

United States Senate

February 14, 2022

The Honorable Jessica Rosenworcel
Chairwoman
Federal Communications Commission
45 L Street, NE
Washington, D.C. 20554

Dear Chairwoman Rosenworcel:

We write to support the Federal Communications Commission’s (FCC) notice of proposed rulemaking (NPRM) to improve the reliability and resiliency of communications networks during emergencies.¹ The actions proposed in this NPRM will help address the growing threats to our communications networks created by extreme weather, natural disasters, and climate change-related events. As demonstrated by the recent outages that Hurricanes Ida and Nicholas caused—which severely disabled wireless, wireline, and emergency communication services² in Louisiana and Texas³—network resiliency is essential during times of crisis. Outages can be life-threatening when they prevent individuals from staying informed or communicating with first responders and loved ones. Accordingly, we commend the FCC for issuing this NPRM, and we encourage you to further promote network resiliency when adopting a final rule.

Last year, we introduced the *Generating Resilient and Energy Efficient (GREEN) Communications Act* to promote network resiliency.⁴ Our legislation would provide financial assistance for projects designed to fortify communications infrastructure against emergency events, identify vulnerabilities in communications infrastructure, develop more resilient communications technologies, train employees to respond to network outages, and expedite service restoration when necessary. Recipients of this resiliency funding would be required to

¹ See Resilient Networks, et al., Notice of Proposed Rulemaking, FCC 21-99, PS Docket No. 21-346 ¶ 15, <https://www.federalregister.gov/documents/2021/11/05/2021-23811/resilient-networks-disruptions-to-communications-disruptions-to-communications>.

² The day after Hurricane Ida, roughly a third of New Orleans’ cellular transmitters were down, along with three 911 answering points. See Drew Fitzgerald, *Hurricane Ida’s Power Outages Hamper Efforts to Restore Cellphone Service*, The Wall Street Journal (Aug. 31, 2021), <https://www.wsj.com/articles/hurricane-idas-power-outages-hamper-efforts-to-restore-cellphone-service-11630449774>. In fact, for thirteen hours on August 30, 2021 the New Orleans 911 call center was unable to receive any emergency calls. See Todd C. Frankel et al., *911 Calls After Ida Went Unanswered in New Orleans Due to ‘Antiquated’ Technology*, Wash. Post (Aug. 30, 2021), <https://www.washingtonpost.com/business/2021/08/30/orleans-ida-911-calls/>. On September 15, 2021, the combined effects of Hurricanes Ida and Nicholas left roughly 115,000 people without cable and wireline services in Louisiana and Texas combined. See Report, *Hurricanes Ida & Nicholas Comms Status Report for September 15, 2021*, FCC (2021), <https://www.fcc.gov/document/hurricanes-ida-nicholas-comms-status-report-september-15-2021>.

³ See Public Notice, *FCC Extends Scope of Hurricane Ida Disaster Reporting Due to Nicholas*, FCC (2021), <https://www.fcc.gov/document/fcc-extends-scope-hurricane-ida-disaster-reporting-due-nicholas>.

⁴ The Generating Resilient and Energy Efficient (GREEN) Communications Act, S.1506, 117th Cong. (2022). Text available at <https://www.congress.gov/bill/117th-congress/senate-bill/1506/text>.

participate in the FCC's Disaster Information Reporting System (DIRS), which is currently a voluntary system that communications providers can use to report the status of their communications infrastructure during emergencies. Recipients would also be required to submit new reports on the number and impact of network outages and develop a comprehensive resiliency plan to protect their overall communications infrastructure from severe weather, natural disasters, and climate change. The *GREEN Communications Act* would empower the FCC to issue rules and establish a regulatory resiliency framework designed to minimize the number, duration, and impact of future communications network outages, as well as plan for long-term disruptions to networks and support the communications needs of first responders.

Where consistent with your regulatory authority, we now encourage the FCC to adopt rules aligned with our legislation. We also support several recommendations made by parties that have filed comments during the FCC's ongoing proceeding, including: modifications to the Wireless Network Resiliency Cooperative Framework (the Framework); measures to address backhaul outages and the need for emergency roaming; requirements for enhanced information-sharing to promote situational awareness; and steps to address the impact of power outages affecting communications networks.

First, we believe that membership in the Framework should be mandatory for all service providers, including but not limited to broadband networks, cellular networks, telephone networks, cable systems, and public safety communication systems.⁵ Relatedly, the FCC should collect data on outages from all service providers.⁶ The Framework should also be activated when either the FCC *or* the Federal Emergency Management Agency (FEMA) initiates resiliency measures.⁷ Requiring both agencies' actions for activation leaves many disasters uncovered⁸ and is dangerous for consumers. To that end, we encourage the FCC to work in coordination with FEMA to enhance the operation of this critical system.

Second, the Framework should also address backhaul outages, which are caused by a technical issue with intermediate service providers that connect a caller to a receiver. These outages are not always caused by natural disasters, but they represent a significant portion of all disruptions and can be highly problematic for consumers.⁹ Emergency roaming should also be required during disasters to ensure consumers can contact 911 on their cellphones.¹⁰ This is especially

⁵ See Comment of Public Knowledge, Dkt. No. 21-346, at 4-5 (filed Dec. 16, 2021); Comment of Next Century Cities, Dkt. No. 21-346, at 5-6, 9-10 (filed Dec. 16, 2021).

⁶ See Comment of Public Knowledge, Dkt. No. 21-346, at 13, 25 (filed Dec. 16, 2021); Comment of Next Century Cities, Dkt. No. 21-346, at 8-9 (filed Dec. 16, 2021).

⁷ See Comment of Public Knowledge, Dkt. No. 21-346, at 7 (filed Dec. 16, 2021); Comment of Next Century Cities, Dkt. No. 21-346, at 4-5 (filed Dec. 16, 2021).

⁸ Recently the Framework was not operational during the California wildfires in the 2021 fire season because FEMA did not activate ESF-2. See Resilient Networks, et al., Notice of Proposed Rulemaking, FCC 21-99, PS Docket No. 21-346 ¶ 15, <https://www.federalregister.gov/documents/2021/11/05/2021-23811/resilient-networks-disruptions-to-communications-disruptions-to-communications>.

⁹ See Comment of Public Knowledge, Dkt. No. 21-346, at 14.

¹⁰ See Comment of Public Knowledge, Dkt. No. 21-346, at 14-15 (filed Dec. 16, 2021). In their comments, Next Century Cities also recommends that "providers should provide reasonable roaming under disaster arrangements when technically feasible." Dkt. No. 21-346, at 3 (filed Dec. 16, 2021).

important for promoting the safety of the deaf and hard of hearing community during disasters. With this community in mind, the FCC should also require that emergency alerts appear across all broadband-connected devices.¹¹

Third, we support proposals to promote situational awareness. In particular, we believe that sharing outage data with locals and first responders should be mandatory.¹² Similarly, we also believe that participation in the Network Outage Reporting System (NORS), the FCC's current communications outage reporting framework, should be mandatory for all service providers, including broadband and other non-voice telephony providers.¹³ These changes will increase the resiliency of our communications networks and protect consumers during disasters.

Finally, we urge the FCC to better address power outages affecting communications networks. We agree with a number of commenters that have recommended requiring backup generators and power sources for communications providers.¹⁴ Ensuring that power outages do not disrupt communications is particularly important because many consumers rely heavily on cellphones in emergencies. In particular, it is important that cellphones not be disrupted for the deaf and hard of hearing community, as they rely solely on devices that can display text and images, rather than radios or other audio-only devices that do not require network connection.¹⁵

We would also note that reclassifying broadband under Title II of the Communications Act would rightfully restore the FCC's broader authority over this essential service. Today, broadband is critical to every facet of Americans' lives and functions as a utility. The FCC can further address network resiliency and public safety moving forward by treating it as such.

We share the concerns the FCC has expressed in its NPRM about the reliability and resiliency of communications networks in the face of increasingly frequent disruptions and outages. As a result of these concerns, we proposed the *GREEN Communications Act*, and the goals of our bill align with the proposals from your agency. Accordingly, we thank you for your leadership and we stand ready to work with you to protect our communications networks moving forward.

Sincerely,



Edward J. Markey
United States Senator



Ron Wyden
United States Senator

¹¹ See Comment of Consumer Groups, Dkt. No. 21-346, at 3-4 (filed Dec. 16, 2021).

¹² See Comment of Public Knowledge, Dkt. No. 21-346, at 13 (filed Dec. 16, 2021); Comment of Next Century Cities, Dkt. No. 21-346, at 8 (filed Dec. 16, 2021).

¹³ See Comment of Next Century Cities, Dkt. No. 21-346, at 12 (filed Dec. 16, 2021).

¹⁴ See Comment of Public Knowledge, Dkt. No. 21-346, at 19-25 (filed Dec. 16, 2021); Comment of Communications Workers of America Dkt. No. 21-346, at 8-9 (filed Dec. 16, 2021).

¹⁵ See Comment of Consumer Groups, Dkt. No. 21-346, at 8-9 (filed Dec. 16, 2021).

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CC: The Honorable Geoffrey Starks, Commissioner
The Honorable Brendan Carr, Commissioner
The Honorable Nathan Simington, Commissioner