| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Amendments to Part 4 of the Commission's Rules | ) | PS Docket No. |
| Concerning Disruptions to Communications | ) | |
| | ) | |
| New Part 4 of the Commission's Rules | ) | ET Docket No. |
| Concerning Disruptions to Communications | ) | |

---

On March 30, 2015, the Federal Communications Commission (FCC or Commission) released a Notice of Proposed Rulemaking (NPRM) in docket number PS 15-80 seeking comment on proposals to improve and update its Part 4 outage reporting rules to align with the experiences with outage reporting that the FCC has gained since their implementation. The FCC wants to improve the quality and usefulness of the outage data that it receives while continuing to ensure the reliability and resiliency of the nation's communications system, particularly in strengthening 911.[1] On June 17, 2015, the FCC released a Public Notice which noted that the NPRM summary had appeared in the Federal Register and that comments and reply comments are due July 16, 2015 and July 31, 2015, respectively. The Michigan Public Service Commission (MPSC) has participated in FCC proceedings surrounding the subject of outage reporting since their inception

[1] http://apps.fcc.gov/ecfs/proceeding/view/view?name=15-80

over a decade ago.[2] The MPSC respectfully submits the following comments in response to the solicitation for input on the current NPRM on Part 4 outage reporting.

In the current NPRM, the Commission mentions that it routinely shares confidential Network Outage Reporting System (NORS) data with the Office of Emergency Communication at the Department of Homeland Security (NPRM, pp. 17-18). The Department of Homeland Security also has the authority to share the information with government authorities as it deems appropriate, but the NORS outage information is currently not shared with state governments (NPRM, p. 18).

Many state governments possess the authority to require communication providers to report their outage information at a state level in addition to federal reporting requirements. While this provides some states the ability to monitor any outage issues that may affect the public safety of their citizens, Michigan no longer requires providers to supply outage information to the MPSC and is, therefore, not afforded the opportunity to keep abreast of public safety concerns that may negatively affect its citizens. The FCC also notes that the information reported at both state and federal levels is often redundant (NPRM, p. 18). A single database where providers can submit outage information and authorized stakeholders can

[2] http://apps.fcc.gov/ecfs/document/view?id=7021700981
http://apps.fcc.gov/ecfs/document/view?id=7021713390

access such information is an efficient model for all parties involved. For this and the reasons mentioned below, the MPSC supports granting state governments access to NORS outage reporting data.

The notion that states could benefit from access to the NORS outage information has been considered in the past. In 2009, the California Public Utility Commission filed a petition (CPUC Petition) asking the Commission to amend its rules to permit state agencies to directly access the NORS database. The CPUC also informally requested that the Commission grant it password-protected access to those portions of the NORS database that contain data relating to communication outages in the state of California (NPRM, p. 18).

Though the MPSC appreciates the confidential nature of the NORS data, the FCC has recognized the benefits of enabling state agencies to obtain access to

NPRM supports granting states access to NORS data pertaining to their regions, the FCC also recommends that states certify that they have confidentiality

forces compliance with confidential protections greater than or equal to federal standards and would bolster confidence in the secure handling of NORS data while simplifying the process by which these guarantees are substantiated. In modeling the requirements after the Form 477 Data-Sharing Agreements, the MPSC posits that information sharing between necessary commission personnel, as allowed by the sample data-sharing agreement, would be beneficial in conducting analysis and problem solving, as well.[5]

The NPRM requests comment on whether personnel should be required to have security training and whether the users' identities should be supplied to the FCC (NPRM, p. 19). Though the registration process described above would provide the FCC contact information for the FCC to reach state users, the MPSC does not believe that additional security training should be , especially considering the read-only format suggested in the NPRM. However, where changes to laws and processes have created any confusion with applicable state responsibilities in the past, presentations and webinars prepared and presented by FCC staff have proved to be useful for the MPSC in providing guidance and expertise to ensure that the processes flow smoothly (e.g., Eligible Telecommunications Carriers presentations given to regulatory commissions when the re-application process was amended).

The FCC also solicits comment on whether states should be required to report, or be penalized for, any breaches of the confidentiality of information obtained from NORS. The MPSC supports accountability measures for dealing with

[5] https://transition.fcc.gov/form477/letter-of-agreement-format-2009.pdf

confidential NORS information. For example, states that breach the confidentiality of the NORS information should be required to report any breach to the FCC. However, state utility commissions should not be subject to penalties beyond proving that they have identified and corrected any issues with their processes that may have caused any breach of confidentiality. If a state entity's confidentiality protections prove to be inadequate, its access rights could be reexamined at that time and further action could be taken.

Though the MPSC does not believe that providers should be permitted to audit a state's handling of its outage data, the NPRM's proposal that there be limits set on states' use of NORS data has merit. For example, the MPSC agrees with the proposal that the use of NORS data be restricted to activities related to protecting the public interest (NPRM, p. 19). As part of its mission, the MPSC is charged with the responsibility to ensure safe and reliable telecommunications for the public. Access to NORS outage data would undeniably assist the MPSC in performing the aforementioned duties. Because the service quality rules requiring providers to report any outages to the MPSC were rescinded in June 2011, the MPSC is often notified of most outages first through independent media reports and consumer complaints. The MPSC may find it necessary to contact any provider that has reported an outage for further inquiry, if necessary. A provider's "outage coordinator" contact information would be very helpful when additional information is desired regarding outage situations, and would be the preferred contact option. But the MPSC also has regulatory contacts on file for all providers in the state of

Michigan. Inquiries could be directed to these contacts if providers prove to be unwilling to share their outage coordinators' contact information, or if the FCC determines that the information should not be provided to the states.

Comment was also sought on which reports and information the state agencies should have access to if granted access to the NORS outage information (NPRM, p. 19). States would undoubtedly benefit from the full range of outage information that providers are already required to report to the FCC for the states that they operate in. Restricting the information that states can access regarding service outages would obscure the true picture of the providers' services; rendering the reporting – and any conclusions drawn thereon – incomplete. Consequently, the MPSC supports granting state entities access to the notification, initial and final NORS reports.

Granting state agencies access to NORS outage information would permit states to perform their statutory duties in a more robust fashion, while enabling more efficient reporting practices for service providers. The necessary confidential protections can be extended and agreed to by states prior to obtaining access to their respective region's NORS outage information by using current registration procedures for accessing confidential information that have been used successfully in other areas of the telecommunications industry. Because access to NORS outage information will enhance the states' ability to perform their responsibilities in protecting public health and safety and providers' confidentiality concerns can be

addressed, the MPSC supports the efforts of the FCC to grant state agencies access to NORS outage information and thanks the FCC for this opportunity to provide comment.

Respectfully submitted,

Steven D. Hughey (P32203)
Assistant Attorney General
Public Service Division
7109 W. Saginaw Hwy.
3rd Floor
Lansing, MI 48917
Telephone: (517) 284-8140

FCC/15-80 & 04-35/Comments