

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

In the Matter of)	
)	
Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications)	PS Docket No. 15-80
)	
Petition of California Public Utilities Commission and the People of the State of California for Rulemaking on State's Access to the Network Outage Reporting System ("NORS") and a Ruling Granting California Access to NORS)	RM No. 11588 (terminated)

**REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF STATE UTILITY
CONSUMER ADVOCATES (NASUCA)
ON THE SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

I. INTRODUCTION

On March 2, 2020, the Federal Communications Commission (FCC or Commission) issued a Second Further Notice of Proposed Rulemaking (Second FNPRM)¹ that proposed granting access by state, local and tribal agencies to Network Outage Reporting System (NORS) and Disaster Information Reporting System (DIRS) data. The National Association of State Utility Consumer Advocates (NASUCA) files these Reply Comments in response to the Second FNRPM.²

¹ In the Matter of *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket No. 15-80, and *Petition of California Public Utilities Commission and the People of the State of California for Rulemaking on State's Access to the Network Outage Reporting System ("NORS") and a Ruling Granting California Access to NORS*, RM No. 11588 (terminated), Adopted February 28, 2020, Released March 2, 2020.

II. THE COMMISSION SHOULD GRANT FEDERAL, STATE, AND TRIBAL PUBLIC AGENCIES ACCESS TO NORS AND DIRS INFORMATION.

NASUCA generally supports the Commission's proposal to provide direct, timely access to Network Outage Reporting System (NORS) and Disaster Information Reporting System (DIRS) filings to qualified agencies of the fifty states, the District of Columbia, Tribal Nation Governments and United States Territories.³ All of these entities should be granted direct access to this information. Multiple parties, including state regulators, public safety officials, public interest advocates and commenters from the wireline and wireless industries support the general proposition that federal, state, D.C., tribal and territorial emergency officials should have access to NORS and DIRS data.⁴

State and emergency services commenters cited numerous examples of situations where the lack of access to data during major telecommunications outages and emergency events caused immense confusion or posed a threat to public safety. An example from Colorado demonstrates the importance of providing state and local emergency officials with direct access to federal data:

On July 15, 2019, a fiber cut occurred within the network of Colorado's SSP [911 System Service Provider], causing outages or partial outages in multiple locations throughout the state. Due to network configuration, PSAPS [Public Safety Answering Points] were notified that they were potentially affected by the outage, even if they were not. Thirty-one separate locations across the state were notified that they were potentially affected. The State's Emergency Operations Center activated to help coordinate communication. The confusion regarding which locations were affected and which were false alarms hampered the ability of the State and the local communities to develop a coherent

³ Second FNPRM at ¶23.

⁴ See, e.g., comments of the California Public Utilities Commission (California), Colorado Public Utilities Commission (Colorado), Massachusetts Department of Telecommunications and Cable (Massachusetts), Michigan Public Service Commission (Michigan), New York Department of Public Service (New York), Pennsylvania Public Utilities Commission (Pennsylvania), Telecommunications Regulatory Bureau of Puerto Rico (Puerto Rico), Boulder Regional Telephone Service Authority (BRETSA), National Association of State 911 Administrators (NANSA), Free Press, The Utility Reform Network (TURN), AT&T, T-Mobile, Verizon, NTCA-The Rural Broadband Association, and Competitive Carriers Association.

communications strategy. The outage persisted for almost 12 hours, and it was not until days after the outages resolved that any level of certainty was achieved in determining who was directly affected and who wasn't.

Because this outage occurred within the underlying SSP's network, and that network also serves as backhaul for a number of wireless providers, rural local exchange carriers, and other providers. [sic] Knowing which of these originating service providers had been affected, and which had not, would have helped narrow down the actual locations affected considerably. This information could have helped the communications strategy of the local agencies and the State's Emergency Operations Center.⁵

Direct access to NORs and DIRS data would provide emergency officials with details about which carriers have reported outages in different geographic regions. This would provide important information to state public safety officials trying to obtain a comprehensive picture of what services are out, where, and whether there are areas in an emergency situation for which carriers have not reported problems. This, in turn, would support efforts to coordinate with other state agencies and local public safety officials during emergencies.⁶ State and public safety commenters emphasized the importance of obtaining a more complete picture than is available in the absence of this data.⁷

III. ELIGIBLE ENTITIES SHOULD HAVE ACCESS TO DATA DURING OUTAGES AND DATA THAT ALLOWS STATE OFFICIALS TO IDENTIFY OUTAGE TRENDS.

As parties pointed out, NORs and DIRS data serve two different functions. NORs data reflects outages that occur once a certain threshold for affected customers is met. This reporting

⁵ NANSAs at 5-6.

⁶ TURN at 2.

⁷ See, e.g., Colorado at 3.

is required of wireline and wireless carriers. DIRS data reporting occurs during emergencies and is voluntary. When DIRS reporting is initiated, NORS reporting is waived.⁸

Some parties, while supporting the general proposition of allowing access, have urged the Commission to put strict limitations on the use of data. For example, T-Mobile urges the Commission to limit access to "only forward looking data" and consider requiring entities receiving the data to delete it "immediately after the public safety need has been resolved."⁹ AT&T further argues that the Commission should prohibit the use of network outage data for actions such as merger review and consumer protection.¹⁰ AT&T also argues that "root cause analysis of network outages should also be excluded."¹¹ Some parties arguing for data access restrictions partially justify their proposed limits on concerns about adverse affects of data availability on national security and competition.¹²

NASUCA believes authorized entities should have access to historical data and that states and public safety officials have presented compelling reasons for such access. For example, Massachusetts argues that the "public safety purposes" for which state and local agencies may use NORS and DIRS data "include analyzing the data in ways those agencies believe will help to improve service and avoid future outages."¹³ Other parties, such as Pennsylvania, pointed out that the access to historical outage data would allow agencies to "identify trends in outages and infrastructure status that might enhance their real time recovery and restoration efforts as well as establish baseline levels in their jurisdictions."¹⁴ The National Association of State 911

⁸ See, e.g., NANSAs at 6-7.

⁹ T-Mobile at 8, AT&T at

¹⁰ AT&T at 3.

¹¹ Id., at 4.

¹² See, e.g., T-Mobile at 5; AT&T at 4.

¹³ Massachusetts at 2. See, also,

¹⁴ Pennsylvania at 9.

Administrators (NANSA) argues that access to historical NORS data is invaluable to state agencies:

One of the greatest benefits to be derived from providing NORS access to state agencies is that it will allow those agencies to gauge the health of the public's access to 911 over time. This can only be accomplished if those agencies have access to enough data to make a useful comparative analysis. Restricting access to only time periods related to specific disasters and other large-scale events would make analysis for proactive purposes difficult, if not impossible.¹⁵

Parties also argue that most of the NORS, DIRS and Annual Reliability Certification information is not homeland security sensitive, and should be opened to public access.¹⁶ NANSA stated that "the desirability for confidentiality has more to do with the protection of information that is competitively sensitive rather than from a security perspective."¹⁷ Colorado echoes this view.¹⁸ California notes that at a pre-hearing conference addressing the extensive telecommunications outages that occurred in California during the October 2019 power outages, Verizon committed to publicly releasing outage-related information that it initially claimed was confidential due to security and competitive concerns. Verizon's commitment was followed by agreements from other providers to also release outage information previously deemed confidential.¹⁹ California stated that it "considers this shift in the industry's perception of the data's confidentiality to be grounds for the Commission to conduct an updated analysis on whether all information in the NORS and DIRS filings should be continued to be presumed confidential."²⁰ NASUCA agrees with California that the Commission should revisit the

¹⁵ NANSA at 12.

¹⁶ BRETSA at 8

¹⁷ NANSA at 9.

¹⁸ Colorado at 5.

¹⁹ California at 9-10.

²⁰ Id. at 10.

question of the extent to which NORs and DIRS information should continue to be deemed confidential.

The Commission should reject proposals to prevent access to historical NORs and DIRS data, or "root cause" data or analysis, or to require eligible entities to delete the data after an emergency is over. States and emergency officials have presented compelling reasons why this information is vitally important for public safety planning.

It is not clear whether some parties are seeking to have the Commission find here that NORs and DIRS data obtained through *any* process cannot be considered in *any* state proceedings. NASUCA believes that the Commission should not issue a blanket prohibition on a state's use of federally reported outage information when considering mergers and consumer protection matters, as suggested by AT&T. When federal outage data is relevant to a state's consideration of issues within its jurisdiction, a state should be able to use that information as necessary, subject to agreement with the Commission concerning the treatment of the data.

IV. THE COMMISSION SHOULD REJECT T-MOBILE'S PROPOSAL TO PREEMPT STATES FROM REQUIRING WIRELESS OUTAGE REPORTING.

T-Mobile argues that if the Commission moves forward with its proposal to allow direct access to NORs/DIRS data, it should preempt state and local laws requiring wireless carriers to provide outage data. Citing national security, T-Mobile states that pre-emption is necessary "to curb a concerning trend" where states are requesting wireless carriers to provide NORs/DIRS

data, "or similar and potentially more detailed information directly without the same confidentiality protections afforded by the FCC."²¹

The Commission should not attempt to preempt states from independently collecting outage data for wireless *or* wireline telecommunications services. States, and in particular state regulators, are required by statute to ensure that telecommunications providers offer safe, reliable service adequate to promote public health and safety.²² This includes ensuring, to the best of their ability, that networks are reliable and able to support emergency communications. States are best positioned to determine what outage data is necessary to undertake this work in their respective jurisdictions. Further, state agencies are well-versed in the treatment of confidential data and issues involving the treatment of state-mandated outage data can and are being dealt with in appropriate proceedings and in state legislatures.

V. THE COMMISSION SHOULD CONSIDER REQUIRING BROADBAND OUTAGE REPORTING.

NORS and DIRS reporting reflect outage data for wireline and wireless telephone service. Massachusetts argues that the reporting should be expanded to include Broadband Internet Access Service (BIAS) outages.²³ NASUCA believes that the Commission should consider adopting this proposal. As Massachusetts points out, the Commission began considering whether to extend reporting requirements to BIAS 15 years ago, and "over the past few months BIAS has proven not only important, but essential to the life and safety of Americans and to the functioning of our businesses and public institutions."²⁴

²¹ T-Mobile at 3.

²² See, e.g., California Public Utilities Code Sec. 451, and Ohio Revised Code Sec. 4927.02.

²³ Massachusetts at 12-14.

²⁴ Massachusetts at 12.

III. CONCLUSION

NASUCA appreciates the opportunity to comment on the Commission's proposed framework for providing federal, state, D.C., tribal and territorial agencies direct access to outage data. We urge the Commission to allow direct access by federal, state, D.C., tribal and territorial agencies to Federal NORS and DIRS data.

Respectfully submitted,

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Respectfully submitted,

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