



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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August 26, 2016

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, Southwest
Washington, DC 20544

Re: *PS Docket No. 15-80, In the Matter of Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; ET Docket No. 04-35, New Part 4 of the Commission's Rules Concerning Disruptions to Communications; PS Docket No. 11-82, Commission's rules Regarding Outage Reporting to Interconnected Voice over Internet Protocol Service Providers and Broadband Internet Service Providers.*

Dear Ms. Dortch:

The Washington Utilities and Transportation Commission (UTC) respectfully submits the following comments on the Federal Communications Commission's (Commission) further notice of proposed rulemaking (FNPRM) regarding outage reporting on broadband and wireless services.

Consistent with our role of ensuring that Washington consumers are provided reliable communications services, the UTC supports the Commission's efforts to expand outage reporting requirements to broadband facilities and services. The UTC also supports efforts to share information collected through the Commission's Network Outage Reporting Systems (NORS) with state and local jurisdictions; and last, the UTC supports geography-based reporting for wireless outages.

Broadband services have become a fundamental requirement of modern society. Information carried by broadband networks has become essential for the American public to efficiently and effectively engage in activities that range from education to banking to health care to public safety, i.e., for research, e-commerce and voice communications. In short, since the inception of the internet and supporting broadband networks, Americans have come to rely on effective deployment and operations of broadband networks that transmit internet services, such that it has become the very fabric of everyday life.

As networks and applications evolve, the importance of effective broadband networks will also continue to expand and become ever more critical. As such, it is imperative that outages affecting broadband networks be timely reported with data sufficient to alert the public, as well as relevant jurisdictions, of outages, their root causes, remediation efforts, and expected recovery time. Reports of this nature have historically been required of legacy wireline networks, which were primarily in place to support traditional voice services. While outage reporting on legacy networks continues to be critical, reports specific to broadband network outages, given the ever expanding importance, is also critical to insure continued robust performance of broadband networks. The public interest would not be served now or in the future, if broadband providers are not held to comprehensive outage reporting requirements. The three-report structure advanced by the FCC provides a timely set of reports that supports notification within two hours of a major outage notification, a second assessment after three days and a final report 30 days after the outage's occurrence. The thresholds proposed in defining a major outage appear to be sufficient as an initial effort and serve as a workable starting point from which eventual modifications can be made.

The UTC supports providing state and local jurisdictions access to outage information residing in the NORS with clear safeguards to protect the confidential nature of the information. Access to NORS would provide state regulatory authorities the ability to assess root causes of outages, assess outage patterns, and monitor the response. The UTC understands and agrees that information regarding outages, including root cause analysis, locations, network performance, and time to restoral, is not only competitively sensitive but specifically critical regarding national security. Criminals, terrorist organizations, or hostile foreign governments could use this data to better understand network vulnerabilities and restoral processes, which in turn, could assist them in crippling the nation's information infrastructure. However, as important as confidentiality is, it should not be used as reason to prohibit access to the NORS by state and local jurisdictions, which may rely on such information to ensure service quality or availability. Maintaining the confidentiality of information provided by network providers is not new to the UTC and safeguards are in place to insure that access to filed information is not divulged without judicial process after a request for confidential information has been received.

Moreover, the FCC should consider providing state commissions a mechanism for sharing information with government partners within their states in a way that ensures the information's confidentiality. While state regulatory bodies do not exercise oversight on economic matters of broadband pricing and network deployments, state regulatory bodies, such as the UTC, assist state emergency management agencies when utility outages occur. Access to outage information can be critical to states and local jurisdictions in determining the cause, scope and duration of an outage, especially in the event of a cyber security event. In fact, multiple state agencies may require access to such information. We also recognize that, as in Washington, consumer protection issues, including enforcement of potential violations, are in many cases within the jurisdiction of the state's attorney general or consumer counsel. Access to the NORS database may assist the Washington Attorney General's Office in its investigation of outages within the state. If NORS data is withheld or edited prior to eventual release, the value of the database in supporting public safety and the public interest would be greatly limited as the authorities closest

Ms. Marlene H. Dortch

August 26, 2016

Page 3 of 3

to the real impact of an outage effectively would be kept ignorant of events surrounding a major broadband outage.

In the FNPRM the Commission solicits comments on the issue of geography-based wireless outage reporting requirements. The UTC believes that geography-based reporting should indeed be used rather than user or usage-based standards. Obviously, wireless networks serving rural areas necessarily have substantially less usage than urban regions; therefore, using a reporting threshold applicable to urban areas, such as the proposed 900,000 user-minute threshold, would result in substantial under-reporting of outages in rural regions. A better threshold would be a geography-based threshold, such as that contemplated by the Commission, under which a wireless provider would be required to file outage reports when one-third of its cell sites serving a defined rural area are disabled or impaired. In the alternative, the Commission could adopt a lower user-minute threshold. However, pursuing that type of threshold would require a more precise understanding of wireless traffic volumes. Under-reporting is most likely to occur when outages affect regions with particularly sparse populations.

In tailoring a geography-based reporting requirement with the goal of monitoring wireless networks serving "rural" areas, a clear definition of "rural" is needed. The Commission indicates that it has used a "baseline" definition of "rural" to mean those counties that have a population density of 100 persons per square mile or less and seeks comment on using other "rural" definitions such as areas designated as eligible for the Universal Service Mobility fund. However, if applied in Washington, a density threshold of 100 persons per county would cover 29 of the state's 39 counties.¹ Using Mobility Fund Phase 1 eligibility as the reporting standard would cover only those segments of counties that receive funding and could lead to underreporting of wireless outages. Hence, while a Mobility Fund approach might be targeted to specific areas within a county that receive explicit support, its target may be too small to provide a comprehensive understanding of an outage that affects a sparsely populated county.

The UTC believes that the public interest would best be served by requiring broadband providers to file major outage reports, providing access to relevant state and local jurisdictions with confidentiality safeguards and instituting the requirement for wireless carriers to file geography-based wireless outage reports. We appreciate the opportunity to file these comments and look forward to further engagement on these critical reporting issues.

Sincerely,



Steven V. King
Executive Director and Secretary

¹ See, <http://www.ofm.wa.gov/pop/popden/>