

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matters of)	
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New Part 4 of the Commission’s Rules Concerning Disruptions to Communications)	ET Docket No. 04-35
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)	
Petition of California Public Utilities Commission and the People of the State of California for Rulemaking on States’ Access to the Network Outage Reporting System (NORS) and a Ruling Granting California Access to NORS)	RM-11588
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REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. hereby submits these reply comments in response to both the *Petition for Rulemaking*, filed November 12, 2009, by the California Public Utilities Commission and the People of the State of California, as well as the initial comments of various parties filed in this proceeding. T-Mobile supports jurisdiction-specific state access to the Network Outage Reporting System (NORS) provided that a process is adopted to make certain that the Commission’s national homeland security efforts to protect confidential service provider network information from release to the public is not compromised,¹ and that said information is used by state Public Utility Commissions

¹ See New Part 4 of the Commission’s Rules Concerning Disruptions to Communications, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 16830, 16834 (2004)(“*Network Outage Reporting Order*”) at ¶45, which states “[t]he record in this proceeding, including the comments of the Department of Homeland Security, demonstrate that the national defense and public safety goals that we seek to achieve by requiring these outage reports would be seriously undermined if we were to permit these reports to fall into the hands of terrorists who seek to cripple the nation’s communications infrastructure.” See also 47 C.F.R. § 4.2 (NORS reports “will be presumed to be confidential”).

(“PUCs”) for the stated purpose of “perform[ing] its traditional rule of protecting public health and safety through monitoring of communications network functionality.”²

As discussed in more detail herein, T-Mobile believes that prior to the Commission granting state PUC access to jurisdiction-specific NORS data, certain additional safeguards must be adopted under the current Part 4 Rules.³ By adopting such safeguards, the Commission would provide for a more effective means for service providers to share confidential information related to network outages with state PUCs, while eliminating and avoiding the development of redundant state and local outage reporting requirements.

I. RULES PROVIDING STATE PUC ACCESS TO NORS FOR STATED PURPOSES MUST BE CONSISTENT WITH HOMELAND SECURITY EFFORTS BY ENSURING THE CONFIDENTIALITY OF SERVICE PROVIDER DATA

T-Mobile, like other commenting parties, recognizes state PUC interest in gaining access to relevant information related to telecommunication network outages for the stated purpose of “perform[ing] its traditional rule of protecting public health and safety through monitoring of communications network functionality.”⁴ However, in granting such state PUC access to NORS, the Commission must also include additional safeguards for service providers that are consistent with national homeland security-related confidentiality protections efforts included in the Network Outage Reporting Order and

² See Petition of the California Public Service Commission and the People of the State of California for Rulemaking on States’ Access to the Network Outage Reporting System (NORS) Database and a Ruling Granting California Access to NORS, RM-11588, ET Docket No. 04-35, dated November 12, 2009 (“*Petition for Rulemaking*”) at Page 14.

³ See generally 47 C.F.R. Part 4.

⁴ See *Comments of the Alliance for Telecommunications Industry Solutions (ATIS)*, ET Docket No. 04-35, at Page 1 (March 4, 2010); and *See Comments of United States Telecom Association (USTelecom)*, ET Docket No 04-35, at Page 1 (March 4, 2010).

the rules which minimize the risk of confidential service provider network information being released to the public.⁵ It is T-Mobile's experience that state PUCs appreciate the confidential nature of a service provider's network information⁶ and often employ all available state measures to ensure the protection of that information. The fact is, however, that in spite of those efforts, the ability of a state PUC to protect such data may be limited (and therefore such data may be publicly disclosed) as a result of the operation of state public record and state freedom of information laws.

In order to generally safeguard service provider network information and to bridge any state gaps that may (currently or in the future) provide access to protected data, T-Mobile supports the Commission adopting a proposed rule providing state PUC access to NORS only with additional requirements to safeguard confidential information. T-Mobile agrees with the additional requirements offered by various commenting parties in this matter. By category those additional recommendations include: (a) strict confidentiality provisions under the federal Freedom of Information Act ("FOIA"); (b) provisions which limit jurisdiction-specific reports to only Commission-approved state PUC representatives; (c) penalty provisions for any disclosure; (d) system modifications which support limiting and redacting certain information from read-only reports; and (e) routine audit controls regarding access to NORS.⁷

⁵ See *Network Outage Reporting Order* at ¶ 45; 47 C.F.R. § 4.2

⁶ See *Comments of the Massachusetts Department of Telecommunications and Cable (MDTC)*, ET Docket No. 04-35, at Page 7 which stated, "Notably, the confidential information in the NORS database is originally the property of the communications service providers that make such information available. As a result, those providers should be as concerned as anyone that the information remains confidential." See also, *Comments of the New York Public Service Commission*, ET Docket No. 04-35 ("NY PSC Comments") at 3.

⁷ See *Comments of CTIA – The Wireless Association*, ET Docket No. 04-35, at 3-7 (March 4, 2010) ("CTIA Comments"); See *USTA Comments* at 2-5; See *ATIS Comments* at 2-5.

T-Mobile agrees with these additional requirements and hereby joins in urging the Commission to include these requirements in any rule providing state PUC access to NORS. Such action by the Commission would be consistent with its stated responsibilities to ensure the security and reliability of the nation's telecommunications infrastructure;⁸ and will provide service providers, such as T-Mobile, certain assurances that network information is not released to the public, which could pose a national security risk. In sum, T-Mobile supports Commission efforts to meet its homeland security needs here by granting state PUC access to NORS subject to these additional requirements.

II. THE COMMISSION SHOULD ENCOURAGE STATES AND LOCALITIES TO AVOID REDUNDANT OUTAGE REPORTING REQUIREMENTS FOR SERVICE PROVIDERS

T-Mobile joins the telecommunications industry and state regulators in supporting efforts to ensure that consumers have safe and reliable telecommunications services throughout the United States. To date, T-Mobile's efforts in various state PUC proceedings, including before the California Public Utility Commission, highlight our long-standing commitment to this objective. T-Mobile is part of a growing consensus among the telecommunications industry and regulators that the goal of eliminating and avoiding the development of redundant state outage reporting requirements on service providers supports such an objective. This point is highlighted by the overwhelming majority of commenting parties in this proceeding who noted the need to develop a more efficient state PUC outage reporting processes and where possible unified national

⁸ See *Network Outage Reporting Order* at ¶ 40.

standards to the current mélange of service provider outage reporting requirements across the country.⁹

As the Commission appreciates, opportunities for service providers and regulators to act in pursuit of a common goal should be vigorously pursued. This proceeding generally highlights an opportunity for both the industry and regulators to work together to provide efficiencies related to state PUC network outage reporting requirements. Today, state outage reporting rules cover a range of PUC-related requirements applied differently to the various segments of the telecommunications industry, with additional (and potentially inconsistent) reporting requirements to other state and local agencies within the same state. Where appropriate, T-Mobile has supported state PUC adoption of the Commission's Part 4 requirements so as to eliminate such inconsistencies and minimize the redundancies in reporting similar information regarding a network outage to a state PUC and the Commission.

T-Mobile agrees with several commenting parties that state PUC access to NORS would aid in addressing known inconsistencies, provide access to the necessary outage reporting information and likely aid in the removal the current administrative inefficiencies between reporting requirements at the Commission and state PUCs.¹⁰ However, both the industry and regulators, including the Commission, should take the additional step of clearly articulating the opportunity for state PUCs to eliminate or significantly minimize inefficiencies in current outage reporting requirements along with being granted access to NORS as described herein.

⁹ See MDTC Comments at 4-5; see also NY PSC Comments at 2; see also NASUCA Comments at 6.

¹⁰ See *Initial Comments of the National Association of State Utility Consumer Advocates Supporting the Petition of the California Public Utilities Commission and the People of the State of California*, ET Docket No. 04-35 (March 4, 2010) at Page 8; see also MDTC Comments at Page 4; see also NY PSC Comments at Page 2.

III. CONCLUSION

In considering granting state PUCs access to NORS, the Commission should include additional requirements that make certain that national homeland security efforts are not compromised by the release of confidential service provider network information to the public; and join in the shared goal of the telecommunications industry and state regulators by articulating that state PUC access to NORS provides an opportunity to eliminate and avoid the development of redundant state and local outage reporting requirements.

Respectfully Submitted,

/s/ Kathleen O'Brien Ham
Kathleen O'Brien Ham
Harold Salters
David R. Conn
Michele K. Thomas
T-MOBILE USA, INC.
401 Ninth Street, NW, Suite 550
Washington, DC 20005
(202) 654-5900

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