

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

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).

Every effort should be made to restore communication capabilities when a disaster or outage occurs. All Americans should have the ability to communicate with emergency call centers, first responders, and loved ones in times of need. And, to these ends, the Commission has been actively pursuing an agenda to facilitate restoration of networks should networks or systems go down. In fact, the Commission previously considered sharing the information it collects regarding outages with federal and local entities but declined to do so out of deep and appropriate confidentiality concerns. Needless to say, protecting this data is extremely important both from a market and national security standpoint.

Today's notice starts a proceeding to consider the mechanisms that would be put in place for sharing this information with federal, tribal, and state agencies, which they, in turn, could share with others. While well-intentioned, I have serious doubts about the framework that is being considered. In the originally circulated draft, the controls proposed to ensure the confidentiality of this information appeared to be seriously lacking. Once the Commission were to hand over the sensitive information to a state agency, for instance, the data could be shared with other state agencies and with those in a locality on a "need to know" basis, but that is a very vague and subjective standard, left completely undefined in the item. As proposed, the Commission also would not be able to track who was given our information either at the original state agency or downstream.

Further, I was concerned about the breadth of information that would appear to be made available about outages in surrounding areas not under the jurisdiction of a requesting state, locality or tribal land; the absence of limits on how the information could be used; the ability to access this information at any time, as opposed to during a specific event; and the training – or lack thereof – to be required of those receiving the sensitive information on a "need to know" basis. Most importantly, perhaps, there was very little information about the penalties to be levied or the remedies available to a wireless provider should their information be leaked. Simply saying that we would discontinue access to the information is not enough of an incentive to stop careless recipients.

Unfortunately, when it comes to states in particular, their track record of doing the right thing is less than stellar. Take, for example, California's recent attempts to waylay and drag-out the Sprint-T-Mobile merger; states diverting 9-1-1 fees (especially New York, New Jersey, and Rhode Island); New York's vanishing commitments to reach its unserved citizens in return for a special allocation of USF money; or the many efforts to profit from or delay infrastructure siting at the state and local level. Taking these entities at their word, without much more than a handshake, that extremely sensitive outage information will remain confidential and only be used for appropriate purposes is not something I can accept without strong safeguards.

Despite these concerns, I will support today's notice, because, at my request, the Chairman agreed to include edits that will seek comment on these very issues and others. I thank him for being receptive to my many concerns, and I hope that these issues are addressed in a fulsome record. It should be noted, however, that if the Commission ultimately decides to go down a route that doesn't include strong enough protections for this private information, I will be the first one to demand that access be revoked at the first sign of abuse or misuse. I approve.