

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 5, 2018

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Ex Parte Notice *In the Matter of Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket No. 15-80 and New Part 4 of the Commission's Rules Concerning Disruptions to Communications, ET Docket No. 04-35

Dear Ms. Dortch:

The California Public Utilities Commission ("CPUC") submits this ex parte notice pursuant to 47 C.F.R. § 1.1206(b)(2). On November 2, 2018, at 9:00 a.m. (PT), CPUC staff, Helen Mickiewicz and Hien Vo Winter from the CPUC Legal Division, and Karen Eckersley and Gregory Rubenstein representing the CPUC Communications Division, had a telephonic meeting with Federal Communications Commission ("FCC") staff: James Wiley, Jennifer Holtz, Julia Tu, Brenda Villanueva, and Tiffany Wong from the FCC's Cyber and Communications Reliability Division.

The attendees discussed the public safety benefits of collecting outage data from service providers, with specific reference to California's independent, state reporting requirement for major service interruptions. In the CPUC's General Order 133-D, Section 4. Major Service Interruption ("MSI"), the CPUC requires carriers to concurrently provide the CPUC with copies of Network Outage Reporting System ("NORS") reports that carriers submit to the FCC through NORS.¹ The CPUC treats these Major Service Interruption reports as confidential, consistent with the FCC's treatment of NORS reports.

CPUC staff explained that the CPUC has a state obligation to require that public utilities provide safe and reliable service, and the CPUC must be able to meet that obligation by collecting data that is specific to California's needs. CPUC staff noted that the CPUC

¹ The CPUC's General Order 133-D can be found at: <http://www.cpuc.ca.gov/generalorders/> (last visited 11/2/18).

requires these MSI reports as part of the CPUC's exercise of its independent state police powers.

CPUC staff provided examples of how California uses outage data in general, and MSI reports specifically, to further its public safety mandates. The reports are used to inform the Commission in the case of emergencies/disasters, to inform the Commission's proceedings, to follow-up with carriers for various reasons, to validate public information by the carriers, and to make reports to the public.²

CPUC staff emphasized the need for both real-time and post-hoc reporting of outage information from service providers. First responders, local government and state agencies need real-time information to manage the disaster before and during the event. Post-hoc reporting of outages is important for California because the information contained in the reports, such as "root causes of outages," informs the need for further rulemakings, enforcement, or other actions to secure safe and reliable service from providers. For example, as a result of the California wildfires in 2017, the CPUC reviewed the MSI reports it received that were related to outages caused by the wildfires, and opened a formal rulemaking proceeding to consider adopting rules to address consumer protections in the wake of disasters.³

CPUC staff informed the FCC staff that the CPUC held a workshop in Sacramento, California on November 1, 2018 for communications carriers to discuss emergency disaster relief.⁴ First responders and service providers attended the workshop. At the workshop, first responders informed the CPUC that voluntary reporting of outages does not work because they do not consistently obtain complete information about outages in real time. In addition, they complained that the providers submit outage information in various formats which first responders find difficult to decipher and to compare between the various providers.

CPUC staff also noted that while the CPUC treats MSI reports as confidential, consistent with the FCC's treatment of NORS reports, *this is not consistent with how the CPUC*

² Pursuant to General Order 133-D, Section 6.4, the CPUC posts wireline service quality reports and information to help telephone customers make informed decisions when selecting a telephone service provider. These reports can be found at: <http://www.cpuc.ca.gov/General.aspx?id=1107> (last visited 11/5/2018).

³ See *Order Instituting Rulemaking Regarding Emergency Disaster Relief Program*, Rulemaking (R.)18-03-011, issued April 2, 2018, which can be found at <http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=212773997> (last visited 11/5/18).

⁴ The Nov 1, 2018 CPUC workshop on Disaster Measures can be found at: <https://www.youtube.com/watch?v=ooYLWNOayZA> (last visited 11/5/2018).

treats outage information related to electric companies. CPUC staff explained that the CPUC deems electric outage information to be public, and it is publicly available.⁵ CPUC staff emphasized the difficulty, from a public policy perspective, of reconciling the notion that electric grid failures are public but communications failures cannot be made public, although certainly members of the public who are affected know that they have lost service. Nonetheless, CPUC staff understand the FCC rules mandate that NORS outage information be kept confidential, and not be disclosed to the public or other state and local agencies, with no exception for natural disasters or other emergencies.⁶ CPUC staff also noted that, notwithstanding concerns about the security of communications facilities, including their locations, the location of wireless cell sites and of Central Offices, as well as what equipment is in those Central Offices, is publicly

⁵ See e.g., CPUC General Order 166, Standard 4, which states: “The utility shall develop and maintain a written strategy for how it will communicate with the public before, during and immediately following major outages and emergencies as follows:

A. Customer Communications - Media & Call Center

The communications strategy shall describe how the utility will provide information to customers by way of its call center and other communications media before, during and immediately following a major outage. The strategy shall anticipate the use of radio, television, newspapers, mail and electronic communications media.

B. Government

The communications strategy shall include pre-event coordination with appropriate state and local government agencies, including the appropriate methods for information exchange, to enhance communications activities during and immediately following a Major Outage.

C. Independent System Operator/Transmission Owner

The communications strategy will describe how the utility will coordinate its communications with the ISO and/or the TO. The utility shall cooperate with the ISO/TO to coordinate the information provided to customers, media, and governmental agencies when the operation of the transmission system affects customer service.”

CPUC General Order 166, p. 10. General Order 166 can be found on the CPUC’s website at: <http://www.cpuc.ca.gov/generalorders/> (last visited 11/5/2018).

⁶ The FCC’s website states, “[g]iven the sensitive nature of this data to both national security and commercial competitiveness, the outage data is presumed to be confidential.” See <https://www.fcc.gov/network-outage-reporting-system-nors> (last visited 11/5/2018). CPUC staff understands that the FCC shares NORS reports with only the Department of Homeland Security.

available on the internet.² Outages by company can also be found at <https://downdetector.com/>.

Thank you for your assistance in making this information part of the record. If you have any questions about this notice, please do not hesitate to contact me at (415) 703-3651, or by e-mail at hien.vo@cpuc.ca.gov.

Sincerely,

/s/ HIEN VO WINTER

Hien Vo Winter
Staff Counsel

HVW:ice

² Central office information can be found at: <http://www.co-buildings.com/> (last visited 11/5/2018) and <http://www.thecentraloffice.com/index.htm> (last visited 11/5/2018); cell site information can be found at: <http://www.antennasearch.com/> (last visited 11/5/2018); <http://www.cellreception.com/towers/> (last visited 11/5/2018); <http://findcellsites.com/> (last visited 11/5/2018).