STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL
DISSENTING

Re: *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications,* PS Docket No. 15-80; *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,* RM No. 11588 (terminated).

After Superstorm Sandy ravaged the mid-Atlantic, I traveled to the New Jersey coast. I won't ever forget what I saw. The storm surge had propelled sand dunes blocks beyond the beachfront with a cruel disregard for the cars and houses in the way. Streets were torn up, businesses were boarded up, but communities were not giving up. They wanted to rebuild. Still, the task was hard because in so many places communications were totally knocked out after the storm.

After the Oso Mudslide washed away a rural community in Washington state, I visited the site of the disaster. It was harrowing. There was only a field of wet dirt, laced with broken building materials and the household detritus of a community that had totally disappeared. It happened fast. Calls to 911 went unanswered, communications faltered, and forty-three people died trapped in a towering wall of mud.

After Hurricane Maria wreaked havoc on Puerto Rico, I headed south to San Juan and then inland to rural communities on the island. Puerto Rico is undeniably lush and beautiful, but the damage was right out in the open: tarps covered buildings; traffic lights didn't work; and stray blocks of concrete and rebar were everywhere. Across the island communications totally failed, with more than 95 percent of cell sites knocked out of service.

In events like these the Federal Communications Commission activates its Disaster Information Reporting System, or DIRS. DIRS is a reporting system used by communications providers to update the FCC about the operational status of their networks in disaster. It's a voluntary system, but it is designed to work hand in glove with our mandatory Network Outage Reporting System known as NORS, so that we have a clear picture of what outages occurred, when they occurred, and where they occurred. During the last ten years DIRS has been activated for communications failures in at least 23 states and territories.

The last decade is important. Because it was ten years ago that the California Public Utilities Commission petitioned this agency to help provide state authorities with timely access to outage information like what we have in DIRS. The FCC asked for comment. It was five years ago that this agency issued a rulemaking that proposed to grant state officials access to NORS data regarding outages in their states. Again, the FCC asked for comment.

That means we have a decade of experience with disasters. We also have a decade-long record with comments about just how to relay outage information to our state colleagues. So let me submit that we don't need another rulemaking. We need to do something.

But you won't find that urgency here. Because we're going to start yet another rulemaking on what is obvious—we have a problem with communications failing in disasters and we should change our rules so state public safety officials have the information from our outage reporting systems they need to do their job.

We could do that right here and now. There is nothing in the law preventing us from adopting the policies we propose today in this rulemaking. The evidence is already here. In too many disasters,

communications fail. It's happening in hurricanes. It's happening in floods. It's happening in wildfires. It's happening everywhere. And everywhere across the country the number of households that rely on wireless-only service are multiplying. That has long-term implications for our network safety, security, resiliency.

It's time for this agency to stop these modest gestures and fundamentally refresh our playbook for disaster response. Here's how.

First, we need to make it standard practice for the FCC to learn from every major communication outage. Every significant weather event causing damage to our networks should be the subject of a timely report from the FCC. It should be supported by timely field hearings—as was done immediately after Hurricane Katrina and Superstorm Sandy.

Second, we need to update our Wireless Resiliency Framework. The Government Accountability Office has criticized the FCC for its failure to promote network resiliency and urged us to do more. In response this agency has sought comment in four public notices on just how to do so. Enough seeking comment. It's time to take action. We need enforceable rules on network resiliency before the next disaster strikes.

Third, we need to update the outage information the FCC collects. It's hard to believe, but while the FCC collects information about outages on telephone lines, it does not collect information about disruptions involving broadband service. That means if the infrastructure that supports modern life goes down, the FCC will not have a full picture of the problem. How is it possible that we are the expert agency with responsibility for our nation's communications but do not have a mandatory requirement to report where broadband service was cut off and when?   A proposal to address this gap in our reporting systems has been pending for four years. It's time to take action.

Fourth, we need to revisit our policies when it comes to backup power. When utilities in California turned off power to mitigate wildfires it exposed a glaring weakness in our preparation for disaster. In some areas more than half the cell sites were rendered inoperable. We need to rethink our policies regarding backup power and while we're at it we need to recognize that the topology of our networks is changing. The introduction of small cells means our old ways of tracking the sites that go down and ensuring sustainability is growing more complicated. But what is most important is that we get started on all this now, so our resiliency policies are ready for the 5G future.

That's what I think we need. I'm not alone. There is legislation pending right now in the House of Representatives to strengthen disaster response, including the RESILIENT Networks Act from Chairman Pallone and Representative McNerney and the Emergency Reporting Act from Representatives Matsui, Eshoo, Thompson, and Huffman.

In the end, we don't need to wait for another Superstorm Sandy, Oso Mudslide, or Hurricane Maria to know that we have to do more to ensure our communications work when the unthinkable occurs. We don't need more comment to work with state public safety officials to help restore communications after a disaster. We need action. We can change our rules right here and now. Because we do not, I regretfully dissent.