

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
Amendments to Part 4 of the)
Commission's Rules Concerning)
Disruptions to Communications)

PS Docket No. 15-80

COMMENTS OF THE MICHIGAN PUBLIC SERVICE COMMISSION

Introduction

On March 2, 2020, the Federal Communications Commission (FCC or Commission) released a Second Further Notice of Proposed Rulemaking (Second FNPRM or FNPRM) in the docket number referenced above seeking comment on proposals for an information sharing framework that would provide state and federal agencies with access to NORS and DIRS information while also preserving the confidentiality of that data. On April 1, 2020, the FCC released a Public Notice that the Second Further Notice of Proposed Rulemaking had been published in the Federal Register and that comments and reply comments are due April 30, 2020 and June 1, 2020, respectively. The Michigan Public Service Commission (MPSC) has participated in FCC proceedings surrounding the subject of outage reporting in the past and has offered previous comments.¹ The MPSC respectfully submits its

¹<https://ecfsapi.fcc.gov/file/10912797320905/MPSC%20NORS%20Reply%20Comments-9-12-2016.pdf>
<https://ecfsapi.fcc.gov/file/60001116116.pdf>
<https://ecfsapi.fcc.gov/file/7021713392.pdf>
<https://ecfsapi.fcc.gov/file/7021700978.pdf>
<https://ecfsapi.fcc.gov/file/111669175359/FCC%2011-16-18.pdf>

comments in response to the FNPRM on the proposed Part 4 communications disruption reporting changes and updates.

Discussion

In this FNPRM, the FCC proposed a framework for granting state and federal government agencies direct access to NORS and DIRS filings that will assist agencies in their efforts to keep the public safe while preserving confidentiality, ensuring appropriate access, and facilitating reasonable information sharing. (FNPRM ¶15.) The Second FNPRM also notes that the Commission previously found that sharing NORS data with state and federal agencies would serve the public interest. (FNPRM ¶ 16.) The MPSC has submitted comments supporting the proposal to share the Part 4 Outage information with states in previous filings in the docket and continues to maintain this position.

As technology advances, the issues related to identifying the root causes of an outage become increasingly important for ensuring public safety and that telecommunications networks are resilient. This is critically important at this time, as most states in the nation, including Michigan, are currently under stay-at-home orders due to COVID-19, in which schools, government offices, and many businesses are closed, students are distance learning and employees are working from home. Michigan is a leader in the advancement of next generation emergency services networks. These networks provide more robust emergency services for both end users and first responders. The MPSC continues to believe that sharing outage information with states would provide additional tools to assist the MPSC in

achieving its mission of protecting the public by ensuring safe, reliable, and accessible energy and telecommunications services for Michigan's residents.

As noted in its previous comments to the FCC, local exchange carriers are no longer required to report service outages to the MPSC. While the MPSC is not charged with investigating telecommunications service outages in all instances, the MPSC remains obligated to address complaints and reports of outages brought to its attention—by consumers, government officials, and news reports—for safety and public interest considerations. Some of these outages are referred to the MPSC's Telecommunications Division technical staff for review, which requires additional contact with providers experiencing outages to determine the causes, and whether the issues are chronic. This is especially true for outages that do not appear to be weather related. By having direct access to NORS and DIRS data, the MPSC can proactively respond to outage situations and work with providers to prevent and mitigate outages as well as inform policy makers. The MPSC's role in accessing this data is primarily focused on understanding the nature of the outages from a public safety perspective, rather than being a reporting agency of outages to other agencies. The potential obligation to perform this secondary reporting role raises concerns, which the MPSC discusses below.

While the MPSC supports the FCC allowing states access to NORS and DIRS outage information, the MPSC does have some concerns related to the broad information sharing between agencies proposed in the FNPRM. As the FNPRM notes, there could be obvious benefits to sharing the outage information with

localized response teams on a “need to know” basis. (FNPRM ¶¶ 40, 41.) The concern lies with discerning “need to know” basis and the fact that confidentiality liabilities fall upon the sharing agency with direct access to the outage information should the confidentiality agreement be breached at any point after dissemination. While a state agency may assess a “need to know” basis for sharing, the sharing organization cannot directly control further disclosure of the outage information beyond the initial provision of information given that, as proposed, each organization with a “need to know” is then able to pass it on to additional agencies with a “need to know” as they see fit. (FNPRM ¶ 37.)

State commissions have proven their ability to safeguard confidential information through their previous access to confidential materials such as access to numbering applications, universal service fund data and Form 477 data. This confidential information is not shared with outside agencies to help ensure the confidential nature of the aforementioned information. In these instances, it would be clear that a state agency had breached the confidentiality agreements in place if the information they have access to is disseminated.

The FNPRM also outlines a proposal for annual training requirements to obtain access to NORS and DIRS outage information. (FNPRM ¶ 58.) The MPSC continues to support the California Public Utilities Commission’s (CPUC) comments indicating that, “direct access to the FCC’s NORS database should only be conditioned on a state’s certification that it has adequate confidentiality protections

in place to protect NORS data.”² The MPSC does not support the proposal for annual training requirements as currently discussed in the FNPRM. If there are to be annual certifications to access NORS and DIRS outage information, the MPSC believes that any required training should be free of charge to applicants and centrally located or made available online.

Conclusion

The MPSC appreciates the opportunity to submit its comments on the FCC’s proposal to share NORS and DIRS information with state and federal agencies. We support granting states access to the databases and believe it will allow for a more robust picture into service outages that effect both end users and public safety efforts so that the states can be better informed to make policy decisions. States have protected the confidentiality of information they have been granted access to in the past and would continue to do so with NORS and DIRS information. The MPSC is concerned about the broader sharing of this information with other agencies on a “need to know” basis, and its role and responsibilities in sharing that information. The MPSC looks forward to reviewing further comments submitted in the docket and reserves the right to submit replies, as needed.

² *In the Matter of Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, PS Docket No. 15-80, Comments of the California Public Utilities Commission, (August 26, 2016), p 3.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION

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