

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Improving Resiliency, Reliability and)	PS Docket No. 13-239
Continuity of Mobile Wireless)	
Communications Networks)	
)	
)	
Reliability and Continuity of)	PS Docket No. 11-60
Communications Networks, Including)	
Broadband Technologies)	

COMMENTS OF THE CITY OF NEW YORK

The City of New York (the “City”) submits these comments in response to the Federal Communications Commission’s (the “Commission” or the “FCC”) Public Notice in the proceedings listed above.¹

While the City appreciates the efforts of the wireless industry to voluntarily regulate and police itself, the City rejects the viability of self-regulation in this critical area. The City’s concerns are in regard to the sustainability, enforceability and reliability of self-regulation. Due to a customer’s dependency on critical services provided by the wireless industry and because of past failures of attempts at self-regulation, the City believes that competitive forces are not sufficient to ensure a reliable network. For example, the 2012 “Derecho” outage² revealed a lack of compliance with self-regulation promises by wireline carriers regarding their failure to implement crucial best practices that could

¹Federal Communications Commission, Public Notice, *Public Safety and Homeland Security Bureau Seeks Comment on Wireless Carriers’ Proposal to Increase Resiliency and Enhance Information Sharing During Disasters*, PS Docket Nos. 13-239 and 11-60, April 28, 2016.

² Federal Communications Commission, *Impact of the June 2012 Derecho on Communications Networks and Services, Report and Recommendations, A Report of the Public Safety and Homeland Security Bureau*, January 2013 (“Derecho Report”). The FCC’s Derecho Report noted that unlike other superstorms or hurricanes, wireless networks generally withstood the Derecho better than their wireline counterparts but that wireless customers reported service problems and lost calls immediately after the storm, and many likely suffered from cascading effects of wireline service outages, such as transport failures between cell sites and the rest of the network.

have mitigated or prevented the storm’s adverse impacts on communications networks, including 911 service outages. These and other practices rendered invalid any claims of resiliency during the self-regulation period prior to Hurricane Sandy. Also, investigations by the City of New York after Hurricane Sandy revealed an over-reliance on common backhaul infrastructure by the wireless community. For example during Hurricane Sandy, New York City experienced a situation where wireless carriers’ network capacity was insufficient to properly manage a surge in calls. It is critical that wireless carriers enhance network designs and have a full set of resiliency measures in place for the protection of City/governmental customers and New York City consumers. We are skeptical that this will happen reliably on a voluntary basis. As such, the City remains wary of the wireless industry’s promises without regulatory authority to hold wireless carriers accountable.

Nevertheless, while the City does not support self-regulation for the wireless industry in this instance, the City seeks clarification on the comments noted below to better understand the five prongs of the “Wireless Network Resiliency Cooperative Framework” (the “Framework”) as presented by the wireless industry in its April 27, 2016 *ex parte* letter.³

Providing for Roaming Under Disasters (RuDs)

The City is encouraged by the wireless industry’s commitment to implement reasonable roaming arrangements for the duration of a particular event. However, the City believes that the trigger to activate the wireless industry’s RuDs is too a high threshold, i.e., the roaming agreements at reasonable rates only take effect when both the National Response Coordination Center (“NRCC”) activates Emergency Support Function # 2 (“ESF-2”) for a given emergency or disaster *and* [emphasis added] the FCC activates the electronic Disaster Information Response System (“DIRS”). The threshold should be lowered to reflect local and state emergency declarations or requests and should extend to state or local emergencies and disasters in situations where DIRS may or may not also be activated. Wireless companies should not be in a position to assert that local governments are, by virtue of a wireless industry self-regulation scheme, barred from entering into similar or unique arrangements with carriers specific to their jurisdictions.

Fostering Mutual Aid During Emergencies

The City commends the wireless industry’s commitment to share physical assets and consultation where feasible during and after disasters through mutual aid arrangements

³ CTIA et al., *Ex Parte Presentation, Improving Resiliency, Reliability and Continuity of Mobile Wireless Communications Networks, PS Docket Nos. 13-239 and 11-60*, April 27, 2016.

but is concerned with the Framework’s proposal that such agreements be limited only to an emergency or disaster where ESF-2 and DIRS are activated. Mutual aid arrangements should also be triggered for state or local emergencies and disasters. Further, state or local governments must not be precluded from entering into local mutual aid agreements with wireless carriers or from requesting further resiliency requirements (e.g., carrier assistance to local communities in the pre-staging of telecommunications support assets) so as to meet essential preparedness and resiliency standards. The City of New York, for example, coordinates a Mutual Aid Restoration Consortium (“MARC”) program with wireless and wireline carriers within New York City and regionally. The MARC may be activated in response to outages from natural disasters, power disruptions, intentional or threatened intentional network disruption, ongoing telecom restoration, incident response operations, or incident recovery operations. Therefore, the City would not want the proposed voluntary mechanism to disrupt its ability to enter into agreements such as the MARC or to enact policies governing local mutual aid assistance.

Enhancing Municipal Preparedness and Restoration

The City welcomes the opportunity to convene with wireless carriers and other local government representatives to develop best practices for maintaining and restoring wireless service continuity. Understanding what and how information will be shared, in particular as it pertains to the scope and extent of service interruptions and expected restoration times, will be essential. The City of New York currently leads extensive local and regional hurricane season preparations which involve collaborative planning, drills and information-sharing with the wireless industry. The City is also working with telecommunications providers through the Climate Change Adaptation Task Force to better understand how projected climate change impacts for New York City will affect critical telecommunications assets, and where needed, develop strategies to adapt these assets. These regional and local efforts, where issues⁴ unique to the locality can be worked out, will drive the best possible outcome in the event of an emergency and should not be diluted by voluntary planning efforts.

Increasing Consumer Readiness and Preparation

The City appreciates the wireless carriers’ commitment to consumer education and outreach on emergency and disaster preparedness. NYC Emergency Management (“NYCEM”) manages the City’s Ready New York campaign and would welcome the opportunity to provide emergency preparedness information to wireless customers as part of consumer bills, inserts in purchased products, and other collaborations.

⁴ New York City experiences unique local issues including urban canyons, bridges, gasoline staging, Cell on Wheels (“COW”) staging, above ground and below ground infrastructure.

In addition to preparedness, the City also continues to encourage the Commission to make outage-related information available to consumers at two points: during telecommunications disruptions due to disasters, and when consumers are selecting telecommunications services for purchase.⁵ Further, as emergencies can strike at any moment, the City encourages the Commission to require the wireless industry to proactively report geo-specific (down to the tower level) outage data in near-real time on a regular and on-going basis. *See also* discussion below in the section “Improving Public Awareness Regarding Service and Restoration Status.”

During disasters, consumers and local government officials need real-time information on both service interruptions and estimated service-restoration times. Provider-specific information about outages and restoration would better enable consumers to pursue alternatives, workarounds and relocation efforts, and to gain better and quicker access to working service during and in the immediate and short-term aftermath of emergency conditions. It would also allow local governments to leverage alternative outreach and communication strategies in areas where service is interrupted. The fullest possible access to the same information that is available internally to wireless service providers regarding where and for how long outage conditions exist will enhance the ability of businesses and the wider public to respond effectively to health and safety issues related to disaster situations and to achieve the swiftest restoration of normal living and working conditions.

Consumers also need provider-specific outage-related information at purchasing decision points, when consumers are deciding on which carrier best meets their needs. At this point, which will ordinarily be under normal, non-emergency conditions, consumers will benefit from information relevant to their purchasing decisions, including statistics about which carriers have performed best and have demonstrated the greatest network resiliency and ability to substantially withstand disaster conditions. Consumers need to be able to see this information about the area around their home or business, and not just in a general way for the carrier’s service area. Along with the “educational” information point, the “disaster” information point and the “purchasing” information point, consumers need provider-level information regarding the prevalence and scope of service disruptions and time to restoration in areas affected by disruptions.

⁵ Comments of the City of New York before the Federal Communications Commission, *In the Matter of Improving the Resiliency of Mobile Wireless Communications Networks and In the Matter of Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket Nos. 13-239 and 11-60, December 23, 2013.

Improving Public Safety Awareness Regarding Service and Restoration Status

The proposed Framework states that wireless carriers will provide relevant up-to-date contact information for a carrier/PSAP contact database, subject to an agreement by all participating entities that such data be kept confidential. Further, State Emergency Operations Center (“State EOC”) representatives will then be able to address inquiries to the appropriate carrier point of contact. Finally, State EOC inquiries will promptly be relayed to the carrier’s designated representative when ESF-2 and DIRS are activated. The City asserts that, at a minimum, cities of 1 million or more in population should receive the data directly from industry as most emergencies are handled locally without the involvement of the State. Further, recovery and continuity plans, including access to appropriate carrier points of contact, should at all times be on file with local authorities, irrespective of ESF-2 and DIRS activations.

Improving Public Awareness Regarding Service and Restoration Status

The wireless industry has proposed that when the NRCC activates ESF-2 and the FCC activates DIRS for a given emergency or disaster, wireless carriers will support the FCC making DIRS data regarding the total number of cell sites out of service (calculated consistent with established DIRS practices) publicly available on its website on an industry-aggregated, county-by-county basis for any geographic area defined in a DIRS activation notice. They state that this aggregate data represents a snapshot in time, for each county entry, and that the Commission notice should identify the time the most recent data was submitted, and promptly revise the data it publishes whenever it receives updated information from a carrier. The proposers state that these actions will ensure that the public has the most up-to-date information and will enhance coordination between the wireless industry and relevant stakeholders.

The City remains unconvinced that self-regulation without enforcement is sufficient to address public safety needs, including the ability for first responders to be aware, in real time, of what specific sections of New York City are unable to call 911 for help. What actions would the carriers undertake during a local emergency when ESF-2 and DIRS are not activated? What is the ability for localities to obtain critically needed real time information regarding outages in the event of an emergency or disaster? How often is outage information updated? The City has repeatedly stressed the importance of rapid and updated information to local first responders and consumers, especially in the initial hours. Therefore, access to information needs to be real time and specific. Precedent for sharing near-real time, granular outage detail exists within the City’s publicly regulated energy companies. Consolidated Edison (“Con Edison”) and Public Service Enterprise Group – Long Island have pre-established reporting thresholds with the City through

NYCEM. Whenever an outage results in 500 or more electric customers without service, NYCEM is promptly notified of the outage, the boundaries, and subsequently issues pre-scripted, pre-approved public messaging to residents in the area. The public messaging encourages customers affected by the outage to make a report to their utility provider (this assists the utility provider in determining outage boundaries) and provides power outage preparedness tips. Furthermore, utilities such as Con Edison follow such a practice where they report outages on a near-real time basis on their websites. Such outage information includes approximate location (shown on a map) and approximate number of outages. This map is available any time on their website here:

http://apps.coned.com/stormcenter_external/default.html.

While county-level data may be specific enough in less urban areas, in New York City, county information lacks sufficiently granular detail. New York City's five counties (known as boroughs) are vast, consisting of diverse terrain and housing millions of households and businesses. For the information to be remotely usable to local governments, first responders and consumers, New Yorkers need to receive information by census tract. The City consists of 2,168 census tracts, which typically have a population of about 3,000-4,000 and an average land area of 90 acres.⁶ Providing data at the census-tract level would provide a much more useful stream of information for users, without requiring public disclosure of the specific location of any particular cell sites that would raise security or competitive network design concerns. Providers should, however, be permitted and encouraged to provide additional information as necessary to explain any percentages that could potentially present misleading information to consumers. Additional explanatory information might include the total number of sites within the defined area subject to the calculation and whether the outage impacts any customers within the defined area or whether the outage impacts any customers at all. Further, accurate and real-time service restoration information needs to be communicated to local governments and to the public through an appropriate format, depending on the type of outage and the extent of the emergency.

In conclusion, while the City remains unconvinced of the existence of factors sufficient to motivate competitive wireless companies to comply with their own programs for self-regulation and given the high level of dependence of New Yorkers on wireless services for public safety, communication and information, the City respectfully requests that the FCC view such proposals with skepticism; voluntary agreements in the context of emergency preparedness and response are simply not sufficient. The City also reserves the right to identify additional issues given the short comment period.

⁶ New York City Department of City Planning, <https://data.cityofnewyork.us/City-Government/2010-Census-Tract-to-Neighborhood-Tabulation-Area-/8ius-dhrr>.

Thank you for this opportunity to comment.

Respectfully submitted,

/s/ _____

THE CITY OF NEW YORK

May 31, 2016