



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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DA 10-220

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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT  
ON PETITION FOR RULEMAKING BY THE CALIFORNIA PUBLIC UTILITIES  
COMMISSION REQUESTING THAT STATE PUBLIC UTILITIES  
COMMISSIONS BE GRANTED DIRECT ACCESS TO THE  
COMMISSION'S NETWORK OUTAGE REPORTING SYSTEM**

**RM-11588  
ET Docket No. 04-35**

**Comment Date: March 4, 2010**

**Reply Date: March 19, 2010**

The Public Safety and Homeland Security Bureau invites public comment on the petition for rulemaking filed on November 12, 2009, by the California Public Utilities Commission ("CPUC").<sup>1</sup> The CPUC petitions the Commission, pursuant to Section 1.401 of the Commission's rules,<sup>2</sup> requesting that the Federal Communications Commission (Commission or FCC) grant state public utilities commissions direct access to the Commission's Network Outage Reporting System (NORS) database.<sup>3</sup> The CPUC also informally requests, pursuant to Section 1.41 of the Commission's rules,<sup>4</sup> that the Commission act to allow the CPUC password-protected access to the NORS database that is "limited to California-specific disruption and outage data."<sup>5</sup>

NORS is the web-based filing system through which certain communications providers submit reports to the Commission of disruptions to communications as required by Part 4 of the

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<sup>1</sup> The petition was filed on behalf of "the California Public Utilities Commission And The People of the State of California." See Petition of the California Public Utilities 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, ET Docket No. 04-35 (Nov. 12, 2009) (*CPUC Petition*).

<sup>2</sup> 47 C.F.R. § 1.401.

<sup>3</sup> See *CPUC Petition*.

<sup>4</sup> 47 C.F.R. § 1.41.

<sup>5</sup> *CPUC Petition* at 1, 13-20.

Commission's rules.<sup>6</sup> Reports of service disruptions filed in NORS are presumed to be confidential.<sup>7</sup> Currently, the Commission shares NORS data only with the Department of Homeland Security (DHS).<sup>8</sup>

CPUC states that the Commission found that mandatory reporting of network outages was "the only reliable way to collect this important information *for use by this Commission and, where appropriate, for other government entities.*"<sup>9</sup> The CPUC asserts that, during the Part 4 rulemaking proceeding, no state public utility commission requested access to the Part 4 service disruption data and the Commission did not address whether it should or would grant state public utilities commissions the same direct access to the NORS reports that it provided to DHS.<sup>10</sup>

CPUC states that because the public health and safety, as well as California's economy, depend heavily on reliable and well functioning wireline and wireless voice and data communications networks, it is critical that the CPUC have access to the same level of service outage detail found in NORS reports in order to effectively analyze the data.<sup>11</sup> CPUC adds that state commissioners, like the FCC, are responsible for overseeing the reliability and security of their state's respective communications infrastructures and, in times of crisis, local and state authorities are often the first responders.<sup>12</sup> CPUC states that, because of this, California has adopted "the FCC's NORS requirements"<sup>13</sup> and implemented safeguards to ensure the confidentiality of the information received.<sup>14</sup>

CPUC asserts that its goal is to obtain the data necessary to perform its "traditional role of protecting public health and safety through monitoring of communications network functionality"<sup>15</sup> without requiring duplicative reporting by telecommunications providers. Acknowledging national security concerns, it seeks to allow states access to the NORS database

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<sup>6</sup> 47 C.F.R. Part 4.

<sup>7</sup> 47 C.F.R. § 4.2.

<sup>8</sup> New Part 4 of the Commission's Rules Concerning Disruptions to Communications, *Report and Order and Further Notice of Proposed Rulemaking*, ET Docket No. 04-35, 19 FCC Rcd 16830, 16856, ¶ 47 (2004) (*Part 4 Report and Order*).

<sup>9</sup> See *CPUC Petition* at 3-4; see also *Part 4 Report and Order*, 19 FCC Rcd at 16848, ¶ 32 (*emphasis added*).

<sup>10</sup> *CPUC Petition* at 5.

<sup>11</sup> *CPUC Petition* at 13.

<sup>12</sup> *CPUC Petition* at 11.

<sup>13</sup> *CPUC Petition* at 6, citing *Decision Adoption General Order 133-C and Addressing Other Telecommunications Service Quality Reporting Requirements*, D.09-07-019, 2009 Cal.PUC LEXIS 320.

<sup>14</sup> *CPUC Petition* at 18.

<sup>15</sup> *CPUC Petition* at 14.

if they can show that appropriate protections are in place that would ensure that the confidentiality of the data is maintained.<sup>16</sup>

By this Public Notice, we seek comment on whether to grant the *CPUC Petition* and initiate the requested rulemaking proceeding.

## Procedural Matters

The *CPUC Petition* is available for public inspection and copying in the Commission's Reference Center, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554. Copies of the request also may be obtained via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, ET Docket No. 04-35. Copies of the request also are available from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

Pursuant to section 1.405 of the Commission's rules, 47 C.F.R. § 1.405, interested parties may file statements in support of or in opposition to the *CPUC Petition* not later than **March 4, 2010**. Any interested parties may file replies to statements in support of or in opposition to the *CPUC Petition* not later than **March 19, 2010**. Statements and replies may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Statements in support of or in opposition to the *CPUC Petition* and replies to such statements may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m.

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<sup>16</sup> *CPUC Petition* at 19.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

In addition, interested parties shall send one copy of their statements and replies to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (800) 378-3160, e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

Filings and comments are also available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, ET Docket No. 04-35. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300 or (800) 378-3160, fax: (202) 488-5563, or via e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact Jean Ann Collins of the Public Safety and Homeland Security Bureau, Communications Systems Analysis Division, at (202) 418-2792, [jeanann.collins@fcc.gov](mailto:jeanann.collins@fcc.gov).

Action by the Chief, Public Safety and Homeland Security Bureau.

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