Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Resilient Networks	)	PS Docket No. 21-346
	)	
Amendments to Part 4 of the Commission's	)	PS Docket No. 15-80
Rules Concerning Disruptions to	)	
Communications	)	
	)	
New Part 4 of the Commission's Rules	)	ET Docket No. 04-35
Concerning Disruptions to Communications	)	

COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION

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NTCA–The Rural Broadband Association (NTCA)[1] hereby submits these

comments in response to the Federal Communications Commission's (Commission's) Notice of

Proposed Rulemaking (NPRM) proposing steps to improve the reliability and resiliency of

communications networks during emergencies.[2]

I. INTRODUCTION AND SUMMARY

NTCA commends the Commission for its commitment to foster consumer access to

information and critical communications services during disasters. Based largely in the

communities they serve, NTCA's members share these goals and take pride in providing

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[1]   NTCA represents approximately 850 rural local exchange carriers. All of NTCA's members are voice and broadband providers, and many of its members provide wireless, video, and other competitive services to their communities.

[2]   In the Matter of Resilient Networks, PS Docket No. 21-346, Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications, PS Docket No. 15-80, New Part 4 of the Commission's Rules Concerning Disruptions to Communications, ET Docket No. 04-35, *Notice of Proposed Rulemaking* (rel. Oct. 1, 2021) (NPRM).

consumers with communications that are reliable and secure in some of the nation's most rural and remote areas in the face of the most challenging conditions and terrain. NTCA's members strive to provide their subscribers with a superior customer experience before, during, and after emergencies, and many consider the resiliency of their networks as a competitive "differentiator" of their services.

The voluntary Wireless Network Resiliency Cooperative Framework, combined with current government-industry partnerships and the community commitment of smaller providers like those in NTCA's membership, is working to ensure that information is shared and that needs are cooperatively met during disasters. Indeed, the NPRM fails to point to any instance in which additional mandated reporting would be helpful to maintain or restore communications in an emergency, but such action would most certainly magnify the burden of small providers in a crisis situation. Similarly, other measures such as mandated reporting within accelerated timeframes might only undermine, rather than promote, efforts to address immediate crises and restore services – especially for smaller operators with limited staff to both manage crisis response *and* report in short order on such efforts.

II.   THE VOLUNTARY WIRELESS NETWORK RESILIENCY COOPERATIVE FRAMEWORK HELPS FACILITIATE EFFICIENT AND EXPIDITIOUS DISASTER RESPONSE

NTCA supports the Wireless Network Resiliency Cooperative Framework (Framework), a voluntary agreement developed by the wireless industry in 2016 to provide mutual aid in the event of a disaster. As the Commission recognizes, wireless providers, of all sizes, have invested in network resiliency, including reinforcing network coverage and capacity, conducting site-based preparatory work, and making plans to mitigate commercial power failures, as well as utilizing commercial roaming agreements, working with government partners, and educating

consumers on preparedness.[3] The voluntary nature of the Framework allows carriers to dynamically allocate resources in the wake of disasters and emergencies. Each carrier has a unique network and resources to serve distinctive topography, and each disaster presents its own challenges.

The Commission seeks comment on whether expanding the scope, or increasing the participation in, the Framework would increase its effectiveness and whether it should revisit its voluntary nature.[4] As the Commission notes, signatories to the Framework currently include only the major wireless providers.

A recent example, while not specifically in the wireless context, is emblematic of the level of cooperation that already takes place between network operators in the face of emergencies and shows how mandating collaboration would likely only add a level of process with limited benefit. NTCA member company, REV Broadband (REV), suffered the direct and devastating impact of Hurricane Ida. REV reports that in Ida's aftermath, Lumen shared fuel when the fuel supply chain broke down, another telco friend sent crews to help when REV required additional workforce resources, and that REV was able to borrow generators from other telcos, which included one large generator that kept a necessary building running. REV reports that for its part, it rerouted traffic, prioritizing cell site and backhaul service restoration, and provided local contacts for electrical utilities. In short, regardless of specific execution of the Framework, providers in and around the areas hardest hit by Ida recognized needs and responded appropriately and in collaborative fashion. Moreover, after the immediate emergency passed, REV had the opportunity to meet with government representatives and hosted Chairwoman

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[3]   NPRM, ¶13.

[4]   NPRM ¶¶13-16.

Rosenworcel and Commissioner Carr to show them the devastation, outline the response and restoration efforts underway and still ahead, and discuss necessary relief. Additional mandated reporting during the emergency period immediately following the hurricane would have created an extra burden when the priority was rightly placed on employee safety and service restoration.

A. The Framework Should Remain Voluntary

In 2016, when the Commission first adopted the Framework and rejected a more prescriptive approach, the Commission concluded that the voluntary Framework provides "a rational basis for promoting an alternative path toward improved wireless resiliency without the need for relying on regulatory approaches. . ." and noted that [t]he Commission has long encouraged the incorporation of voluntary industry approaches in lieu of regulation."[5]

There is good reason for the Framework to remain voluntary. Providers' ability to implement the Framework depends upon technical feasibility, the scope of the emergency and its impacts, and the needs of consumers and staff. The signatories to the Framework are all large providers with multiple offices spread throughout the United States. When a disaster occurs, each is able to shift operations so that communication and regulatory compliance is achievable and nationwide coordination can occur. Conversely, small providers are situated in the communities they serve. When disaster strikes, it often affects not just infrastructure, but also operations. Offices are frequently damaged, and employees' homes may be destroyed. While small providers (wireless and wireline alike) certainly abide by the underlying principles of the Framework, additional regulatory considerations and compliance measures during a disaster situation would be counterproductive.

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[5] Improving the Resiliency of Mobile Wireless Communications Networks, PS Docket NO. 13-239, Reliability and Continuity of Communications Networks, Including Broadband Technologies, PS Docket No 11-60, Order (released December 20,2016).

B. Expanding the Scope of the Framework is Unnecessary

The Commission questions whether the scope of the Framework should expand to include entities beyond the mobile wireless industry, such as facilities-based backhaul providers, covered 911 service providers, cable, wireline, broadcast, satellite, or interconnected VoIP providers.[6] Given the Framework's origins in the wireless space, it would be inappropriate to "retrofit" and apply it to industries and companies for which it was never intended. Instead, here again, organic collaboration has and does occur in times of need within and across sectors, and it is speculative at best to think that forcing modifications to a voluntary Framework to accommodate certain kinds of entities different from its initial intent would yield any material benefits.

As NTCA stated in comments in February 2019,[7] its members have a strong incentive and interest in hardening their networks, wireline and wireless alike, where possible and in taking those steps necessary – including often burying facilities where possible and cost-effective to minimize the likelihood that disasters will disrupt vital communications. Rural providers' facilities are often utilized by wireless providers (in some cases affiliated with the rural local exchange carrier) to provide necessary backhaul services. Moreover, the provision of backhaul to unaffiliated wireless providers can represent a significant source of revenue and thus they have a strong incentive to ensure the resiliency of these facilities and to restore any damaged or destroyed facilities as promptly as possible in the event of outages or other disruption. It is also worth noting again that since NTCA members are largely based in the communities they serve, the services they restore are the services that they and their families, friends, and neighbors

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6   NPRM ¶ 16.

7   Comments of NTCA – The Rural Broadband Association in PS Docket No. 11-60 (filed February 19, 2019).

depend upon – there is no desire to delay restoration or prioritize other areas under such circumstances.

Moreover, larger wireless carriers, for their part, are obviously sensitive to both consumer and policymaker complaints in the event that service is not rapidly restored in the case of disruptions caused by a natural disaster, and thus they too have an incentive to require their backhaul providers to meet the resiliency and restoration of service requirements that individual carriers determine best meet their needs – including but not limited to levels of performance the wireless carriers deem necessary to operate consistent with the Framework. Indeed, large wireless carriers are sophisticated business customers that can negotiate contractual terms and conditions with backhaul providers that ensure necessary levels of resiliency, redundancy, and rapid restoration of service. Given the significance of revenues received from the provision of backhaul to wireless providers, smaller operators have a strong incentive to enter into and abide by contracts with wireless carriers that meet the latter entities' needs in terms of resiliency and rapid restoration of service. Thus, the Commission need not expand the reach of the Framework to directly encompass operations in a manner that is not only unnecessary, but that could also upend existing business arrangements between sophisticated parties already capable of negotiating and implementing what they perceive to be sufficient resiliency requirements.

C. Functional Bilateral Roaming and Testing Requirements Would Help Ensure the Resiliency of Wireless Communications in the Face of Emergencies

While collaboration between operators in the event of disasters has often proven effective, NTCA remains concerned that a lack of functional bilateral roaming agreements between the large wireless providers and rural wireless carriers hinders resiliency as a more general matter. NTCA therefore continues to recommend that the Commission require that: (1) carriers negotiate bilateral roaming agreements containing bilateral roaming terms and conditions

that apply in the event of an emergency; (2) carriers conduct bilateral testing; and (3) any roaming restrictions imposed after bilateral testing is complete be capable of being lifted within a two-hour window in order to gain access to the serving carrier's network. NTCA, together with the Rural Wireless Association, highlighted the problems associated with the lack of bilateral roaming requirements in 2016 and again in 2019, [8] but to date, larger operators have continued to balk at this common-sense measure to ensure greater resiliency is in place before disasters strike.

While the Commission requires that carriers offer data roaming access to all technologically compatible requesting carriers on commercially reasonable rates, terms, and conditions,[9] large providers have responded to the roaming mandate by offering unilateral roaming agreements in which the rural carrier's subscribers can roam on the nationwide carrier's network, but the nationwide provider's subscribers are prohibited from roaming on the rural carrier's network. While it would be unusual for a small or rural provider to restrict its customers' access to its roaming partners' networks outside of their home coverage area, it is common practice for larger providers. Concluding that it is better for their customers to have no service in rural areas than to pay rural carriers for roaming, nationwide carriers often restrict their customers from roaming on rural carriers' networks even in areas where they lack coverage. Even when a bilateral agreement exists, it is not uncommon for nationwide carriers to conduct only unilateral testing of roaming functionality where the nationwide carrier is the serving

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[8]   *See,* Comments of the Rural Wireless Association and NTCA – The Rural Broadband Association, In the Matter of Improving Resiliency Reliability and Continuity of Mobile Wireless Communications Networks, PS Docket N. 13-239, PS Docket No. 11-60 (filed May 31, 2016). *See also*, Comments of the Rural Wireless Association and NTCA – The Rural Broadband Association In the Matter of Public Safety and Homeland Security Bureau Seeks Comment on Improving the Wireless Resiliency Cooperative Framework, PS Docket No. 11-60 (April 20, 2019).

[9]   *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, Second Report and Order, WT Docket No.05-265 (rel. April 7, 2011).

network.[10] The decision to not engage in bilateral testing renders it impossible for nationwide carriers' customers to roam on the rural carriers' networks in the event of an emergency or under any exigent circumstance, even if the rural carrier is ready, willing, and able to provide the access. A unilateral roaming agreement (or a decision to not test under a bilateral-in-name roaming agreement) undermines the objective of resiliency by hindering nationwide carriers' public safety users or retail customers from roaming on a rural carrier's network in an emergency.

III. **IMPROVED GOVERNMENT COORDINATION AND USE OF AVAILABLE INFORMATION WOULD BETTER IMPROVE SITUATIONAL AWARENESS AND RESILIENCY THAN WOULD ADDITIONAL MANDATES**

Mature and robust mechanisms are already in place to ensure that network service providers share information effectively and efficiently during emergencies. For example, the Department of Homeland Security's National Coordinating Center for Communications ("NCC") continuously monitors national incidents and events that impact emergency communications, and in cases of emergency, the NCC Watch leads communications response and recovery efforts under Emergency Support Function #2 of the National Response Framework.[11] When a disaster strikes, the NCC Watch facilitates the exchange of information among government and communications sector participants, in conjunction with the industry-led

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[10]   There are four major components to consummating a true roaming relationship. Step one is negotiating the terms and conditions, including rates and services, of the roaming agreement. Step two is testing roaming functionality so that the home carrier's subscriber's devices function on the serving carrier's network. The third step is to issue a Commercial Launch letter. And the last step is the decision by each carrier to restrict, either in whole or in part, where on the serving carrier's network the home carrier's subscribers are allowed or disallowed to roam.

[11]   See DHS, National Response Framework, at 58 (2008), available at https://www.fema.gov/ pdf/emergency/ nrf/ nrf-core.pdf (delineating communications coordination functions to be led by the Department of Homeland Security).

Communications Information Sharing and Analysis Center ("Comms-ISAC"), of which NTCA is an active member. The NCC/Comms-ISAC facilitates coordination calls providing a forum for industry stakeholders – including wireless, wireline, cable, and satellite providers and their association representatives – to share real-time information and collaborate with government partners on network restoration efforts. Any new information sharing commitments would likely duplicate, and potentially conflict with, these established, well-defined processes, creating unnecessary burden and undermining rather than strengthening network resiliency.

The Commission questions what steps it can take to encourage broader voluntary participation in DIRS during disasters and whether there are benefits to mandating DIRS reports.[12] While NTCA notifies affected members when DIRS is activated, it encourages the Commission to not mandate reporting. As noted earlier in these comments, mandated reporting would be an additional burden when the primary focus is, and rightly should be, on promoting staff safety and restoring service. During a major disaster, many smaller operators in particular will likely lack the personnel, time, or physical resources to make such reports.

However, the Commission may encourage small providers to report by providing additional transparency. It is currently unclear whether filing the reports leads to greater coordination between government and industry or offers a benefit to a company or community in crisis. The Commission indicates that DIRS information is shared with other agencies who may use the analyses for their situational awareness. For its part, the Commission provides the aggregated data to the public.[13] However, it is unclear that agencies use the information to take any action. In the recent example of Hurricane Ida, REV filed DIRS reports in the aftermath of

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[12]   NPRM ¶ 29.

[13]   NPRM, ¶ 6.

Ida in the hopes that this effort would places its concerns "on the right radar screens" and lead to additional resources needed as evidenced by the reports. However, there it is not clear what contacts were as a result of REV reaching out, NTCA reaching out, or DIRs information being used to contact REV. From the surface, it is unclear if the reports resulted in any action or response, or that wider universe of federal response agencies utilized or even reviewed the reports. Based upon the report's content and agency responses, the DIRS report did not appear to prompt any governmental agency to contact or coordinate with REV and did not, by itself, lead to additional resources. Instead, NTCA reached out on REV's behalf to the NCC Watch and arranged meetings with appropriate government representatives so that information could be shared. In other words, the cooperative nature of the NCC Watch operated exactly as intended and resulted in more actionable information being shared and action actually being taken than the DIRS report promoted. Without greater transparency and an indication of how DIRS reporting is used to the benefit of companies and communities in the immediate aftermath of a disaster, the cost in terms of time and effort outweigh the benefit. NTCA encourages the Commission to increase its coordination with other government agencies and examine how DIRS reports are being used by the FCC and other federal agencies.

The NCC/Comms-ISAC ultimately provides a tried-and-true information sharing forum for communications service providers, regardless of the underlying technology platform, to coordinate and collaborate when disaster strikes to ensure the network is restored to normal operations.

IV. CONCLUSION

The voluntary Wireless Network Resiliency Cooperative Framework, combined with current government-industry partnerships, is working to ensure that information is shared and that needs are cooperatively met during disasters. NTCA encourages the Commission to avoid unnecessary and burdensome additional regulation, especially in the case of smaller providers who are rightly focused in the face of disasters on staff safety and service and network restoration.

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