

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Address
Intrastate Rural Call Completion Issues.

I. 14-05-012

**REPLY COMMENTS OF MENDOCINO COUNTY ON PHASE II SCOPING MEMO AND
RULING OF ASSIGNED COMMISSIONER**

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Mendocino County submits this “Reply to Comments” filed in response to comments submitted in response to the Phase II Scoping Memo and Ruling of Assigned Commissioner. As discussed in this submission, the scoping memo should be amended per the recommendations of the Joint Consumer Group and all other recommendations adopted.

I. Reply to Office of Ratepayers Advocates (“ORA”)

Mendocino County supports ORA’s comments in general. ORA’s strong public safety focus is clear when they state “[i]t is in the public interest for carriers to be transparent with public safety personnel about the location of outages and how public safety personnel may mitigate any negative effects from an outage.”¹ Since the initiation of this proceeding, an important issue for our county has been outage reporting requirements that support our *local* public safety officials in carrying out their duties so that they have information they need *in real time*, and we believe that ORA’s recommendations are a good start; yet they may not go far enough because this critical information also needs to reach the local level. We support their recommendation to the Commission to “permanently institute this reporting requirement based on a 90,000 user minute threshold” regarding the standing data requests, and agree that “the reporting should not be limited to the respondents identified in this investigation, but should include Voice over Internet Protocol (“VoIP”) and wireless service providers.”² The need to include VoIP and wireless providers is also addressed in our response to the CTIA. However, the need for local OES notification in addition to CalOES notification in the event of an outage must still be addressed.

II. Reply to Joint Consumers Group

Mendocino also strongly supports the Joint Consumer Group’s comments and recommendations. Their recommendation that the Working Group have access to the data from the standing data requests so that they can make informed decisions makes sense. The data request was issued to carriers because of a troubling rural “data gap”; for this data to be now available from these requests, but hidden from the Working Group making relevant decisions, would be counter-productive.

¹ ORA comments, page 3.

² ORA comments, page 4-5

We also support their conclusion that the scope of Phase II should be amended to include the directive set forth in OPs 15 and 20 of the Phase I Decision.³ The standing data requests from OP 20 are an important provision from Phase I of this proceeding for our county, and we endorse the greater telecom experience of parties such as TURN when they state that “including these issues within the scope is important both to preserve the ability of the Commission to solicit comment from parties on the issues as part of this proceeding and to give the Commission the opportunity to take appropriate action.”⁴

III. Reply to AT&T and Frontier

Mendocino County acknowledges both AT&T and Frontier, our two main ILECS in Mendocino County, for their support for a collaborative approach of a Working Group in which critical stakeholders such as public safety, can participate. Thomas Allman, Mendocino County Sheriff, wrote on November 29, 2016, “I support and would welcome participation in a Phase 2 Working Group on this issue. I consider AT&T a working partner in these efforts. The important thing is to move forward together so that we can all uphold our legal responsibilities...”⁵

IV. Reply to California Cable & Telecommunications Association (“CCTA”)

There are a number of errors in the arguments that CCTA puts forth in their comments. The CCTA recommends that the only way to ensure that the Phase 2 issues are suitably framed is to first grant the rehearing and/or stay application because they assert, the Commission erred in that OP 20 is not supported by the findings and that the “...commission ultimately drew conclusions regarding outages and reporting thresholds without out any substantial reason.”⁶ We disagree. This proceeding was opened in 2014, and since that time there has been an extensive record developed through investigation

³ OP 15 directs carriers to meet and confer with tribes and County OES offices to determine if action is needed to make residential addresses visible to the 9-1-1 database. OP 20 directs the Communications Division to issue Standing Data Requests to respondents to report outages of 90,000 user minutes or more, as well as Optical Carrier 3 or transport outages.

⁴ p. 3 Joint Consumer Comments

⁵ Attachment A of Mendocino Comments to PD, filed 2/5/16, Letter from Sheriff Thomas Allman, dated November 29, 2016

⁶ CCTA comments, p 3-4

by Commission staff via data requests and responses, three workshops, an all-party meeting, nine public participation hearings from around the state⁷, numerous opportunities for public and party comments, and ultimately a 196-page Decision that was approved by the Commission. The record is developed and substantial, including eight Findings of Facts that support OP 20.⁸ Although it is the right of the CCTA to file an application for a re-hearing (although TURN argues that a petition for modification is the proper administrative remedy regarding OP 20⁹) and present the same arguments that have already been considered and rejected when Decision 16-12-066 was adopted, the Commission should move forward with Phase 2 including collecting data from OP 20 and the March 28, 2017 retroactive data request.

CCTA also uses Senator McGuire's introduced SB 566 on rural reporting requirements as another reason for the Commission to delay the development of outage reporting thresholds.¹⁰ However, very few introduced bills actually are enacted; the Commission is in a leadership position on this issue of critical importance which is under their jurisdiction, and as such the Commission should be proactive and not wait on a bill that may or may not pass, and may or may not be adequate.

The CCTA expresses extreme confidentiality concerns, linking these concerns to both national security and competitive advantage, concluding the Commission should make all outage information confidential as NORS currently does.¹¹ However, please consider that the power grid is critical infrastructure with extreme national security implications, yet routinely PG&E makes local and detailed outage information available to the public at large, often via public radio announcements. And while we respect a carrier's desire for competitive advantage, we believe that the higher priority is protecting human lives. The state PUC must fulfill their mission regardless of federal rules as stated directly in the PUC decision.¹²

⁷ San Andreas, Ukiah, Happy Camp, Eureka, Guerneville, Middletown, Santa Cruz, Long Beach, and Visalia

⁸ FOF 25, 26, 29, 30, 33, 34, 37 and 38

⁹ TURN in their response to the coalition application for a rehearing, page 16 footnote 65

¹⁰ CCTA comments, Page 4, footnote 5

¹¹ CCTA comments, page 11

¹² Page 145 of D16-12-066: "This Commission must carry out its responsibilities under state law. We decline to defer to the FCC's judgment about the federal outage reporting standard in lieu of analyzing and determining the

V. Reply to The Wireless Association® (“CTIA”)

The CTIA makes the argument that Wireless Carriers should be exempt from reporting requirements because the FCC is currently considering rural outage network reporting.¹³ However, there is much uncertainty at the FCC under its new chairman Ajit Pai. Chairman Pai is moving aggressively to overturn previous FCC rules, change long-standing policies, and reduce regulations. The Commission cannot leave it to the FCC to pass regulations on issues over which the Commission also has jurisdiction, nor can it be assumed that, if the FCC passes rural outage reporting, their requirements will be adequate to address the issues related to California that were uncovered in this proceeding.

The CTIA states that the Commission has previously recognized in 2009 the merits of mirroring federal standards¹⁴; however, mirroring such standards is meritorious only if those standards are appropriate for the state to adopt. In this case, the NORS reporting has been shown to be wholly inadequate as widespread rural outages often do not meet the 900,000 user minutes threshold. In addition, even the FCC is not able to currently assess the impact of widespread wireless outages, as evidenced by the recent FCC Public Safety and Homeland Security Bureau opening of an investigation into AT&T’s nationwide Voice over LTE (VoLTE) 911 outage.¹⁵

appropriate type and level of information to be collected and reported in California to ensure our public safety and the reliability of our communications. We determine that additional reporting about outages to the Commission and local, county, and state Office of Emergency Services contacts is necessary to do so.”

¹³CTIA comments, page 2

¹⁴ CTIA comments, page 3

¹⁵ PS Docket No. 17-68

And finally, the CTIA argues that undue burden would be created should there be differing federal and state reporting obligations, and that public safety could be negatively impacted in such a scenario by diverting resources away from restoring service.¹⁶ This argument is weak, as those staff responsible for tracking and reporting outages are separate from those technical staff in the field working to repair an outage.

VI. Conclusion

The Commission should amend the scoping memo for Phase 2 as recommended by the joint consumer's group, and move forward on Phase 2 without delay including OP 20 from Phase 1. The Commission should make OP 20 permanent and inclusive as per ORA's recommendation.

Respectfully submitted,

Dated: April 12, 2017

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¹⁶ CTIA comments, page 3