

TC-2 Resolution in Support of California’s Petition for Reconsideration Requesting the Federal Communications Commission Seek Comments on Whether the Public Interest and Competition Would Be Served by Maintaining its Policy to Presume All Network Outage Reporting System and Disaster Information Reporting System Information to be Confidential

Whereas the Federal Communications Commission (FCC) amended its Part 4 Rules Concerning Disruptions to Communications to include a framework for sharing Network Outage Reporting System (NORS) and Disaster Information Reporting System (DIRS) filings with states and other specified entities who need to know the information to carry out their public safety duties. (*Second Report and Order*, In the Matter of Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications, released March 18, 2021);

Whereas, in the *Second Report and Order*, the FCC declined “to reverse at this time the Commission’s long-held view that NORS and DIRS information warrants confidential treatment” because of “the lack of new information provided by commenters on the current record.” (*Second Report and Order*, at ¶ 46);

Whereas, in the *Second Report and Order*, the FCC acknowledged that “some commenters assert that public access to some outage information would benefit the public.” (*Ibid.*);

Whereas in the *Second Report and Order*, the FCC acknowledged receiving comments that the presumption of confidentiality for all NORS and DIRS information is not fully warranted (*See e.g.*, National Association of State 911 Administrators April 29, 2020, Comments; Colorado Public Utilities Commission April 29, 2020, Comments; Boulder Regional Emergency Telephone Service Authority April 30, 2020, Comments; Letter from Harold Feld, Senior Vice President, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 15-80 (March 9, 2021));

Whereas in the *Second Report and Order*, the FCC acknowledged that it had not sought comment on which types of NORS and DIRS should or should not receive confidential treatment (*Second Report and Order*, at ¶ 46);

Whereas, in the *Second Report and Order*, the FCC stated that “nothing we do today permanently forecloses us from examining this issue further in the future.” [*Ibid.*];

Whereas the California Public Utilities Commission (CPUC) petitioned the Federal Communications Commission (“FCC”) to reconsider the FCC’s conclusion in Paragraph 66 of the *Second Report and Order* that “Based on the lack of new information provided by commenters on the current record, we decline to reverse at this time the Commission’s long-held view that NORS and DIRS information warrants confidential treatment.”

Whereas the FCC last visited the question of whether outage information should be treated as presumptively confidential nearly seventeen (17) years ago in August 2004 in *New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, 19 FCC Rcd 16830 (2004);

Whereas the FCC released a notice of the CPUC’s Petition on July 19, 2021 and subsequent publication in the Federal Register will initiate the comment cycle on its requests;

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*, most recently on June 1, 2020;

Whereas NARUC passed its November 11, 2020, *Resolution on State Access to the Network Outage Reporting System and Disaster Information Reporting System Filings* resolving to urge 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;

Whereas the New York State Public Service Commission, Pennsylvania Public Utility Commission, Michigan Public Service Commission, Colorado Public Utilities Commission, Massachusetts Department of Telecommunications and Cable, the Public Service Commission of the District of Columbia, the Missouri Public Service Commission, the Virginia State Corporation Commission, and the Washington State Utilities and Transportation Commission are all interested parties to this particular docket;

Whereas NARUC is informed that many states other than California are interested in revisiting the presumption of confidentiality of outage information given the passage of time and changed circumstances; *now, therefore be it*

Resolved that the Board of Directors, of NARUC convened at its 2021 Summer Policy Summit in Denver, Colorado, urges the FCC to grant the CPUC's Petition and reopen the proceeding to take comment on the issue of whether the FCC should keep its presumption of confidentiality for NORS and DIRS filings.

Sponsored by the Committee on Telecommunications on July 20, 2021
Adopted by the NARUC Board of Directors on July 21, 2021