

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
)	PS Docket No. 15-80
Amendment of the Commission’s Rules)	
Concerning Disruptions to)	
Communications)	

**REPLY COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments in response to comments addressing the Second Further Notice of Proposed Rulemaking in the above-referenced proceeding.² Commenters universally supported the Commission’s proposal to allow public safety entities to access the Network Outage Reporting System (“NORS”) and Disaster Information Reporting System (“DIRS”) provided the Commission limits access to NOR and DIRS information to certain entities specifically needing such information for public safety purposes.³ These commenters simultaneously urged the

¹ NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All NTCA service provider members are full service rural local exchange carriers and broadband providers, and many provide fixed and mobile wireless, video, satellite and other competitive services in rural America as well.

² Amendment of the Commission’s Rules Concerning Disruptions to Communications, *Second Further Notice of Proposed Rulemaking*, PS Docket No. 15-80, FCC 20-20 (rel. March 2, 2020) (“*Notice*”).

³ See, e.g., Comments of Competitive Carriers Ass’n, PS Docket No. 15-80 (Apr. 30, 2020), p. 3 (“there is no sound reason why entities that are not directly engaged in public safety or security functions should

Commission to clearly define what constitutes a public safety purpose and to exclude access to information in the NORS and DIRS database that is not needed to fulfill a public safety purpose.⁴ Finally, in the event that any access is provided for this limited purpose, commenters universally agreed that safeguards still need to be put in place to protect the information contained in the NORS/DIRS database by implementing such measures as a limited number of accounts per entity that can access the database;⁵ requiring notice to the Commission immediately upon the unauthorized disclosure of information or access to the database;⁶ and remedial actions against entities who failed to implement adequate safeguards, including a temporary or permanent prohibition on access to the database, audit procedures, and retraining.⁷

access this sensitive data.”); Comments of NCTA – The Internet & Television Ass’n, PS Docket No. 15-80 (Apr. 30, 2020), p. 3 (Commission should limit access to NORS/DIRS to entities that need the information to “prepare for, or respond to, a natural or manmade event that poses a direct and urgent threat to public safety (*e.g.*, a hurricane, wildfire, the COVID-19 pandemic), pursuant to their official duties.”).

⁴ See, *e.g.*, Comments of The Alliance for Telecommunications Industry Solutions, PS Docket No. 15-80 (Apr. 30, 2020), pp. 3, 5 (listing fields that do not contain information relevant to a public safety purpose and which could even lead to confusion by the entity accessing the information and urging the Commission to “better define what public safety purpose would justify access to outage data.”) (“ATIS Comments”); Comments of Verizon, PS Docket No. 15-80 (Apr. 30, 2020), p. 10 (“disclosing granular information like a mobile network equipment CLLI code is unnecessary, and contact information for employees responsible for filing NORS and DIRS reports should not be disclosed at all....”).

⁵ See, *e.g.*, Comments of USTelecom, PS Docket No. 15-80 (Apr. 30, 2020), p. 5.

⁶ See, *e.g.*, ATIS Comments at p. iii.

⁷ See, *e.g.*, Comments of Colorado Public Utilities Commission, PS Docket No. 15-80 (Apr. 29, 2020), p. 7 (the individual that inappropriately released or allowed access to the data should be permanently excluded from access to the database while the entity for whom the individual worked should have a temporary ban on access to the database and have access reinstated only after a showing of “good cause” or mitigation measures having been taken) (“Colo. PUC Comments”); ATIS Comments at p. iii (“The Commission should, at a minimum, require the agency to recertify with the Commission that it has retaken the compliance training program and to describe what other measures the agency has taken to prevent recurrence. If any subsequent misuse occurs, more significant steps should be taken, including loss of access to federal outage data.”).

Commenters disagreed on whether local entities should have direct access to the NORS/DIRS database or whether they should obtain access through their state agency. NTCA, along with the California Public Utilities Commission, recognizes the Commission’s concern regarding the number of local agencies that are likely to seek access if permitted to do so and the burden that would place on the Commission if the Commission were required to review and approve each request.⁸ To address this concern, the Commission proposed allowing state agencies to share NORS/DIRS information with local entities on a “need to know” basis. However, as the Michigan Public Service Commission observed, “the sharing organization cannot directly control further disclosure of the outage information beyond the initial provision of information....”⁹ Similarly, ACA Connects noted that “[i]f any one individual granted access to the data improperly discloses or misuses it, the efforts of all others to protect the data will be undermined, if not defeated entirely.”¹⁰ By requiring local agencies with a “need to know” to obtain access, if at all, from the Commission, both providers and the Commission will know the names of all entities granted access. Furthermore, the Commission can ensure the local entities undergo the same training prior to gaining access to the NORS/DIRS database as any state, federal or tribal entity is required to undertake and the local entities are held to the same level of accountability as other agencies in the event of unlawful access to the database or unauthorized sharing of information contained in the database.

⁸ *Notice* at ¶ 24; Comments of California Public Utilities Comm’n, PS Docket No. 15-80 (Apr. 30, 2020), pp. 5-6.

⁹ Comments of Michigan Public Service Comm’n, PS Docket No. 15-80 (Apr. 30, 2020), p. 4.

¹⁰ Comments of ACA Connects, PS Docket No. 15-80 (Apr. 30, 2020), p. 3 (“ACA Connects Comments”).

Commenters also disagreed on whether the Commission should allow entities to access data submitted by providers into the NORS/DIRS database prior to the date on which the Commission grants the entity access to the database. The Commission noted that providing access to NORS filings “would help restore affected communications and ultimately help save lives.”¹¹ Likewise, the Commission noted that sharing DIRS information will enhance agencies’ “communications response and recovery efforts in times of disaster.”¹² Nowhere in the *Notice* does the Commission assert, however, that access to historical NORS/DIRS filings is necessary to help restore communications, save lives, or enhance communications response and recovery efforts in times of a disaster. T-Mobile concurs, stating “access to historical data is not consistent with the explicit objective of the Commission in allowing access to NORS/DIRS information, namely aiding an eligible agency’s response, recovery, and restoration efforts relating to an emergency incident.”¹³

Commenters seeking access to past data argue that such information “might” be useful in “identifying trends” or conducting an “[a]nalysis of the effect of deployment of new technologies on service continuity and reliability.”¹⁴ This, however, is a policymaking purpose, rather than one interested in public safety. As ACA Connects rightly commented, the “Commission should not share historical outage data with participating agencies for the sole purpose of identifying

¹¹ *Notice* at ¶ 18.

¹² *Id.* at ¶ 20.

¹³ Comments of T-Mobile, PS Docket No. 15-80 (Apr. 30, 2020), p. 8.

¹⁴ Comments of BRETSA, PS Docket No. 15-80 (Apr. 30, 2020), p. 21. *See also* Colo. PUC Comments at p. 6.

‘trends’ or establishing a ‘baseline’ for possible public safety events that are not imminent.”¹⁵

Providers submitted their NORS and DIRS filings with the expectation that only the Commission would have access to those filings; given the voluntary nature of DIRS filings, providers might have chosen not to report had they known the information would be shared with other agencies. Thus, providers had a reasonable expectation that their filings would be kept confidential with the exception of aggregated reports made available by the Commission to the public.

Accordingly, for the Commission to now grant access to prior filings, and to do so for reasons other than public safety, could very likely serve as a deterrent to providers’ continued willingness to submit voluntary filings, contrary to the Commission’s goal in this proceeding.¹⁶

For the reasons stated above, NTCA encourages the Commission to clearly define the public safety purposes for which entities can seek access to the NORS/DIRS database and to adopt rules that will protect the confidentiality of the information contained in the database through measures that include allowing access only to such information as is necessary to carry out the public safety purposes - which includes not allowing entities to access any information submitted prior to the date on which the Commission granted the entity access, requiring any entity seeking access to the database to obtain prior Commission approval, and requiring entities

¹⁵ ACA Connects Comments at p. 4.

¹⁶ *See Notice* at ¶ 22 (“Given that service providers may voluntarily report confidential information in DIRS, we seek comment on whether federal and state agency access to DIRS filing would in any way reduce service provider participation or diminish the level of detail that service providers submit in DIRS.”).

granted access to undergo training developed by the Commission for this purpose.

Respectfully submitted,



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