

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Amendments to Part 4 of the Commission's Rules
Concerning Disruptions to Communications

Petition of California Public Utilities Commission
and the People of the State of California for
Rulemaking on States' Access to Network Outage
Reporting System ("NORS") and a Ruling
Granting California Access to NORS

PS Docket No. 15-80

RM No. 11588
(terminated)

**COMMENTS OF
THE MASSACHUSETTS DEPARTMENT OF
TELECOMMUNICATIONS AND CABLE**

Commonwealth of Massachusetts
Department of Telecommunications and Cable

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Dated: April 30, 2020

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The Massachusetts Department of Telecommunications and Cable ("MDTC")¹ respectfully submits these comments in response to the Second Further Notice of Proposed Rulemaking released by the Federal Communications Commission ("FCC") on March 2, 2020.² The FCC seeks comment on its proposed information sharing framework that would provide access to information contained in the Network Outage Reporting System ("NORS") and Disaster Information Reporting System ("DIRS").³

¹ The MDTC regulates telecommunications and cable services within Massachusetts and represents the Commonwealth before the FCC. Mass. Gen. Laws ch. 25C, § 1; Gen. Laws ch. 166A, § 16.

² *In re Amendments to Part 4 of the Comm'n's Rules Concerning Disruptions to Commc'ns*, PS Docket No. 15-80, *Second Further Notice of Proposed Rulemaking* (rel. Mar. 2, 2020) ("2020 Second FNPRM"). Silence on any matter not addressed in these comments does not connote agreement or opposition by the MDTC.

³ 2020 Second FNPRM, ¶ 3.

First, the MDTC, as set forth below, supports the FCC’s proposal to grant states read-only access to the NORS database and to DIRS data, a proposal the FCC first considered at least a decade ago.⁴ Because outage information is only complete upon the filing of the required initial and final reports, this access should include all NORS data: Notifications, Initial Reports, and Final Reports.⁵ Second, the FCC should authorize state agencies who have been granted such access (“Authorized State Agencies”) to provide that data to other state and local authorities on an as needed basis and should provide specific guidance and training to assist Authorized State Agencies to determine which state or local authorities should have access to NORS or DIRS data and under what circumstances. Third, the FCC should grant Authorized State Agencies access to such data under the same requirements for which the FCC has granted access to other databases containing confidential information⁶ and should not unduly restrict Authorized State Agencies’ use of such data. The FCC should clarify that the “public safety purposes” for which state and local agencies may only use data obtained from NORS and DIRS include analyzing the data in ways those agencies believe will help to improve service and avoid future outages. Relatedly, the FCC should grant access to historical NORS and DIRS data as well as

⁴ *Pub. Safety & Homeland Sec. Bureau Seeks Comment on Whether the Comm’n’s Rules Concerning Disruptions to Commc’ns Should Apply to Broadband Internet Serv. Providers & Interconnected Voice over Internet Protocol Serv. Providers*, ET Docket No. 04-35, *Pub. Notice* at 5 (July 2, 2010) (“2010 Public Notice”).

⁵ *See* 47 C.F.R. § 4.11.

⁶ *See* 47 C.F.R. §§ 1.7001(d), 52.15(f)(7); *In re of Local Competition & Broadband Reporting*, CC Docket No. 99-301, *Report & Order*, 15 FCC Rcd. 7717, ¶ 95, at 7761-7762 (2000); *In re Local Tel. Competition & Broadband Reporting*, WC Docket No. 04-141, *Report & Order*, 19 FCC Rcd. 22,340, ¶ 26, at 22,353 (2004) (retaining the policies and procedures with regard to the data-sharing with states); *In re Numbering Resource Optimization*, CC Docket No. 99-2000, *Third Report & Order & Second Order on Reconsideration*, 17 FCC Rcd. 252, ¶ 133, at 309 (2001); *In re Numbering Resource Optimization*, CC Docket No. 99-200, *Report & Order & Further Notice of Proposed Rulemaking*, 15 FCC Rcd. 7574, ¶ 75, at 7606 (2000).

future data. Fourth, the FCC should provide a mechanism by which Authorized State Agencies can provide feedback to the FCC on the accuracy of NORS and DIRS data and, relatedly, should grant access to Authorized State Agencies to data from other states when an outage crosses state lines. Fifth, while Authorized State Agencies should only be held responsible for their own data breaches, the FCC could require Authorized State Agencies to notify the FCC within a reasonable time after releasing NORS or DIRS data to other state or to local authorities. Sixth, in order to avoid providers failing to report information through DIRS—reporting which is voluntary—because the data would now be available to states, or failing to report information in as timely a manner or in as much detail as they otherwise might have, the FCC should either: 1) stop waiving NORS reporting obligations for providers reporting through DIRS, or 2) make DIRS reporting mandatory.

Finally, it is critically important that the FCC extend both NORS and DIRS outage reporting requirements to include broadband Internet access service (“BIAS”),⁷ as the importance of this service has never been clearer to the life and livelihood of Americans. The FCC can and should take this vital step immediately by adopting its 2016 proposal.⁸

⁷ The MDTC includes in the term “BIAS” broadband backbone Internet service, as the FCC did when it first proposed outage reporting obligations for broadband providers in 2010. *See* 2010 Public Notice.

⁸ *In re New Part 4 of the Comm’n’s Rules Concerning Disruptions to Commc’ns*, ET Docket No. 04-35, *Report & Order, Further Notice of Proposed Rulemaking, & Order on Reconsideration* (rel. May 26, 2016) (“2016 FNPRM”), ¶¶ 102-149.

I. THE FCC SHOULD ADOPT ITS PROPOSAL TO GRANT STATES PASSWORD-PROTECTED ACCESS TO NORS AND DIRS DATA WITHOUT FURTHER DELAY.

The FCC proposes to allow State entities to request authorization to access the NORS database and DIRS data within that State and, in some circumstances, in other states.⁹ Under the proposal, the FCC’s Public Safety and Homeland Security Bureau may authorize a state agency to access such data without further FCC review where the agency has certified that it will maintain the confidentiality of the information and has in place confidentiality protections equivalent to those of the Freedom of Information Act.¹⁰ The MDTC has long supported granting states access to the NORS database.¹¹ The FCC,¹² the U.S. Department of Homeland Security (“DHS”),¹³ and a range of public safety authorities have also supported this access.¹⁴ For the same reasons all of these parties have advocated granting states access to NORS data, the MDTC also supports granting states access to the similar data contained in DIRS: residents,

⁹ 2020 Second FNPRM, ¶¶ 16, 19.

¹⁰ *Id.*, ¶ 31.

¹¹ *See, e.g.*, MDTC Comments, PS Docket No. 11-82, at 8-9 (Aug. 8, 2011) (“State and local entities often serve as the first line of defense for public safety and emergency situations.”); MDTC Comments, ET Docket No. 04-35 (Mar. 4, 2010) (“MDTC CPUC Petition Comments”).

¹² *See e.g., In re New Part 4 of the Comm’n’s Rules Concerning Disruptions to Commc’ns*, PS Docket No. 15-80, *Notice of Proposed Rulemaking, Second Report & Order, & Order on Reconsideration* (rel. Mar. 30, 2015) (“2015 NPRM”), at ¶ 48.

¹³ DHS Comments, *In re New Part 4 of the Comm’n’s Rules Concerning Disruptions to Commc’ns*, ET Docket No. 04-35, at 8 (June 2, 2004) (“DHS Comments”).

¹⁴ *See, e.g.*, Letter from Francisco Sanchez, Jr., Deputy Emergency Mgmt. Coordinator, Harris County (TX) Office of Homeland Sec. & Emergency Mgmt., to Marlene Dortch, Sec’y, FCC (Nov. 26, 2018), WC Docket Nos. 15-80 and 04-35 (“From a public safety perspective, it is critical to know where there are network outages in disaster areas, regardless of the carrier. The faster that critical infrastructure can be restored at the local level, the better the response will be.”); Daniel Henry, NENA, The 9-1-1 Association, to Marlene Dortch, Sec’y, FCC (Nov. 5, 2018), WC Docket Nos. 15-80 and 04-35 (“real-time access to the outage data reported in NORS and DIRS would be helpful to maintaining quality 9-1-1 service”).

businesses, and public authorities would all be safer if states had immediate and direct access to outage data, rather than having to seek such data from and await action by DHS to share the data in its role as intermediary.¹⁵

As the example detailed in Section II *infra* shows, the MDTC regularly receives calls from consumers and from state and local elected and appointed officials responding to consumer inquiries concerning home and office communications outages. In practice, the MDTC currently responds to such requests for information by making inquiries to a contact at the indicated provider's offices, which can be a slow, uncertain method of data gathering that often provides relevant data only after the outage has ended.

II. THE FCC SHOULD PERMIT AUTHORIZED STATE AGENCIES TO RELEASE NORS AND DIRS DATA TO STATE AND LOCAL OFFICIALS AND SHOULD ISSUE GUIDELINES FOR AUTHORIZED STATE AGENCIES TO USE IN DETERMINING WHETHER TO RELEASE SUCH DATA.

The FCC proposes to permit Authorized State Agencies to release NORS and DIRS data to other state agencies and officials and to local agencies and officials.¹⁶ The following example illustrates why the MDTC supports this proposal and why the FCC should adopt it.

Recently, a Massachusetts town official contacted the MDTC to request information about a wireline telephone service outage of which the town had become aware after receiving phone calls from residents and businesses who had lost service. Unsure whom to contact for information—the extent of the outage, the cause, the likely repair timeline, any impact on 911 or other public safety communications—the town official was eventually able to obtain limited, anecdotal information from one of the provider's technicians. While the outage likely met the

¹⁵ DHS Comments at 8-9.

¹⁶ 2020 Second FNPRM, ¶ 24.

requirements that would have triggered a NORS notification to the FCC, having lasted at least as long as 30 hours and covered an unknown portion of the town,¹⁷ the MDTC had no information about the outage and was forced to contact the provider. Several days after the start of the outage and four days after service was restored, the MDTC received some, but not all, of the information the municipal official had requested from the provider. Direct access to NORS data would have provided the MDTC—and, under the FCC’s proposed third-party sharing mechanism, the local official and town residents, businesses, and government offices—with timely, and therefore, actionable information. Such access would also have been useful to the provider who would have avoided the burden of being contacted multiple times by multiple parties.

The MDTC supports the FCC’s proposal to authorize state agencies to access NORS and DIRS data and to determine when such Authorized State Agencies should provide NORS and DIRS data to other state agencies or local authorities as the best means of keeping state and local authorities informed of ongoing outages and related problems in their communities. With timely knowledge, these authorities, who are called on by their communities to address the problems such outages create, will be better able to address their communities’ needs.

The FCC also asks for comment on the guidance or training it might require of Authorized State Agencies’ employees.¹⁸ The FCC should provide guidance to Authorized State Agencies to help them exercise this authority to release NORS and DIRS data to others.¹⁹

¹⁷ See 47 C.F.R. § 4.9(f)(1).

¹⁸ 2020 Second FNPRM, ¶¶ 58-63.

¹⁹ *Id.*, ¶ 24.

Ideally, this guidance would include real world examples. The guidelines should be clear but allow for flexibility, in order to give Authorized State Agencies the ability to tailor data releases to particular outages and to the specific state and/or local authorities impacted.

III. THE FCC SHOULD NOT UNDULY BURDEN OR LIMIT STATES IN THEIR ACCESS TO AND USE OF NORS AND DIRS DATA.

The MDTC agrees that the FCC should require Authorized State Agencies to certify that they will keep NORS and DIRS data confidential and require that Authorized State Agencies have adequate confidentiality protections in place to do so.²⁰ Granting states access under such terms is consistent with how the FCC has granted states access to confidential information in the Form 477 database²¹ and the North American Numbering Plan Administrator (“NANPA”) database.²² Any Authorized State Agencies’ public release of analyses based on accessed NORS or DIRS data or of aggregated data should be governed by the same parameters governing a public release of Form 477 subscriber data.

Moreover, as experience with the Form 477 and NANPA databases show, there is no need to limit which NORS or DIRS data Authorized State Agencies would have access to,²³ or to

²⁰ See *id.*, ¶ 31.

²¹ See generally “Sample Agreement,” linked from *Wireline Competition Bureau Announces Revised Procedures for State Public Utility Commissions to Access Non-Public FCC Form 477 Data for their Respective States*, WC Docket No. 11-10 (Oct. 13, 2016) (“Form 477 Sample Agreement”).

²² 47 C.F.R. §§ 1.7001(d), 52.15(f)(7); see also *In re of Local Competition & Broadband Reporting*, CC Docket No. 99-301, *Report & Order*, 15 FCC Rcd. 7717, ¶ 95, at 7761-7762 (2000); *In re Local Tel. Competition & Broadband Reporting*, WC Docket No. 04-141, *Report & Order*, 19 FCC Rcd. 22,340, ¶ 26, at 22,353 (2004) (retaining the policies and procedures with regard to the data-sharing with states); *In re Numbering Resource Optimization*, CC Docket No. 99-2000, *Third Report & Order & Second Order on Reconsideration*, 17 FCC Rcd. 252, ¶ 133, at 309 (2001); *In re Numbering Resource Optimization*, CC Docket No. 99-200, *Report & Order & Further Notice of Proposed Rulemaking*, 15 FCC Rcd. 7574, ¶ 75, at 7606 (2000).; MDTC CPUC Petition Comments at 5-6.

²³ The proposed language in the draft 47 C.F.R. § 4.2 is unclear: “access to portions of the information collections affecting their respective jurisdictions” 2020 Second FNPRM, at Appendix A. The MDTC strongly discourages the FCC from limiting the data to which it grants Authorized State Agencies

limit Authorized State Agencies' use beyond accessing only state-specific data. Authorized State Agencies are best positioned at understanding local providers and conditions, to determine how such data can further "public safety purposes."²⁴ The FCC should clarify that the "public safety purposes"²⁵ for which state and local agencies may use NORS and DIRS data include data analyses which the agencies believe will help to improve service and avoid future outages. Authorized State Agencies will use the data in ways similar to those which the FCC has used to improve public safety, but with additional local insight and expertise.²⁶

Relatedly, the FCC should permit Authorized State Agencies' access to all historical NORS and DIRS data, including data filed prior to the effective date of the FCC's proposed data sharing framework.²⁷ As the FCC notes, one of the purposes of granting state and local authorities access to this data is to "allow them to identify trends in outages and infrastructure

access, for example, summaries or descriptions or to select portions of NORS or DIRS data. At a time when data analysis tools have proliferated and specialized, access to raw data is essential to allow analyses that include parameters such as time; age; geography; the age, ownership, maintenance history, type, and use of infrastructure; etc. Data summaries obscure the details of reported data that make such data far less useful to analysis and use.

²⁴ 2020 Second FNPRM, ¶ 23. Authorized State Agencies may use NORS or DIRS data to better understand providers' maintenance practices, infrastructures' state of good repair/adequacy, the type and adequacy of technology, staff expertise, etc.

²⁵ *See id.*

²⁶ *In re The Proposed Extension of Part 4 of the Comm'n's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Serv. Providers & Broadband Internet Serv. Providers*, PS Docket No. 11-82, *Notice of Proposed Rulemaking*, ¶ 15 ("2011 NPRM") ("The Commission staff accomplishes this objective by using statistically meaningful trends in data as well as associated technical analysis to gather communications providers together in coordinated efforts to improve security, reliability and resiliency. Where necessary, the Commission also recommends policy changes to address persistent problems. In addition, the Commission works with each individual reporting service provider to monitor and address specific communications vulnerabilities identified in outage reports for that service provider.").

²⁷ *See* 2020 Second FNPRM, ¶ 36.

status that would further enhance their real-time recovery and restoration efforts.”²⁸ Without access to historical data, it would likely take years before those Authorized State Agencies to which the FCC initially permits access would have access to enough NORS or DIRS data to identify meaningful trends.

IV. THE FCC SHOULD PROVIDE A MEANS BY WHICH AUTHORIZED STATE AGENCIES CAN PROVIDE FEEDBACK TO THE FCC ON NORS AND DIRS DATA AND SHOULD GRANT ACCESS TO SUCH DATA FROM NEIGHBORING STATES WHEN AN OUTAGE CROSSES STATE LINES.

While the MDTC understands and agrees with the FCC’s reasoning for proposing that NORS and DIRS data access by Authorized State Agencies be read-only,²⁹ the MDTC recommends that the FCC establish a mechanism for Authorized State Agencies to comment on and give feedback to the FCC on the shared data. States may have information that does not appear in or that contradicts NORS or DIRS data, information which could allow the FCC to improve its data collection.

Relatedly, for outages which cross state boundaries, Authorized State Agencies should have access to data for their own and those other states.³⁰ This would fully inform Authorized State Agencies as to local providers’ burdens and responsibilities in restoring service and would improve Authorized State Agencies’ ability to coordinate resources with similarly situated state agencies in those nearby states in a timely fashion. Similarly, access to such data would allow state and local authorities to better understand the public safety issues presented by local

²⁸ *Id.*, ¶ 35.

²⁹ *See id.*, ¶ 34.

³⁰ *See id.*, ¶ 47.

providers' challenges, practices, and responsibilities when those providers provide similar services in other states.

V. AUTHORIZED STATE AGENCIES SHOULD ONLY BE HELD RESPONSIBLE FOR THEIR OWN HANDLING OF NORS AND DIRS DATA, BUT COULD NOTIFY THE FCC AFTER RELEASING SUCH DATA TO OTHER STATE OR LOCAL AUTHORITIES.

The FCC seeks comment on penalties for the misuse or unauthorized release of NORS and DIRS data.³¹ Each agency and individual receiving NORS and DIRS data should be responsible to the FCC to maintain data confidentiality. There is no evidence that holding Authorized State Agencies liable for data mishandling by third parties would decrease the likelihood of such mishandling. As the FCC notes, there are already federal and state data sharing laws that apply to any such violations.³² Authorized State Agencies should be responsible for their own inappropriate sharing of information with others, should it occur, but should be not held responsible for third parties' inappropriate handling of that data. To monitor any such potential third-party mishandling, the FCC should require Authorized State Agencies to notify the FCC upon releasing NORS or DIRS data to third-party state or local authorities.

³¹ 2020 Second FNPRM, ¶ 38.

³² *See id.*, ¶ 41.

VI. THE FCC SHOULD EITHER STOP WAIVING NORS REPORTING REQUIREMENTS FOR PROVIDERS IN COUNTIES WHERE A PROVIDER VOLUNTARILY REPORTS THE SAME DATA TO DIRS, OR MAKE MANDATORY THE REPORTING OF INFORMATION TO DIRS.

The FCC has asked whether there is a risk that providers will choose not to report to DIRS, which they may do under DIRS's voluntary reporting regime, once state and local authorities have access to DIRS.³³

As the FCC has stated, a voluntary reporting regime results both in the failure of some providers to report and in inconsistent reporting as some providers pick and choose what information to report.³⁴ The FCC has noted, and the MDTC agrees, that "[m]andatory reporting . . . provides information on the extent to which best practices are not being used effectively, thereby providing further insight into the ways by which the implementation of best practices can be made more effective."³⁵ As a result, the FCC concluded that mandatory outage reporting was "essential to the development, refinement, and validation of best practices."³⁶ Today, 16 years later, data analysis has become more common and the types and methods of data analyses have proliferated. This places even greater importance on collecting all applicable data and on obtaining data in a consistent form.

For these reasons, the MDTC encourages the FCC to avoid any risk that providers will submit less information to DIRS as a result of making DIRS information available to states by

³³ *Id.*, ¶ 22.

³⁴ *In re New Part 4 of the Comm'n's Rules Concerning Disruptions to Commc'ns*, ET Docket No. 04-35, *Report & Order & Further Notice of Proposed Rule Making* (rel. Aug. 19, 2004) ("2004 Order"), ¶¶ 37, 39.

³⁵ *In re New Part 4 of the Comm'n's Rules Concerning Disruptions to Commc'ns*, ET Docket No. 04-35, *Notice of Proposed Rule Making* (rel. Feb. 23, 2004) ("2004 NPRM"), ¶ 10 n.27.

³⁶ 2004 Order, ¶ 39.

either requiring NORS notifications regardless of providers' DIRS reporting or making DIRS reporting mandatory.

VII. THE FCC SHOULD EXTEND OUTAGE REPORTING REQUIREMENTS TO BIAS.

The FCC, which has long recognized the importance of timely outage reporting across communications platforms,³⁷ first sought comment on whether to extend its outage reporting requirements to BIAS almost fifteen years ago,³⁸ and proposed doing so nearly a decade ago.³⁹ And while the FCC has long recognized the importance of broadband Internet as a means of communications critical to Americans,⁴⁰ over the past few months BIAS has proven not only important, but essential to the life and safety of Americans and to the functioning of our businesses and public institutions.⁴¹

³⁷ 2004 NPRM, ¶ 1 (“By moving the outage-reporting requirements out of Part 63 and into Part 4, we are taking cognizance that, although these requirements were originally established within the telecommunications common carrier context, it is now appropriate to adapt and apply them more broadly across all communications platforms to the extent discussed herein.”).

³⁸ *In re Appropriate Framework For Broadband Access to the Internet Over Wireline Facilities*, CC Docket No. 02-33, *Report & Order & Notice of Proposed Rulemaking*, 20 FCC Rcd. 14,853, 14,933, ¶ 154 (2005), *aff’d sub nom. Time Warner Telecom Inc. v. FCC*, 507 F.3d 205 (3d Cir. 2007).

³⁹ *See, e.g.*, 2010 Public Notice, ¶ 1; 2011 NPRM, ¶ 31.

⁴⁰ *See, e.g.*, 2010 Public Notice, ¶ 1.

⁴¹ *Cf.* Doug Kinkoph, U.S. Dept. of Commerce, Broadband is More Important Than Ever (April 8, 2020) <https://www.commerce.gov/news/blog/2020/04/broadband-more-important-ever>; Letter from Jonathan Spalter, President and CEO, USTelecom | The Broadband Association, to FCC Commissioners (Mar. 27, 2020), WC Docket No. 01-92 (“As we confront the challenges of the coronavirus and in particular the need for physical distancing, access to voice and broadband networks has never been more important. While the effects of this virus are taking a heavy toll on individuals and businesses in every community, daily life is able to continue for most as a result of broadband connectivity. At the same time, there is no doubt that our communications infrastructure is being put to the test with increased daily usage while millions of Americans work, learn, access healthcare and entertain themselves over the Internet throughout the day. The effects from the inability to access or afford broadband access are particularly acute during this national health crisis. Therefore, it is essential that industry and government work together in partnership to do everything we can to make sure every American has access to broadband.”).

Even before this current extraordinary period, the FCC recognized the need to extend its outage reporting requirements to BIAS providers,⁴² a position supported by a wide range of public safety professionals.⁴³ Indeed, the FCC requires NORS Notifications and DIRS reports themselves to be submitted, if possible, via the Internet.⁴⁴ Over the past few weeks, however, broadband Internet usage has increased substantially,⁴⁵ and BIAS providers and analysts predict usage will stabilize at this higher level.⁴⁶ Failing to recognize the need for timely, effective data on BIAS outages in today's environment would ignore our daily reality.

At this time of extraordinary reliance on BIAS, the MDTC is not aware of any level of government in Massachusetts—local, state, or federal—that currently receives mandatory notice

⁴² See 2016 FNPRM.

⁴³ See, e.g., *In re Amendment to Part 4 of the Comm'n's Rules Concerning Disruptions to Commc'ns*, ET Docket No. 04-35, National Public Safety Telecommunications Council Reply Comments at 8 (Sept. 12, 2016) (“[P]ublic access to 911 increasingly relies on commercial wireless networks in addition to the traditional access through legacy telephone networks . . . from the end user perspective, the technology being used, whether wireline, [BIAS], VoIP or wireless 2G, 3G, 4G, or emerging 5G does not matter Accordingly, NPSTC believes any outage reporting requirements should apply regardless of the technology used or the regulatory classification of the commercial service provider.”).

⁴⁴ 47 C.F.R. § 4.11; Public Notice, “The FCC’s Public Safety & Homeland Security Bureau Launches Disaster Information Reporting System (DIRS),” Sept. 11, 2007 at 1.

⁴⁵ See, e.g., Press Release, Comcast, Covid-19 Network Update, (Mar. 30, 2020) <https://corporate.comcast.com/covid-19/network> (peak time Internet traffic up 32% since March 1, with VOIP and videoconferencing traffic up 212%); Sarah Barry James and Kevin Fogarty, S&P Global Market Intelligence, Higher US broadband usage ‘new normal’ after coronavirus (Mar. 27, 2020) <https://platform.marketintelligence.spglobal.com/web/client?auth=inherit&ignoreIDMContext=1#news/article?id=57791214&KeyProductLinkType=14> (quoting OpenVault CEO Mark Trudeau: “[t]he latest week [of March 25] shows 55% growth during weekday business hours in total gigabyte consumption. So huge growth during the business hours”).

⁴⁶ See James and Fogarty, *supra* note 45 (quoting OpenVault CEO Mark Trudeau: “I do think that whatever that new normal ends up being once this crisis period is over will still be much higher broadband usage.” and noting that “[t]his is in line with recent survey data from 451 Research. Based on 820 responses from decision-makers of public- and private-sector industries, ‘The Voice of the Enterprise: Digital Pulse, Coronavirus Flash Survey March 2020,’ conducted March 10-19, [which] found that 37.8% of respondents expect expanded work-from-home policies to remain in place long-term or become permanent in the wake of the pandemic.”).

of BIAS outages. Massachusetts state and local agencies must rely on anecdotal evidence from employees or consumers to learn of the deterioration in or failure of BIAS in the Commonwealth. The FCC has the ability to require BIAS outage reporting immediately, via the open proceeding through which it proposed to take this step.⁴⁷ It should do so.

VIII. CONCLUSION

Direct access to NORS and DIRS data on a confidential basis will give state and local authorities access to significant additional resources, helping to advance federal, state, and local interests in protecting public health and safety. Direct state and local access to this data would be quicker and more efficient for all stakeholders than current practices. Accordingly, the FCC should adopt its proposal without unduly burdening or limiting Authorized State Agencies' access to and use of the information. Finally, the MDTC strongly encourages the FCC to protect Americans' extraordinary vulnerability to BIAS degradation or outage by extending outage reporting obligations to BIAS.

Respectfully submitted,

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⁴⁷ See 2016 FNPRM, ¶¶ 102-159.