

TC-2 Resolution on State Access to the Network Outage Reporting System and Disaster Information Reporting System Filings

Whereas the California Public Utilities Commission (“CPUC”) petitioned the Federal Communications Commission (“FCC”) requesting direct access to the FCC’s Network Outage Reporting System (“NORS”) on November 12, 2009 [Petition of the California Public Utilities Commission And The People of the State of California for Rulemaking on States’ Access to the NORS Database and a Ruling Granting California Access to NORS, ET Docket No. 04-35 (Nov. 12, 2009)];

Whereas the National Association of Regulatory Utility Commissioners (“NARUC”) has filed extensive comments in this proceeding based on a February 15, 2015, *NARUC Resolution on State Access to the NORS Database*;

Whereas while California filed the Petition on its own behalf, and some States may receive certain types of outage information from carriers, States share the need for immediate, secure and confidential access to NORS data for their individual states to carry out their regulatory responsibilities;

Whereas many States filed in support of California’s Petition: *See* Comments of the National Association of State Utility Consumer Advocates, ET Docket No. 04-35 (filed Mar. 4, 2010); Comments of the City of New York, ET Docket No. 04-35 (filed Mar. 4, 2010); Comments of Massachusetts Department of Telecommunications and Cable, ET Docket No. 04-35 (filed Mar. 4, 2010); Comments of the Public Service Commission of the District of Columbia, ET Docket No. 04-35 (filed Mar. 4, 2010); Comments of the Missouri Public Service Commission, ET Docket No. 04-35 (filed Mar. 26, 2010); and Comments on behalf of the New York Public Service Commission, ET Docket No. 04-35 (filed Mar. 4, 2010); *see also* Comments of California Association of Competitive Telecommunications Companies, ET Docket No. 04-35 (filed Mar. 8, 2010); Comments of the Alliance for Telecommunications Industry Solutions, ET Docket No. 04-35 (filed Mar. 4, 2010) at 1 (“ATIS recognizes the legitimate needs of states to have access to outage reporting data...”); and Comments of The United States Telecom Association, ET Docket No. 04-35 (filed Mar. 4, 2010) at 1 (“US Telecom’s members recognize the legitimate interest that CPUC has in obtaining federally-collected outage reports for its jurisdiction.”);

Whereas the FCC did not respond directly to this Petition;

Whereas the CPUC withdrew this Petition [Motion of the California Public Utilities Commission and the People of the State of California to Withdraw California’s Request for a Ruling Granting California Access to the NORS Database] in 2018;

Whereas the CPUC addressed the need for access to NORS data through the development of their own outage database;

Whereas the U.S. Department of Homeland Security (“DHS”) recommended to the FCC that it consider providing State and federal agencies, and Tribal nations direct access to the FCC’s NORS and Disaster Information Reporting System (“DIRS”) filings; “in order to assure that State authorities have the ... data they need to support their homeland security and emergency response functions...” [*In the Matter of New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd. 16830, ¶ 25, at 16845 (2004)];

Whereas the FCC disseminated a Notice of Proposed Rulemaking on March 2, 2020, further acknowledging “the crucial role state and local authorities can play in the successful restoration of disrupted

communications” with appropriate outage data access [Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications Second Further Notice of Proposed Rulemaking - PS Docket Nos. 15-80 and RM No. 11588 (terminated)];

Whereas many States filed comments in support of the proposed Rulemaking; *See* Comments of the California Public Utilities Commission, PS Docket No. 15-80 (filed April 30, 2020); Comments of the Colorado Public Utilities Commission, PS Docket No. 15-80 (filed Apr 30, 2020); Comments of Massachusetts Department of Telecommunications and Cable, PS Docket No. 15-80 (filed April 29, 2020); Comments of the Michigan Public Service Commission, PS Docket No. 15-80 (filed April 30, 2020); Comments of the New York State Public Service Commission, PS Docket No. 15-80 (filed April 30, 2020); and Comments of the Pennsylvania Public Utility Commission, PS Docket No. 15-80 (filed April 30, 2020); see also Comments of the Washington APCO-NENA Chapter, PS Docket No. 15-80 (filed April 29, 2020); Comments of the Satellite Industry Association, PS Docket No. 15-80 (filed June 2, 2020); and Comments of The National Association of State 911 Administrators, PS Docket No. 15-80 (filed July 20, 2020);

Whereas the Commonwealth of Puerto Rico issued support to the Rulemaking, citing previous instances of disaster recovery in which, “timely access to network information during a disaster is literally a matter of life and death;”

Whereas NARUC has filed comments to support the proposal of providing States and other federal agencies access to the FCC’s NORS and DIRS filings, and in general support of the commenting state commissions;

Whereas the FCC released a Report of the Public Safety and Homeland Security Bureau on the June 15, 2020 T-Mobile Network Outage (October 22, 2020), lasting over 12 hours and resulting in 911 outages and disrupted service for customers across the country;

Whereas the FCC released a Report of the Public Safety and Homeland Security Bureau regarding the 37 hour December 27, 2018, CenturyLink Network Outage (August 19, 2020), detailing that the outage affected as many as 22 million consumers across 39 states, 29 of which experienced 911 outages;

Whereas the FCC has announced an investigation of the August 30, 2020 CenturyLink network outage;

Whereas State agencies, including State utility commissions and State Offices of Emergency Services, are responsible for maintaining public services, including (tele)communications services, before, during and after emergencies;

Whereas State commissions have a responsibility to ensure access to 911/E911 service, and many States have obligations to ensure call completion;

Whereas utilities and public safety officials, including emergency responders, depend on safe, reliable and secure delivery of communications services before, during, and after emergencies;

Whereas States and local jurisdictions may need more granular or different outage information to fulfill their public safety mandates and the FCC should not preempt those efforts;

Whereas State commissions have a responsibility to ensure the stability and resiliency of State communications infrastructure, including telephone and public communications networks;

Whereas public telecommunications networks are the basis for the operation of advanced services that are also now widely needed before, during, and after emergencies;

Whereas public telecommunications network outages pose a significant risk to health and safety of the public and “greatly inconvenience the public and cause significant economic disruption” [NASUCA Comments, ET Docket No. 04-35 (filed Mar. 4, 2010 at 4-5)];

Whereas granting States secure access to NORS data is consistent with a history of the FCC sharing confidential information with State commissions when a vital need is shown and the information is properly safeguarded [See McDonough Telephone Cooperative Comments, ET Docket 04-35 (filed Mar. 4, 2010) at 5-6 (describing the finding by the Commission that certain confidential information, such as North American Number Plan and Form 477 data, should be shared with State commissions for the welfare of the public)];

Whereas protecting the security, integrity and confidentiality of NORS data is paramount, and the States are well-situated to understand the level of monitoring necessary to maintain the reliability and security of the communications infrastructures within their jurisdictions; and

Whereas secure access to the NORS database will ensure the rapid and effective coordination of efforts to maintain or restore communications services at the local, state, and federal levels; *now, therefore be it*

Resolved the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Annual Meeting and Education Conference, urges the FCC to approve expeditiously the Notice of Proposed Rulemaking, PS Docket No. 15-80, for State public utility commissions and/or other State-identified State agencies to have direct and immediate secure access to State-specific NORS and DIRS filings, subject to appropriate safeguards between the FCC and the PUCs regarding confidential information, and take the necessary steps to effectuate that access.

Passed by the Committee on Telecommunications November 10, 2020

Adopted by the Board of Directors, November 11, 2020