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March 4, 2010

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW, Suite TW-A325  
Washington, DC 205554

Re: RM-11588  
ET Docket No. 04-35

Dear Ms. Dortch:

The following comments are submitted on behalf of the New York State Public Service Commission (NYPSC) pursuant to the Federal Communications Commission's (FCC or Commission) request for comments on a petition filed by the California Public Utilities Commission (CPUC) seeking direct access to the FCC's Network Outage Reporting System (NORS) database.<sup>1</sup> The NYPSC recommends the CPUC petition be granted and that the FCC begin a proceeding to implement state commission access to the NORS.

Access to the NORS database will assist in meeting our mandate of ensuring safe and reliable telecommunication service in New York. Due to increasing reliance on intermodal forms of communication (e.g., cellular and Internet Protocol (IP)), fulfilling this mandate requires that we have information from many different telecommunication providers, some

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<sup>1</sup> See [Petition of the California Public Utilities Commission and the People of the State of California for Rulemaking on States' Access to the Network Outage Reporting System \(NORS\) Database and a Ruling Granting California Access to NORS](#), ET Docket No. 04-35 (filed Nov. 12, 2009) (CPUC Petition).

which we do not currently assert jurisdiction over or may not necessarily fall under our jurisdiction. Because required outage reports, which are recorded in the NORS, are applicable to wireline, wireless and cable outages, we believe password-protected access to the NORS database, limited to New York-specific disruptions, will complement our existing outage reporting procedures; limit the creation of additional regulatory reporting obligations in multiple state jurisdictions; and, enhance the common interests of local, state and federal agencies with regard to network reliability and recovery.

In our Competition III proceeding, we found that the safety and welfare of New Yorkers rise above the needs of any single provider or category of providers.<sup>2</sup> And while not requiring specific changes to existing network reliability standards, we encouraged exploration of more focused and universally applicable requirements. Consistent with that goal, in July 2006 we requested the cooperation of all service providers in reporting telecommunication outages to the department, with all major wireline, cellular and cable operators committing to participate. Despite the industry's commitment to voluntarily report service outages, we have experienced inconsistent levels of real-time reporting among all providers and for all services. We believe access to the NORS database will facilitate the receipt of complete information on outages and will encourage more active, real-time participation in our outage reporting program.

Evolution of the telecommunications network has increased the interdependency of telecommunication systems and, as a result, outages to one carrier's network often have a rippling effect on another's network and services. For instance, existing reporting protocols may not make us aware that a reported outage to a high-capacity circuit (e.g., a DS-3 or optical circuit) operated by a wireline company has significantly impacted a cellular carrier's backhaul or IP-based provider's voice traffic. In that scenario, access to local emergency services (911) and local emergency responder communications could be impacted as well. The NYPSC's staff closely monitors telecommunications outages and events affecting other utility infrastructure, like storms or blackouts, providing real-time situational reporting to emergency responders and other governmental entities. Following major outage events, the NYPSC staff conducts root cause analysis, making recommendations to mitigate future outages and improve future

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<sup>2</sup> Case 05-C-0616: Competition III Proceeding, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings (issued April 11, 2006), p. 95.

restoration performance. The NYPSC believes that access to NORS reports will help fill information gaps in understanding interconnection and interoperability issues that may otherwise be unreported or misreported and will assist in post-event and outage trend analysis, tailored to state-specific needs.

Presently, the Department of Homeland Security (DHS) is the only other entity granted password-protected access to the NORS database; no other government entities, federal or state, have direct access. However, as the petitioner indicates, the Commission originally envisioned broader intergovernmental sharing of NORS outage data and did not preclude state access when it implemented revisions to its rules on outage reporting in the New Part 4 Rules proceeding in 2004.<sup>3</sup> In fact, DHS recommended in the proceeding that NORS outage information be more directly available to governmental entities other than DHS.<sup>4</sup>

We also believe that the confidentiality of data should not be an impediment to direct NORS access. The NYPSC staff has a long history of information sharing with the FCC, following sound practices governing confidential and sensitive information exchange. With adequate confidentiality procedures in place, we also do not foresee jurisdictional concerns regarding direct access to NORS data by states. In fact, granting such access could streamline the reporting process for both state commissions and carriers, and possibly reduce the need for states to expand mandatory reporting requirements to all telecommunications operators and service providers.

In sum, the NYPSC recommends that the Commission grant the CPUC petition and institute a rulemaking to consider access to NORS by all state utility commissions. We believe direct, password-protected, access to the NORS database enhances the local, state, and federal partnership necessary to maintain viable, robust, and reliable telecommunications networks which provide for the safety and welfare of the citizenry. A proceeding would allow

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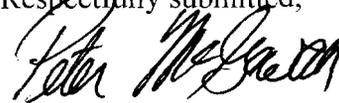
<sup>3</sup> In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd. 16830 (released August 19, 2004).

<sup>4</sup> CPUC Petition, p. 10.

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states to demonstrate the necessity for NORS access and provide the Commission a greater opportunity to consider the benefits of such an arrangement.

Respectfully submitted,



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