or by email to PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, PS Docket No. 23-5; PS Docket No. 15-80; WC Docket No. 18-336; FCC 23-57, adopted July 20, 2023, and released July 21, 2023. The full text of this document is available by downloading the text from the Commission's website at: <https://docs.fcc.gov/public/attachments/FCC-23-57A1.pdf>. When the FCC Headquarters reopens to the public, the full text of this document will also be available for public inspection and copying during regular business hours in the FCC Reference Center, 45 L Street NE, Washington, DC 20554. To request this document in accessible formats for people with disabilities (e.g., Braille, large print, electronica files, audio format, etc.) or to request reasonable accommodations (e.g., accessible format documents, sign language interpreters, CART, etc.), send an email to FCC504@fcc.gov or call the FCC's Consumer and Government Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

SYNOPSIS

1. In the Report and Order, the Commission requires cable, satellite, wireless, wireline,

interconnected VoIP providers (originating service providers), and a new category of “covered 988 service providers” to report 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 Report and Order defines “outages that potentially affect a 988 special facility” as events that result in the loss of the ability of the 988 Lifeline to receive, process, or forward calls, potentially affecting at least 900,000 user-minutes and lasting at least 30 minutes duration.

2. The Report and Order also requires that these providers provide notice to the Substance Abuse and Mental Health Services Administration (SAMHSA), the Department of Veterans Affairs (the VA), and the 988 Lifeline administrator when an outage that potentially affects a 988 special facility occurs. For outages lasting longer than 2 hours, the providers would follow-up with subsequent notifications of material information 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. These service providers would also be required to maintain up to date contact information for those individuals identified by SAMHSA, the VA, and the 988 Lifeline administrator to receive outage notifications.

A. Reporting 988 Outages in NORS

3. In the 988 Outage notice of proposed rulemaking (NPRM),¹ the Commission proposed to require entities 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 special facilities to the Commission’s NORS. The Report and Order adopts this proposal, which is overwhelmingly supported by commenters. The Commission believes this outage reporting requirement will both improve the resiliency of the 988 Lifeline system, and through the Commission’s NORS information sharing rules, ensure that SAMHSA, the VA, and the Lifeline administrator have timely outage information so they can provide the public

¹ Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline; Rules Concerning Disruptions to Communications; Implementation of the National Suicide Hotline Improvement Act of 2018, 88 FR 20790 (Apr. 7, 2023).

with alternative ways to access the Lifeline. The Commission agrees with the Boulder Regional Emergency Telephone Service Authority that requiring the reporting of 988 outages will enable the tracking of outage trends, the identification of best practices to help preemptively address the common causes of outages, and the ability to anticipate and plan for future outages. The Commission also agrees with Mental Health America that in helping promote timely access to the 988 Lifeline, these requirements will promote equity for at-risk populations.

4. The Commission observes that a person in suicidal crisis or emotional distress who cannot successfully reach a crisis center due to an outage continues to be at risk, regardless of whether the outage occurs before or after a call reaches the 988 Lifeline. This includes outages that prevent calls from being routed to the intended local crisis center or the Veterans Crisis Line. The Commission agrees with commenters that it is appropriate to require covered 988 service providers to report outages in NORS because the services they offer, which ensure that calls are routed to the correct destination after they reach the 988 Lifeline, are essential to the Lifeline's availability. Vibrant, the 988 Lifeline administrator, has indicated that it can use outage information to quickly update routing tables used by covered 988 service providers in order to avoid routing calls to crisis centers that are experiencing an outage. Because this outage information would be used to increase the availability and resiliency of 988 services, the Commission therefore disagrees with CX360 that it is not necessary for the Commission to adopt rules to provide the Commission and the parties responsible for operation of the 988 Lifeline with timely and actionable information about outages that occur after those communications reach the Lifeline. While CX360 argues that "SAMHSA and the 988 Lifeline Administrator already are capable of operating the 988 Lifeline effectively" without such reporting, the Commission notes that SAMHSA and Vibrant both support the reporting requirement. The Commission also rejects CX360's argument that reporting requirements are not necessary because SAMHSA and the VA already have visibility into outages that occur after calls reach the 988 Lifeline. Because CX360 offers no supporting details as to what information SAMHSA and the VA are receiving and whether its substance and timing is comparable to the requirements adopted in the Report and Order, the Commission is not persuaded that

this visibility, if it exists, undercuts the justification for the rules adopted in the Report and Order.

5. The Report and Order defines “covered 988 service providers” as those providers that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls. See 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, PS Docket Nos. 23-5 and 15-80, WC Docket No. 18-336, at 9, paragraph 15, Notice of Proposed Rulemaking (NPRM), FCC 23-7 (Jan. 27, 2023), 88 FR 20790 (Apr. 7, 2023) (988 Outage NPRM) (proposing 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). The Commission responds to commenters that question the scope of the new rules by clarifying that, consistent with longstanding practice in the 911 context, the new paragraph (f) of § 4.5 does require outage reporting from those entities that provide a communications network or service that facilitates the receipt, processing, or forwarding of the call, including from the 988 Lifeline to the local 988 crisis center. See New Part 4 of the Commission’s Rules Concerning Disruptions to Communications, Report and Order, 19 FCC Rcd 16830, 16873-76, paragraphs 76 through 81 (2004), 69 FR 70316 (Dec. 3, 2004). The Commission finds that the scope of this definition is appropriately limited in that it covers only those providers that are essential to the capabilities of the 988 Lifeline. The Commission agrees with SAMHSA that “covered 988 service providers” should not include 988 crisis centers themselves nor the Veterans Crisis Line. Crisis centers do not receive, process, or forward calls and lack the expertise and access to information that would be necessary to make such reports. In addition, a requirement for crisis centers to make such reports would place significant additional burdens on them during outages, which would run contrary to the goals of this proceeding. The Commission also finds that covered 988 service providers should not include originating service providers that originate 988 calls and deliver calls to the 988 Lifeline but otherwise do not provide services for the Lifeline. Commenters point out that originating service providers do not generally provide the 988 Lifeline with capabilities such as receiving, processing, or forwarding calls, while the service providers

that do offer these capabilities will likely do so through direct contractual arrangements. The Commission agrees with USTelecom that “defining ‘covered service provider’ in this way is consistent with the Commission’s definition in the 911 context, and keeping definitions of key terms consistent across these public safety contexts will prevent confusion and facilitate regulatory certainty.” Finally, the Commission agrees with Voice on the Net Coalition that covered 988 service providers should not include providers of capabilities that are provided directly to local crisis centers, as those are not services that are provided directly to the 988 Lifeline.

6. Although the Commission is excluding them from the definition of covered 988 service providers, the Commission also finds that originating service providers are critical in providing 988 service and thus require cable, satellite, wireless, wireline, and interconnected VoIP providers to report in NORS outages that potentially affect the 988 special facilities. The Commission agrees with Mental Health America that these originating service providers, like covered 988 service providers, “have a role to play in ensuring that people get their responses when they need crisis counseling,” and agree with Vibrant that “having the same requirements for covered service providers and OSPs [originating service providers] ensures the delivery of timely, actionable information while also reducing the burden of reporting by streamlining requirements.” The Commission also agrees with the Washington State Department of Health and Health Care Authority that reporting requirements “should not 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.” As the Commission states in the Report and Order, a person in suicidal crisis or emotional distress who cannot successfully reach a crisis center due to an outage continues to be at risk, regardless of whether the outage occurs before or after the call reaches the 988 Lifeline. For that reason, the reporting of outages that occur in originating service providers’ networks are essential to improving the resiliency of the 988 Lifeline and ensure that SAMHSA, the VA, and the Lifeline administrator have timely outage information so they can provide the public with alternative ways to access the Lifeline. The Commission also finds, consistent with the views of the National Alliance on Mental Illness, that “having more sources of data regarding

outages will enhance the ability of the FCC and the 988 administrator to identify what is needed to create a more reliable network.”

7. The Commission disagrees with those commenters that argue that it is premature for the Commission to consider the adoption of 988 outage reporting requirements. The record reflects the serious impact of the December 2022 covered 988 service provider outage, and nothing in that record indicates that such an outage could not happen again, or that originating service provider outages do not affect the delivery of 988 calls. The Commission also disagrees with Southern Linc, which argues that originating service providers should not be required to report 988 outages because they do not have visibility into the delivery of 988 communications after those communications leave their networks. Originating service providers nonetheless have visibility into whether 988 calls are disrupted due to outages in their own network or the networks of third parties with which they contract for service before being delivered to Lifeline. *See 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 at 7, paragraph 20 (Nov. 18, 2022), 88 FR 9756 (March 17, 2023) (explaining that reliance upon a third-party service provider to manage, route, or otherwise contribute to 911 call processing does not relieve a service provider of its obligations—even if the discovery is first made by the third party). The Commission therefore believes that originating service providers should be required to report those outages for the reasons explained above.

8. The record informs the Commission that originating service providers currently lack the capability to distinguish outages that prevent the completion of a 988 call from outages on their network that prevent the completion of other calls. For the purposes of the rules the Report and Order adopts, this is immaterial because outages that prevent the completion of all calls are necessarily outages that potentially affect 988 special facilities. The Commission finds that reports about service-wide outages, like reports that are specific to 988 Lifeline outages, provide insight into 988’s reliability and can provide information to SAMHSA, the VA, and the Lifeline administrator that would allow them to

effectively respond to outages (e.g., notify the public of alternate ways to contact the 988 Lifeline). The Commission also believes that this approach acknowledges the current capabilities of existing networks, gives service providers flexibility as to how they can satisfy the requirements, and potentially reduces compliance costs by leveraging providers' existing technical capabilities and systems. The Commission notes that originating service providers are already required to report voice service outages in NORS, regardless of a call's destination. As a consequence, The Commission finds that providers complying with this existing outage reporting requirement will only need to take nominal action to report voice telephony outages that potentially affect the 988 Lifeline to the Commission. As recommended by the Alliance for Telecommunications Industry Solutions (ATIS) and NCTA--The Internet & Television Association (NCTA), the Commission will add a checkbox to NORS so that reporting providers can clearly indicate whether a reported outage potentially affects a 988 special facility. The Commission believes this field will improve the ability of the Commission and the agencies with which it shares NORS data to quickly recognize and more effectively analyze the effects of reported outages.

9. The Report and Order defines "outages that potentially affect a 988 special facility" as events that result in the loss of the ability of the 988 Lifeline to receive, process, or forward calls, potentially affecting at least 900,000 user-minutes and lasting at least 30 minutes duration. The Report and Order notes that "loss of the ability of the 988 Lifeline to receive . . . calls" includes outages in originating service providers' networks that prevent successful transmission of calls to the Lifeline. The majority of commenters support using the same outage reporting thresholds for 988 as those previously adopted for 911 outages. The Commission agrees with USTelecom that "[s]tandardizing the threshold across [988 and 911] will facilitate efficient, timely compliance, and is consistent with the Notice's objective of imposing 'only minor changes to existing procedures' by 'closely align[ing]' them with rules for 911-related outages." The Commission acknowledges the concerns of the Veterans Crisis Line, which argues that outages shorter than 30 minutes in duration should be reported because, statistically, as many as three deaths by suicide may occur within 30 minutes. However, the Commission believes that the benefits of awareness and opportunities for action that arise from the reporting of outages must

be balanced against the burden of reporting those outages. Based on the record before us, the Commission is unable to determine whether reducing the minimum or user-minute durations of reportable outages would improve upon that balance. At this time, it is unclear to what extent reduced thresholds would increase the number of 988 outage reports received, the extent to which additional reporting would contribute to public safety and the reliability of the 988 Lifeline, and whether those benefits would outweigh the burdens associated with increased reporting. For these reasons, the Commission believes it is sensible to adopt 988 outage reporting requirements that are consistent with existing 911 outage reporting requirements and providers' existing reporting procedures. As noted by Association of Public-Safety Communications Officials International, Inc. (APCO), the Commission has recently directed the Public Safety and Homeland Security Bureau (Bureau) to gather information on the volume of 911 outages that may go unreported under the Commission's existing outage notification thresholds and have sought additional comment on possible alternative outage reporting thresholds. The Commission directs the Bureau to add 988 Lifeline outages to its examination.

10. The Report and Order clarifies, as requested by SAMHSA, that outages that potentially affect the 988 Lifeline include partial service disruptions, as well as outages with a duration of more than 30 minutes. The Commission notes that § 4.5(a) of its rules defines 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.” For example, any circumstances in which the ability of the 988 Lifeline to receive, process, or forward calls is significantly degraded for at least 30 minutes and potentially affects at least 900,000 user-minutes must be reported in NORS. This includes circumstances in which the degradation lasts longer than 30 minutes and circumstances in which 988 calls are received by a call-taker despite the degradation. The Commission disagrees with USTelecom's view that partial outages and service disruptions should not be subject to 988 outage reporting and notification requirements, which it argues would complicate the outage reporting process and result in over-notification. Because the Commission's existing outage reporting and notification rules already define “outages” to include partial service disruptions,

exempting partial service disruptions from 988 reporting and notification requirements would make our rules more complicated, not less complicated. The Commission also finds little evidence in the record supporting the conclusion that the reporting of partial outages would result in too many notifications, particularly since SAMHSA and Vibrant, which are two of the three of the entities who would receive notifications under the rules adopted in the Report and Order, are specifically requesting notifications about partial outages.

11. The Report and Order requires 988 outage reports be filed with the Commission in NORS, consistent with the Commission's current requirements for outage report filing processes and timing. No commenter objected to the use of NORS for this purpose. The Commission agrees with ATIS that "industry is already familiar with NORS and believes that the use of NORS will reduce implementation costs associated with 988 outage reporting and would be significantly less costly and burdensome than the implementation of a new or different reporting system." The Commission further agrees with USTelecom that reporting in NORS "will streamline the reporting process and allow providers to devote maximum attention to addressing the outage itself and getting service back up and running, rather than diverting time and resources to more complex or cumbersome reporting requirements."

12. The Commission declines to allow alternatives to NORS reporting, such as reporting by e-mail, as requested by CX360. The Commission does not agree that alternatives would reduce administrative burdens on providers. NORS is a well-established system that facilitates the filing of outage reports in a streamlined and uniform manner with all information required by our rules. NORS supports the filing of outage data through Application Program Interfaces (API), which can facilitate the automated filing of outage reports. Submission of outage reports via e-mail would create opportunities for inconsistently styled filings with incomplete or confusing information, which would lead to Commission staff taking up providers' time with numerous calls and questions about their filings. The submission of reports by e-mail would also greatly diminish the Commission's ability to record historic outage data, analyze outage trends, and share outage information with Federal, State, Tribal, and

territorial agencies. For these reasons, both efficiency and effectiveness weigh in favor of requiring all outage reports to be filed in NORS.

13. The Report and Order allows direct read-only access to NORS data by SAMHSA and the VA, consistent with our existing NORS outage information sharing procedures. In the 988 Outage NPRM, the Commission stated its belief that improving situational awareness of significant network outage issues affecting 988 Lifeline services would not only provide the Commission with critical insight into the availability and reliability of a vital public health service, but would also provide that insight to the other Federal, State, Tribal, and territorial agencies with whom NORS data is shared. The Commission agrees with SAMHSA that having access to outage reports and related analysis on network reliability will better enable these stakeholders to prepare and respond to network disruptions and better ensure the 988 Lifeline's availability. The Commission also agrees with the Washington State Department of Health and Health Care Authority that these 988 stakeholders would benefit from having access to outage reports that indicate whether 988 calls affected by an outage are being rerouted to other crisis centers. The Commission further agrees with the Boulder Regional Emergency Telephone Service Authority (BRETSA) that improving the availability of information about 988 network reliability would empower 988 stakeholders to take additional steps to make the 988 Lifeline even more reliable. For these reasons, the Report and Order clarifies that the Commission considers the lifesaving services offered by the 988 Lifeline to be emergency management and first responder support functions. The Report and Order notes that the national suicide prevention mental health crisis hotline system operates through the National Suicide Prevention Lifeline maintained by the Assistant Secretary for Mental Health and Substance Use, section 520E-3 of the Public Health Service Act, National Suicide Prevention Lifeline Program, 42 U.S.C. 290bb-36c, and through the Veterans Crisis Line maintained by the Secretary of Veterans Affairs under the Comprehensive Program for Suicide Prevention Among Veterans and Members of the Reserve Components of the Armed Forces, 38 U.S.C. 1720F(h). See also National Suicide Hotline Designation Act of 2020 (Congress deemed "life-saving resources" such as crisis lines "essential" and recognized the need for a 3-digit phone number for such services to be

readily available in emergency situations.). See NORs/Disaster Information Reporting System (DIRS) Information Sharing Report and Order (R&O), 36 FCC Rcd 6136 at 6146-47, paragraphs 32 through 39 (2021), 86 FR 22796 (April 29, 2021) (describing the “need to know” requirement for eligibility).

Accordingly, in order for SAMHSA and the VA to mitigate the impacts service outages may have on access to the 988 Lifeline and VA Crisis Line, and ensure these services remain available to support the safety of the general public seeking crisis support and to prevent suicide among veterans, the Commission finds that both SAMHSA and the VA have a “need to know” and are eligible to apply for direct access to the Commission’s outage reports. While the 988 Lifeline administrator is not itself eligible for direct access to these reports because it is not a government agency, the Commission observes that the Commission’s outage information sharing rules would allow SAMHSA and the VA to share information with them about specific outages, subject to certain confidentiality requirements and other safeguards.

B. Providing 988 Special Facilities with Notice of Outages

14. The Report and Order requires covered 988 service providers to directly notify 988 special facilities about outages that potentially affect those facilities. Commenters generally support the adoption of such a requirement. The Commission agrees with USTelecom that this requirement “strike[s] the right balance of getting relevant, actionable information to the proposed 988 special facilities” that will allow them to take steps to maintain the public’s access to crisis intervention services “without overloading them.” The Commission agrees with BRETSA that 988 outage notifications can help provide information that will allow 988 special facilities to route calls to alternative crisis centers and to help those centers make necessary staffing adjustments. As Vibrant highlights, it can use information about outages in its capacity as the 988 Lifeline administrator to quickly update routing tables to avoid routing calls to crisis centers that are experiencing an outage. Notifications would also allow 988 callers to receive assistance faster, as they would help ensure that those individuals timely connect to a crisis counselor by reducing the amount of time they would have to wait for assistance as a result of having calls fail to be received by a crisis center. The 988 Lifeline administrator is also able to

“effectively and quickly inform all centers in the network of an outage that may impact service and lead to an increase in volume for centers in the areas that are not impacted by the outage. This insight allows time for those unaffected centers to quickly scale to the needed capacity in order to handle the anticipated increased volume that needs to be re-routed.” The Commission also continues to believe 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 disagrees with CX360, who implies that 988 outage notifications should be handled through contracts between the 988 Lifeline administrator and its service providers rather than by rule. The Commission finds that it is more efficient and better serves the public interest to establish a single, uniform rule for 988 outage notifications that will apply to all service providers with which the Lifeline administrator may contract in the future rather than make the occurrence, frequency, and content of those notifications a repeated subject of negotiation. The Commission further believes that it will not serve the public interest to make 988 outage notifications dependent on the 988 Lifeline administrator’s renegotiation of contracts that are in place today, which would have an uncertain result and likely require considerable time to complete. The notification requirements adopted in the Report and Order are similar to the notification requirements the Commission has adopted for covered 911 service providers, which the Commission has found to be effective.

15. The Commission finds that reliance upon a third-party service provider to manage, route, or otherwise contribute to 988 call processing does not relieve providers of the obligation to provide outage notification to 988 special facilities. The Commission agrees with National Emergency Number Association (NENA) that “the fact that a third party service may specialize in supporting outage notifications, and may have a business relationship with a provider, should not change any reporting requirements for the provider.” The Commission disagrees with CX360’s view that covered 988 service providers should only be responsible for reporting outages on facilities over which they have direct control. In this regard, “[t]he Commission has long held that licensees and other regulatees are

responsible for the acts and omissions of their employees and independent contractors,” and has recognized that “under long established principles of common law, statutory duties are nondelegable.” The Commission notes that this approach mirrors the requirements it has adopted for outages that potentially affect 911 special facilities, which should promote consistency in how notifications are made by service providers.

16. The Report and Order designates SAMHSA, the VA, and the 988 Lifeline administrator as the 988 special facilities that must receive notifications of 988 outages. Commenters agree that it is appropriate for these three entities to receive outage notifications. The Commission agrees with USTelecom that this requirement will “assist these entities, which oversee and administer the 988 Lifeline, in quickly informing the public of alternative ways to contact the 988 Lifeline as needed.” The Commission also notes, as highlighted by SAMHSA, that such an approach to outage notification will allow the 988 Lifeline administrator to identify and inform the appropriate crisis centers about outages, as it will have the most updated routing tables and patterns on any given day.

17. At this time, the Commission finds that 988 special facilities that are required to receive 988 outage notifications should not include the local crisis centers to which some 988 calls are routed. The record establishes that the 988 Lifeline’s current approach of routing calls based on the area code associated with the user’s device makes effective notification of this type extremely challenging. As commenters explain, many users’ mobile devices have an area code that is different from the area code in which they are located, which would mean that outages limited to a specific geographic region could nonetheless potentially affect every single local crisis center across the country. The Commission agrees with those commenters that argue that notifications provided to local crisis centers under these circumstances are likely to be overbroad, too frequent, or not provide information that the local crisis center would be capable of acting on.

18. Based on the record before us, the Commission finds that regardless of the scope of an outage, SAMHSA, the VA, and the 988 Lifeline administrator are in the best position to identify what information about a specific outage may be relevant to local crisis centers (including changes in local

crisis center routing) and use existing points of contact to convey that information. As Vibrant explains, crisis centers will be notified about outages by the 988 Lifeline administrator irrespective of contact by a covered 988 service provider or originating service provider. While several commenters support notification of local crisis centers in some or all situations, the record does not offer a convincing explanation of how local crisis centers would be able to effectively act upon 988 outage notifications to ensure that 988 callers receive assistance. The record also does not provide clarity on how any benefits arising from those challenges should be weighed against the challenges to providers arising from the need to maintain updated contact information for those centers. While BRETSA argues that outage notifications could assist local crisis centers in making decisions about appropriate staffing levels, the Commission believes that direct notification by service providers would not supply sufficient information for this purpose because, in addition to the geographic routing challenges discussed above, the notifications would not offer any visibility into any related routing changes made by the 988 Lifeline administrator that would ultimately affect call volume to those centers. BRETSA also argues that notifications can assist local crisis centers with making long-term network reliability decisions, but the Commission observes that outage notifications are intended to support imminent action during outages rather than long-term decision-making.

19. The Commission also requires originating service providers, that is, cable, satellite, wireless, wireline, and interconnected VoIP providers, to notify 988 special facilities about outages that potentially affect those facilities. As discussed above, a person in suicidal crisis or emotional distress that cannot successfully reach a crisis center due to an outage continues to be at risk, regardless of whether the outage occurs before or after the call reaches the 988 Lifeline. For that reason, outage notifications are essential to ensuring that SAMHSA, the VA, and the Lifeline administrator have timely outage information so they effectively respond to outages. The Commission therefore agrees with those commenters that argue that originating service providers should be required to provide notifications of 988 outages.

20. The Commission disagrees with Southern Linc’s opinion that the area code-based routing of 988 makes it “highly doubtful that OSPs would be able to provide any actionable outage information to 988 special facilities.” As discussed above, the 988 Lifeline administrator can use outage notifications to update routing tables to avoid routing calls to crisis centers that are themselves experiencing outages, as well as inform crisis centers about increases or decreases of incoming calls so they can appropriately scale capacity. If needed, SAMHSA, the VA, and the 988 Lifeline administrator could also use information about an outage to inform the public of alternative ways of contacting the Lifeline while a means of communication is unavailable. These actions are available regardless of whether an outage occurs within the network of a covered 988 service provider or an originating service provider. The Commission also disagrees with T-Mobile’s argument that 988 special facilities should not receive notifications, but should instead obtain outage information from NORS data. NORS data is generally received two hours after the discovery of an outage and would have to be actively checked throughout the day by 988 special facilities to stay aware of outages. The Commission finds that this approach is far less likely to be effective at providing timely information than the direct notifications adopted in the Report and Order, which must be delivered within 30 minutes and are provided directly to the affected special facilities. This approach is also consistent with the existing requirement that originating service providers must notify 911 special facilities, which will help minimize costs, promote efficiency, and avoid confusion among providers.

21. The Commission acknowledges concerns that a 988 outage notification requirement for originating service providers could result in SAMHSA, the VA, and the 988 Lifeline administrator receiving “tens of thousands” of outage notifications annually, which could be overwhelming and could undermine effective outage response. As Verizon notes, hundreds of outages occur on originating service providers’ networks every day, and notifications for those outages are split across thousands of public safety answering points (PSAPs) across the country. If every one of those outage notifications were sent to SAMHSA, the VA, and the 988 Lifeline administrator by phone and e-mail daily, then they presumably would need significant, dedicated resources to receive and act on those notifications.

However, the record supports the conclusion that 988 special facilities have such resources in place and will be able to handle the volume of notifications. SAMHSA and Vibrant state that despite the high volume, Vibrant has access to continuous monitoring tools and can develop the necessary capabilities to be able to ingest these notifications. The Commission urges service providers to collaborate with 988 special facilities to ensure that 988 notifications are provided in a format that best facilitates rapid analysis and action.

22. The Commission declines to require covered 988 service providers to notify originating service providers about 988 Lifeline outages and decline to require originating service providers to notify covered 988 service providers about 988 Lifeline outages. As some commenters note, covered 988 service providers often compete with originating service providers or provide services to their competitors. As a consequence, a notification requirement would mandate the sharing of competitively sensitive information. The Commission shares this concern, as well as the concern that the risk of sharing sensitive information directly with competitors and other individuals unnecessarily may slow down providers' notification processes or lead to the removal of information from outage reports that might otherwise be beneficial to a 988 special facility. The Commission notes that the Washington State Department of Health and Health Care Authority supports a requirement that originating service providers provide notice to covered 988 service providers of 988 outages as "these notices would provide for increased coordination between the carriers for remedying the outage and coordinating workarounds." CX360 argues that originating service providers should be required to notify covered 988 service providers about outages because the latter "lack[s] independent insight into the operations on OSPs' networks" and notifications will allow it to "better understand what is happening upstream so it can react quickly and ensure its service is working correctly," and "troubleshoot any issues without needing to contact a provider earlier in the call path, leading to a more efficient resolution of any problems." The Commission disagrees, as the Commission finds it unlikely that these actions will help ensure the availability of the 988 Lifeline. If an outage occurs in an originating service provider's network, the Commission does not see how it would be beneficial for a covered 988 service provider to

begin “troubleshooting issues” within its own separate, downstream network, nor is it clear how those actions would help resolve the originating provider’s outage or otherwise help 988 callers successfully reach the Lifeline. In any event, the Commission believes the potential negative impacts on the effectiveness of outage notifications outweigh these possible benefits.

23. The Commission also declines to require that PSAPs be notified about 988 outages. While some commenters argue that 988 outage notifications would prepare PSAPs for potential call volume increases and give them the necessary situational awareness to handle those calls in an appropriate manner, our rules already require PSAPs to be notified about outages that potentially affect 911 special facilities, including general network outages. In addition, these notifications will not provide PSAPs with situational awareness about any routing decisions made by the 988 Lifeline administrator to address the outage. To the extent that an outage might occur in the network of a covered 988 service provider, it is unclear that the benefit of preparing PSAPs for potential call volume increases related to an outage would outweigh the burden of requiring the provider to maintain contact information and then notify thousands of PSAPs nationwide. Moreover, because call routing for 988 is currently based on area code of the caller, rather than geographic location, the ability to identify the appropriate PSAP for such notice may not be logistically feasible in all instances. The Commission also declines to adopt the approach supported by APCO, which would only require 988 outage notifications be made to those PSAPs that opt-in to receiving them. The Commission believes it would be too administratively burdensome for each service provider to continuously track and update the list of PSAPs across the country that have opted-in to receiving 988 outage notifications, particularly in light of the limited benefits.

24. The Report and Order requires covered 988 service providers and originating service providers to notify 988 special facilities with the same content, by the same means, with the same timing, and with the same frequency as our rules require for 911 outage notifications. Most commenters agree that harmonizing these requirements will have the effect of minimizing the cost and other impacts of the new notification requirements on service providers by allowing them to make notifications by

efficiently using existing systems and processes. The Commission further notes that here, as in the 911 context, parties may mutually agree to alternate means of notification.

25. The Commission declines to require certain modifications to these requirements proposed by commenters. The Commission rejects CX360's proposal that it adopt a "safe harbor" or otherwise modify the content of outage notifications to allow providers to merely notify 988 facilities within 30 minutes that "an issue has been identified and is being actively investigated, with additional information to be provided later." This approach would greatly reduce the amount of actionable information available to 988 special facilities and therefore would not serve as an effective notification. The Commission also declines to require notifications to include contact information for those callers that failed to connect to the 988 Lifeline since the outage began. The Commission agrees with commenters that it is important for those individuals to receive the support they need, but believe more study is needed to determine whether it is technically feasible to require service providers to obtain and share that information as part of the outage notification process, as well as to understand any costs that might be attendant in obtaining and sharing such information. The Commission acknowledges, as CTIA--The Wireless Association (CTIA) asserts, that wireless network equipment affected by an outage often will not be able to identify devices that cannot connect to the network, which could make compliance with such a requirement challenging. While several commenters also argue that the phone numbers of individuals who try, but fail to reach 988 is not currently available to providers, the Commission suspects that it may be technically feasible for providers to develop these capabilities, so it plans to continue to explore the matter.

26. The Commission disagrees with those commenters that argue that a 30-minute timeframe to provide 988 outage notifications is too fast, as well as those that argue that it is too slow. The Commission finds, as it previously found for 911 outage notifications, that a 30-minute timeframe strikes a balance between the need for timely and actionable 988 outage information and the accuracy of that information. The Commission believes the comments of the Veterans Crisis Line, which highlights that statistically as many as three deaths by suicide occur within thirty minutes, and the comments of the

Competitive Carriers Association (CCA), which argues that 30-minute notifications may result in rushed analysis and inaccurate reporting, illustrate why a balance must be struck between speed and accuracy. The Commission agrees with those commenters who argue that 30 minutes is the best way to strike that balance.

27. The Commission disagrees with CCA that a 30-minute notification timeframe would be unreasonable and unrealistic, particularly for originating service providers utilizing vendors for 988 solutions. Thirty minutes has already proven to be a realistic timeframe for covered 911 service providers to gather clear and useful information about network outages to include in a notification, even though such providers also frequently contract for services from vendors. The Commission also finds that originating service providers serving fewer customers will have to experience longer outages to reach the threshold required for notification, which effectively provides more time for those providers to investigate the outage. The Commission therefore sees no reason why it would be overly burdensome for originating service providers to provide accurate notifications within a similar timeframe for 988 outages. To the extent that service providers find that their own vendors' coordination failures are causing them to violate the Commission's outage notification requirements the Commission believes that is a matter to be resolved between those parties and does not change the service provider's obligation to comply with the Report and Order's notification requirements.

28. As an alternative to the requirement adopted in the Report and Order, CCA proposes that the Commission adopt at minimum an approach that sets 988 outage notification deadlines based on the time when actual originating service providers are notified about outages by their vendors or underlying providers. This alternative is incompatible with the goal of providing 988 special facilities with timely outage notifications because it would excuse originating service providers from reporting outages that their vendors fail to disclose to them. The Commission believes this approach would disincentivize originating service providers from learning about outages on their vendors' networks, eliminate consistency as to when 988 special facilities can expect to receive outage reports, and delay 988 special facilities' receipt of outage reports, which would in turn delay any actions they may take to ensure the

988 Lifeline’s availability. Moreover, the Commission finds it does not serve the public interest to create a means for providers to “contract away” their obligations by allowing the use of a vendor to alleviate a regulatory obligation. As stated above, the Commission has long held that licensees and other regulatees are responsible for the acts and omissions of their contractors, and the Commission declines to adopt an approach to 988 outage notification that would disturb that holding. The findings the Commission makes in the Report and Order are limited to the 988 outage notification requirements made in the order. The Commission reserves judgment on the Petition for Reconsideration filed by CCA regarding the Commission’s November 2022 Report and Order, 88 FR 9756 (March 17, 2023), harmonizing 911 existing outage notification requirements. See CCA Petition for Reconsideration, PS Docket Nos. 15-80 and 13-75, ET Docket No. 4-35 (filed Mar. 17, 2023), <https://www.fcc.gov/ecfs/search/search-filings/filing/1031746539270>. The Commission also rejects CX360’s proposal that follow-up notifications not be due until seven to fourteen days after an initial notification is provided, as delaying critical details about an outage for an entire week, which is likely long after the outage has been resolved, clearly does not serve the goals of improving 988 special facilities’ awareness and ability to address outages.

29. The Report and Order requires covered 988 service providers and originating service providers to exercise special diligence to maintain accurate, up-to-date contact information for 988 special facilities, just as our rules require for 911 special facilities. “Special diligence” is the diligence expected from a person practicing in a particular field of specialty. 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. 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 ensure it is up-to-date. As it has found in the 911 context, the Commission found that for 988 outage reporting that requiring a higher level of care than reaching out to the prior contact is imperative to ensure public safety, and requiring this higher level of

care will incentivize providers to ascertain and update such contact information. The Commission also finds that this requirement is significantly less burdensome than the similar requirement pertaining to 911 special facility contact information because the Report and Order only designates three 988 special facilities for which contact information must be maintained. The Commission disagrees with ATIS's view that it would be extremely difficult to apply special diligence to the maintenance of 988 contact information because "there are no subject matter experts practicing in the field of 988 routing or 988 contact information maintenance." The diligence our rules require is that of a communications provider that, through their experience in offering the services that emergency communications depend on, understands that failure to provide effective notifications about outages could result in harm to life and property. Accordingly, the Commission expects that 988 service providers and originating service providers would take the steps necessary to ensure that the contact information they maintain for 988 special facilities is accurate and effective as the failure to provide effective notice to the appropriate contact could result in harm to life and property.

30. The Commission declines at this time to require covered 988 service providers or originating service providers to file 988 reliability certifications to ensure the network supporting the 988 Lifeline remains resilient and robust. The Commission agrees with ATIS that 988 is different from 911 in structure and organization; therefore the Commission's existing 911 network reliability certification requirements could not easily be applied to 988 reliability. The Commission believes additional study of threats to the 988 Lifeline is necessary to determine what next steps should be taken, if any, to promote reliability. The Commission expects that the 988 outage reporting requirements adopted in the Report and Order will give it additional insight to 988 reliability trends and inform future action.

31. The Commission notes that some commenters made recommendations that they argue would improve the general effectiveness and reliability of the 988 Suicide & Crisis Lifeline. While these recommendations are outside of the scope of the 988 network outage reporting and notification

requirements adopted in the Report and Order, the Commission will keep these issues in mind as it continues to support the 988 Lifeline.

C. Assessing the Benefits and Costs

32. The Commission determined that the rules adopted in the Report and Order concerning the reporting in NORS of outages that potentially affect 988 special facilities and the notifying of 988 special facilities about outages will result in an industry-wide one-time compliance cost of \$56,000 and an annual recurring cost of \$1,355,000. The Commission sought comment on cost estimates in the 988 Outage NPRM and received no persuasive objections and only one comment offering an alternative calculation in response, which is addressed in context below.

33. For the reporting of 988 outages in NORS, the Report and Order finds that outages that potentially affect 988 special facilities fall into two categories: outages experienced by the covered 988 service providers that are responsible for providing the 988 Lifeline with the capability to receive, process, or forward 988 calls, and outages experienced by originating service providers that deliver calls to the Lifeline. Consistent with the estimate stated in the 988 Outage NPRM, which no commenter challenged, the Commission assumes that one covered 988 service provider experiences a maximum of one reportable outage per month and estimates an annual compliance cost for that one covered 988 service provider of \$1,000. See 988 Outage NPRM at 15, paragraph 37, n.80 (estimating a maximum of two hours total time to submit all required reports at a cost of \$43 per hour for a total cost estimate of $\$1000 \approx \$43/\text{hr} \times 2 \text{ hrs} \times \text{one reportable outage per month} \times 12 \text{ months}$). The Commission finds that originating service providers already submit outage reports to the Commission related to outages that affect voice telephony, which would be largely or entirely identical to the new reporting requirements, so initial compliance costs would be negligible.

34. With regard to the requirements to maintain updated contact information for 988 special facilities and to notify those facilities about outages that affect them, the Commission estimates that the costs of compliance will also be relatively low when compared to the benefits to the public. It estimates a one-time industry-wide cost of \$56,000 to create an e-mail survey to biannually solicit 988 special

facility contact information. The Commission does not expect more than incidental costs arising from the creation or updating of outage notification templates, as the 988 outage notification requirements that adopted in the Report and Order share the same content and timing as the 911 outage notification requirements with which service providers already comply. The Commission estimates 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 requirements adopted in the Report and Order and \$28,000 for soliciting appropriate contact information for outage notification from 988 special facilities. The Commission expects that no costs will be incurred related to identifying the 988 special facilities that could potentially be affected by an outage, as the Commission has required 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.

35. The Commission finds that the benefits of the 988 outage reporting and notification requirements adopted in the Report and Order outweigh their associated costs. The Commission recognizes that it is difficult to quantify the value of ensuring the continuity of access to 988 Lifeline services, which includes its capacity to save lives and mitigate and prevent injuries. However, the Commission believes the considerable public safety value of the requirements adopted in the Report and Order as described above will exceed the limited costs of implementation. As discussed by commenters and in the 988 Outage NPRM, 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 May 2023, the 988 Lifeline answered 235,292 calls, which is an average of over 7,500 answered calls per day. The Commission finds that the 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. The Report and Order's 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 hasten the timely restoration of 988 Lifeline services. The Commission describes in the Report and Order 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 requirements.

36. The benefits of reducing suicide via 988 are driven by the staggering societal costs of deaths by suicide. In 2021, there were over 48,000 deaths by suicide in the United States, which, as noted above, averages out to approximately one death every 11 minutes. For every suicide death, there were 3 hospitalizations for suicide attempts, 8 suicide-related emergency department visits, and 38 self-reported suicide attempts. Suicides and suicide attempts annually impose billions of dollars in medical, first-responder, productivity-loss, and lost-quality-of-life costs on society. In addition to lives saved and injuries avoided, time-saving network outage protocols will also alleviate the devastating emotional toll wrought by suicide on victims' families, friends, and communities.

37. Notifying SAMHSA, the VA, and the 988 Lifeline administrator of the disruption of access to 988 Lifeline services will 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 during the outage, 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, will enhance the 988 Lifeline's ability to direct scarce resources toward mitigating outages rather than seeking out information as to whether an outage is occurring, the scope of such an outage, or its impact. One of the benefits of implementing short dialing for calls and text messages to the Lifeline was to reduce the burdens on 911 and other emergency services arising from calls related to mental health and suicide. The Commission believes that the rules adopted in the Report and Order will further reduce the burden on 911 and other emergency services by promoting 988 reliability so that 988 calls go through when individuals need 988 service the most.

38. The Commission disagrees with Southern Linc's argument that the rules adopted in the Report and Order place unnecessary regulatory burdens on smaller non-nationwide providers, which

they assert will be strained due to the same personnel being responsible for both reporting and responding to outages, as well as complying with other regulatory requirements. As explained above, the Commission finds that the significant public safety benefits arising from the requirements adopted in the Report and Order outweigh their associated burdens, particularly since the cost of these requirements is likely to be relatively low due to commonalities with existing outage reporting requirements. The Commission again notes that the outages experienced by smaller providers with fewer subscribers would generally take longer to meet the required reporting thresholds, which would effectively provide more time to investigate an outage before it is required to be reported. Southern Linc further accuses the Commission of “assuming that all employees of a provider’s affiliates – no matter how distant – should be considered ‘available resources’ to support the provider’s compliance efforts, regardless of whether the employees of those affiliates have any responsibility to support wireless network operations.” The Commission does not make this assumption. If the Commission were to assume that service providers already had available staff to implement the requirements adopted in the Report and Order, then the costs to service providers would be estimated to be zero. To the contrary, the cost estimates that the Commission makes in the Report and Order are grounded in the additional labor hours and wages needed to comply with the Report and Order’s adopted rules.

D. Legal Authority

39. In the 988 Outage NPRM, the Commission sought comment on potential sources of legal authority under titles II and III and section 4(i) of the Communications Act and section 104 of the Twenty-First Century Communications and Video Accessibility Act (CVAA) for Commission action to promote the reliability and resiliency of the 988 Lifeline. The Commission noted that Congress amended section 251 of the Communications Act of 1934 to specify 988 as the universal telephone number for the National Suicide Prevention Lifeline and that the proposed rules were intended to ensure that the Lifeline remains operational in accordance with the policies identified by Congress in that 2020 legislation and that any outages are quickly identified and reported, thus promoting the safety of life and property. The Commission now finds that section 4 and section 251 provide ample authority for the

reporting and notice obligations adopted in the Report and Order.

40. Title II of the Communications Act gives the Commission clear authority over service providers, including covered 988 service providers, to the extent that they provide interstate common carrier service. The statute provides that “practices” for and in connection with interstate common carrier services must be “just and reasonable,” and that a common carrier must “provide itself with adequate facilities for the expeditious and efficient performance of its service as a common carrier.” The Commission is also authorized to “inquire into the management of the business of all carriers and obtain from them full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created.”

41. The Commission further notes that the Communications Act directs that “[f]or the purpose of obtaining maximum effectiveness from the use of radio and wire communications in connection with safety of life and property,” the Commission “shall investigate and study all phases of the problem and the best methods of obtaining the cooperation and coordination of these systems.” Both originating service providers and covered 988 service providers play critical roles in ensuring the cooperation and coordination of the 988 system, and the Commission has previously relied on section 4(n) as providing authority to require reporting of interconnected VoIP outages, and to require emergency alerting plans to allow the Commission and other stakeholders “to more easily review and identify gaps” in emergency alerting architecture, “detect problems, and take measures to address these shortcomings.” By requiring reporting of outages affecting access to 988 by both originating service providers and covered 988 service providers the Commission is enabling the Commission’s ongoing review of sources of disruption to this critical emergency service, which in turn will contribute to greater reliability going forward. The Commission concludes that these sources provide it with sufficient authority for the 988 outage reporting requirements adopted in the Report and Order.

42. Additionally, the Commission finds that imposing outage reporting requirements on covered 988 service providers is reasonably ancillary to our responsibility to ensuring that the 988 Lifeline service operates effectively. To exercise ancillary authority “two conditions [must be] satisfied:

(1) the Commission’s general jurisdictional grant under Title I [of the Communications Act] covers the regulated subject and (2) the regulations are reasonably ancillary to the Commission’s effective performance of its statutorily mandated responsibilities.” The functions at issue here involve communications by wire or radio in that they either take the form of such transmission or involve the use of equipment for purposes of facilitating transmission by wire or radio. The Commission concludes that these reporting requirements are necessary to carry out our responsibility for the proper functioning of the 988 Lifeline service under section 251(e)(4). Obtaining outage information from covered 988 service providers is necessary because only the covered 988 service provider has visibility into outages that occur at the point where the covered 988 service provider processes and forwards the call. Adopting outage reporting and notice requirements for entities that have the ability to receive, process, or forward calls to the 988 Lifeline furthers the Commission’s goals to strengthen the 988 Lifeline’s reliability and help save the lives of those who may be experiencing a suicidal crisis or mental health-related distress.

43. The Commission disagrees with CX360, a company that contracts with the 988 Lifeline administrator to provide voice and SMS-based services for communications after they reach the 988 Lifeline, that the Commission lacks authority to require the reporting of outages by entities that provide the 988 Lifeline with the capability to receive, process, or forward calls. As outlined above, the Commission clearly has authority to impose these reporting and notice requirements on CX360, on any entities that offer to the public for a fee “transmission between points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received,” and on entities that route calls from the 988 Lifeline to the appropriate crisis center(s), following routing instructions provided by the 988 Lifeline administrator. Even though the responsibilities of an originating service provider may conclude once a call reaches the 988 Lifeline, this does not mean that the services offered by other communications providers within the 988 call path that are necessary to connect the caller to their local crisis center, the Veterans Crisis Line, or other call taker, a service which CX360 states that it provides, cannot be regulated by the Commission.

44. The Commission specifically rejects CX360's argument that entities that "process" calls for the 988 Lifeline cannot be regulated by the Commission. The Commission finds that the processing of 988 calls – that is to say, conducting the necessary technical steps to prepare the call for forwarding to a crisis center or the Veterans Crisis Line and then transmitting those calls to that crisis center – falls within our authority to regulate via the reporting and notice requirements adopted in the Report and Order. To the extent that an entity uses an interactive voice response system to support these capabilities, the Commission acknowledges that such an offering may acquire, store, or process information related to how the call should be routed. But the Commission concludes that it has authority to require outage reporting and notice under the specific circumstances here from entities performing functions like CX360.

E. Timelines for Compliance

45. The Report and Order adopts deadlines for originating service providers to comply with the Report and Order's revisions to § 4.9 as the latest 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; (2) 90 days after the publication of the summary of the Report and Order in the Federal Register, or (3) the date the Commission's updated 911 outage reporting and notification rules go into effect. Consistent with the Commission's proposal in the 988 Outage NPRM, the Commission agrees with Vibrant that the first two elements of this timeline provide sufficient time for compliance, as the Commission finds that the revisions constitute only minor changes to existing notice and reporting requirements for 911 network outages, and it will take a modest amount of time for originating service providers to adjust their processes to satisfy the proposed rules. The Commission also agrees with USTelecom that it is sensible to harmonize the compliance timeline for the rules adopted in the Report and Order with the compliance timeline for the 911 outage notification requirements adopted in November 2022 given the similarities between them.

46. The Commission is persuaded by CX360 that some covered 988 service providers may not have existing NORS filing or outage notification obligations and would need additional time to

develop the capabilities and processes necessary to comply with the rules adopted in the Report and Order. Accordingly, the Commission agrees with CX360 that covered 988 service providers should be granted six additional months to come into compliance. The Report and Order adopts deadlines for covered 988 service providers to comply with the Report and Order's rules as the latest 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; (2) nine months after the publication of the summary of the Report and Order in the Federal Register; or (3) the date the Commission's updated 911 outage reporting and notification rules go into effect.

II. PROCEDURAL MATTERS

47. *Paperwork Reduction Act of 1995 Analysis.* This document requires covered 988 service providers and originating service providers to adopt 988 reporting and notice procedures which represent new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The document will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA and, with the exception of the revision to 47 CFR 4.9(e)(1)(iv), will not take effect until approved by OMB. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contain in this proceeding. This document will be submitted to OMB for review under section 3507(d) of the PRA. In addition, the Commission notes that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought, but did not receive, specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission does not believe that the new or modified information collection requirements adopted in the Report and Order will be unduly burdensome on small businesses.

48. *Regulatory Flexibility Act Analysis.* The Regulatory Flexibility Act of 1980, as amended (RFA) 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.” As required by the RFA, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the 988 Outage NPRM adopted January 26, 2023 (88 FR 20790 (Apr. 7, 2023)). The Commission sought written public comment on the proposals in the 988 Outage NPRM, including comment on the IRFA. No comments were filed addressing the IRFA. The Commission prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the potential impact of the rule and policy changes adopted in the Report and Order on small entities. The FRFA is set forth in Appendix B of the Report and Order.

III. 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, Public Law 115-233, 132 Stat. 2424 (2018), and the National Suicide Hotline Designation Act of 2020, Public Law 116-172 (2020), the Report and Order IS hereby ADOPTED.

50. IT IS FURTHER ORDERED that the amendments of the Commission’s Rules as set forth in Appendix A of the Report and Order are ADOPTED, effective 30 days after publication in the Federal Register, except for the amendments to 47 CFR 4.9. The amendments to 47 CFR 4.9 will not become effective until OMB completes any review that the Public Safety and Homeland Security Bureau determines is required under the Paperwork Reduction Act and the Public Safety and Homeland Security Bureau announces an effective date consistent with section III.E of the Report and Order by subsequent Public Notice.

51. IT IS FURTHER ORDERED that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small

Business Administration.

52. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance and Program Management, SHALL SEND a copy of the Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C.

801(a)(1)(A).

List of Subjects in 47 CFR Part 4

Communications common carriers, Reporting and recordkeeping requirements,

Telecommunications.

FEDERAL COMMUNICATIONS COMMISSION

Marlene Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 4 as follows:

PART 4 – DISRUPTIONS TO COMMUNICATIONS

1. The authority citation for part 4 continues to read as follows:

Authority: 47 U.S.C. 34–39, 151, 154, 155, 157, 201, 251, 307, 316, 615a–1, 1302(a), and 1302(b); 5 U.S.C. 301, and Executive Order no. 10530.

2. Section 4.3 is amended by:

- a. Removing the heading from paragraph (i); and
- b. Adding paragraph (j).

The addition reads 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. “Covered 988 service provider” shall not include any entity that constitutes a crisis center that participates in the 988 Lifeline, or any entity that offers the capability to originate 988 calls where another service provider delivers those calls to the appropriate crisis center.

3. Section 4.5 is amended by revising the section heading and 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, potentially affecting at least 900,000 user-minutes and lasting at least 30 minutes duration.

4. Delayed indefinitely, § 4.9 is amended by revising paragraphs (a)(4), (c)(2)(iv), (e)(1)(v), (f)(4), and (g)(1)(i) and adding paragraph (i) to read as follows:

§ 4.9 Outage reporting requirements - threshold criteria.

(a) * * *

(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) or (i) of this section, respectively. 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) * * *

(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) or (i) of this section, respectively.

* * * * *

(e) * * *

(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) or (i) of this section, respectively.

* * * * *

(f) * * *

(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) or (i) of this section, respectively. 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) * * *

(1) * * *

(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) or (i) of this section, respectively; or

* * * * *

(i) *988 Special facility outage notification.* All cable, satellite, wireless, wireline, interconnected VoIP, and covered 988 service providers shall notify any official at a 988 special facility who has been designated by the affected 988 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 (i), "material information" includes the following, where available:

- (i) An identifier unique to each outage;
- (ii) The name, telephone number, and email address at which the notifying 988 service provider can be reached for follow up;
- (iii) The name of the covered 988 service provider experiencing the outage;
- (iv) The date and time when the incident began (including a notation of the relevant time zone);
- (v) The types of communications service(s) affected;
- (vi) The geographic area affected by the outage;
- (vii) 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);
- (viii) Expected date and time of restoration, including a notation of the relevant time zone;
- (ix) The best-known cause of the outage; and
- (x) 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.

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