

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

In the Matter of	)	
	)	
Reliability and Continuity of Communications Networks, Including Broadband Technologies	)	PS Docket No. 11-60
	)	
Public Safety and Homeland Security Bureau Seeks Comment on 9-1-1 Resiliency and Reliability in the Wake of June 29, 2012, Derecho Storm in Central, Mid-Atlantic, and Northeastern United States	)	
	)	

**REPLY COMMENTS OF AT&T**

AT&T Services, Inc., on behalf of itself and its affiliates (collectively “AT&T”), submits these reply comments in response to the Federal Communications Commission’s (“Commission”) Public Notice seeking comment on the reliability and resiliency of communications networks, particularly those supporting 9-1-1, after the June 29, 2012 derecho storm in the Washington, D.C. (“D.C.”) metropolitan region.<sup>1</sup>

**I. INTRODUCTION & SUMMARY**

AT&T writes in response to comments filed by the California Public Utilities Commission (“CPUC”) asking the Commission to grant a Petition for Rulemaking (“CPUC Petition”) filed by the CPUC seeking direct access to the Commission’s Network Outage Reporting System (“NORS”) database.<sup>2</sup> The Commission should disregard the CPUC’s comments in this docket, as it bears no direct relationship to the issues raised in the CPUC

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<sup>1</sup> Public Safety and Homeland Security Bureau Seeks Comment on 9-1-1 Resiliency and Reliability in the Wake of June 29, 2012, Derecho Storm in Central, Mid-Atlantic, and Northeastern United States, PS Docket No. 11-60, 10-92, *Public Notice*, DA 12-1153 (rel. July 18, 2012) (“Public Notice”).

<sup>2</sup> Comments of the California Public Utilities Commission and the People of the State of California at 15-16, PS Docket No. 11-60 (Aug. 17, 2012) (“CPUC Comments”).

Petition for access to NORS. To the extent that the Commission considers the CPUC's comments seeking access to NORS, AT&T renews the concerns it raised in its Comments on the CPUC Petition: given the commercially sensitive and national security sensitive information in NORS, the Commission should deny the CPUC access to the NORS database unless and until all parties are assured that the data is adequately protected.

## **II. DISCUSSION**

### **A. The Commission Should Disregard the CPUC Comments in This Docket Pertaining to Access to NORS.**

In 2009, the CPUC filed the CPUC Petition with the Commission seeking state access to the NORS database.<sup>3</sup> In response to a Public Notice in docket ET 04-35 initiating a comment cycle on the CPUC Petition,<sup>4</sup> AT&T, and a dozen other parties, filed comments.<sup>5</sup> The primary legal and policy questions at issue in the docket considering the CPUC Petition concern the appropriate balance between security and transparency as they relate to states' access to critical infrastructure information provided to Federal agencies. These questions are neither directly addressed by the Public Notice in this docket, nor have they been raised by any other commenter. Furthermore, there is no nexus between a storm that affected the mid-Atlantic United States and the CPUC's access to NORS data. For those reasons, the Commission should disregard the CPUC comments in this docket pertaining to access to NORS. Those issues will be addressed in docket ET 04-35, which remains pending before this Commission. Nevertheless, if the

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<sup>3</sup> 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, ET Docket No. 04-35, RM 11588 (Nov. 9, 2009) ("CPUC Petition").

<sup>4</sup> Public Notice, Public Safety Homeland Security Bureau Seeks Comment on Rulemaking by the California Public Utilities Commission, DA 10-220 (PSHSB rel. Feb. 2, 2010).

<sup>5</sup> Comments of AT&T, ET Docket No. 04-35, RM 11588 (Mar. 4, 2010) ("AT&T Petition Comments").

Commission considers the CPUC comments in this docket, AT&T renews its comments filed in docket ET 04-35.

**B. Proper Safeguards Must Be In Place Before States Have Access To NORS Data.**

AT&T appreciates the CPUC's concerns related to public safety, but where national security issues are also at stake, the balance between state and national interests must be carefully calibrated. Federal agencies have long recognized the critical security issues raised by the information contained in the NORS database. NORS data includes commercially sensitive and national security sensitive information, including causes of outages, names and types of failed equipment, network components involved, and location of equipment and network components.<sup>6</sup> As the Commission acknowledged in its Order establishing NORS, NORS information could be used to attack the Nation's "critical information infrastructure."<sup>7</sup> The Department of Homeland Security also cautioned that network outage reporting data requires "special safeguarding" because such information "pertains to or affects our ability to protect the Homeland."<sup>8</sup> These concerns remain just as relevant today as when the NORS database was first established.

By exponentially increasing the number of individuals with access to the NORS database, the CPUC's proposal for automatic state access to NORS increases the risk that critical telecommunications information will be compromised and used for malicious purposes. One

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<sup>6</sup> AT&T Petition Comments at 1-2.

<sup>7</sup> *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, 16836-37 (2004) ("NORS Order") ("This data . . . could be used by hostile parties to attack [telecommunications] networks, which are part of our Nation's critical information infrastructure.").

<sup>8</sup> Comments of the U.S. Department of Homeland Security at 14, ET Docket No. 04-35 (June 2, 2004).

inadvertent or accidental disclosure of such data could have disastrous consequences. But the CPUC fails to adequately address this very real concern, and speaks only to California's interests, not the broader public interest.<sup>9</sup>

Though the CPUC previously offered proposals to safeguard NORS data, the CPUC's proposals were not sufficient to assure that NORS data remains confidential and controlled.<sup>10</sup> Nor did the CPUC's comments in this proceeding provide any assurance that the CPUC would be willing to adhere to additional requirements to guarantee the security of NORS data. Thus, AT&T renews its suggestion that the FCC adopt stringent and rigorous conditions on state access to NORS. For example, such regulations should set a strict limit on the number of CPUC staff personnel with access to NORS whose identities are on file with the Commission and kept current, mandate national security training for those personnel with access, require an annual certification requirement of compliance, and limit the use of data to evaluating causes of outages only for the purpose of monitoring network functionality.<sup>11</sup>

### **III. CONCLUSION**

This proceeding is not the right vehicle for Commission action on the CPUC Petition. The record here concerns communications networks and 9-1-1 resiliency in the wake of a

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<sup>9</sup> California's interests are already well cared for, as the CPUC already obtains the information it seeks concerning California outages without taking the risks of opening access to NORS itself. As AT&T discussed previously, in 2009 the CPUC approved an order that essentially adopted the Commission's communications disruption and NORS reporting requirements and required all facilities-based certificated and registered carriers to submit written reports to the CPUC for communication disruptions and outages that affect California service based on those requirements. *See* Decision Adopting General Order 133-C and Addressing Other Telecommunications Service Quality Reporting Requirements, California Public Utilities Commission Rulemaking Docket 02-12-004, Decision No. 09-07-019, 2009 PUC LEXIS 320 (2009) (*CPUC Outage Reporting Order*); AT&T Petition Comments at 2.

<sup>10</sup> AT&T Petition Comments at 8.

<sup>11</sup> AT&T Petition Comments at 9.

damaging mid-Atlantic storm. The Commission already has opened a docket and developed a record in that docket on the CPUC's proposal for state access to NORS. It should make its determination based on that record, particularly because the CPUC's comments here provide no new information. The national security issues addressed in AT&T's comments on the CPUC Petition remain just as relevant and pressing as when AT&T filed those comments. Thus, the Commission should consider all reasonable steps to safeguard our nation's critical information infrastructure and only grant access to NORS data when all parties are assured that the data is adequately protected.

Respectfully submitted,

**AT&T Services, Inc.**



By: \_\_\_\_\_

Robert Vitanza  
Gary L. Phillips  
Peggy Garber  
208 S. Akard St.  
Dallas, Texas 75202-4206  
(214) 757-3357  
*Counsel for AT&T Services, Inc.*

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