

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL
APPROVING IN PART, DISSENTING IN PART**

Re: *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Blackboard, Inc. Petition for Expedited Declaratory Ruling; and Edison Electric Institute and American Gas Association Petition for Expedited Declaratory Ruling, Declaratory Ruling, CG Docket No. 02-278*

It is no secret that consumers detest robocalls. Every month we receive thousands of complaints about them here at the Commission. Across town, our friends at the Federal Trade Commission log even more. It is no wonder these complaints keep rolling in—Consumer Reports estimates that robocalls now make up 35 percent of all phone calls placed in the United States.

Twenty-five years ago Congress passed the Telephone Consumer Protection Act to protect consumers from what was then a small but growing scourge of unwanted calls. While this law is showing its age, the Commission still has the power to use it to help consumers receive the calls they want and avoid the ones they do not want to receive.

To this end, here we address two petitions before the Commission under this law. First, we make clear that if you have provided energy and utility companies with your number, they can reach out to you when the power goes out, when service is being restored, and when dangerous work is being done on electrical facilities near your home. In other words, they have the ability to reach out to you when safety is at stake. Second, we make clear that schools, which act *in loco parentis*, can reach out to a student's family or guardian in emergency situations.

As these petitions demonstrate, the Commission has the power to call balls and strikes when it comes to the Telephone Consumer Protection Act. Doing so to promote safety and prevent emergencies strikes me as an appropriate use of this authority. But I believe this is a power we need to use carefully—and sparingly. So I regretfully dissent to a small component of today's decision. The Commission goes a step too far when it deduces from its conclusion that schools may make certain calls in emergency situations—that *any* third party can also make a robocall or send a text message to *any* person under the auspices of an emergency. Nothing in the petitions before us sought such a sweeping conclusion. No rulemaking was started. No comment was sought from the public. Instead, the Commission takes the unorthodox approach of creating a third party carve-out and burying it in a footnote without proper notice or a full examination of its likely result. The Commission simply does not know what the consequences will be of inviting any third party to place a robocall or send a text. But given the number of complaints we receive on this subject, it is the Commission's responsibility to thoroughly vet any potential changes to our robocall policies. While perhaps unintended, this overbroad conclusion has the potential to become a gaping loophole that multiplies the number of unwanted robocalls consumers receive. If it does, that would be a shame. It is certainly not the outcome consumers complaining to this Commission want.

For the above reasons, I approve in part and dissent in part.

