COMMITTEE ON
ENERGY & COMMERCE
CHAIRMAN FRANK PALLONE, JR.

MEMORANDUM

February 24, 2020

To: Subcommittee on Communications and Technology Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Legislative Hearing on "Strengthening Communications Networks to Help Americans in Crisis"

On **Thursday, February 27, 2020, at 10:30 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Communications and Technology will hold a legislative hearing entitled, "Strengthening Communications Networks to Help Americans in Crisis."

I. BACKGROUND

A. Network Resiliency

Americans depend on communications networks to call for help, contact loved ones, and access critical emergency response information when disaster strikes. In recent years, communications networks have been pressed to meet increasing challenges due to natural disasters which have grown in size and severity due to environmental and climate factors.[1] All the while, Federal Communications Commission (FCC) data demonstrates that the number of reported wireless outages caused by a physical incident increased from 189 in 2009 to 1,079 in 2016.[2]

In 2016, an industry-led coalition of wireless communications providers adopted a set of voluntary principles called the Wireless Network Resiliency Cooperative Framework (Framework).[3] The Framework sought to improve industry preparedness, cooperation, and

[1] U.S. Global Change Research Program, *Fourth National Climate Assessment Volume II: Impacts, Risks, and Adaptation in the United States* at 94 (Nov. 2018).

[2] Government Accountability Office, *FCC Should Improve Monitoring of Industry Efforts to Strengthen Wireless Network Resiliency* (Dec. 2017) (GAO-18-198).

[3] *Ex Parte* Letter from Scott Bergmann of CTIA, et al., to Marlene H. Dortch, FCC Secretary (Apr. 27, 2016). *See also* House Committee on Energy and Commerce, *CTIA & Pallone Announce 'Wireless Network Resiliency Cooperative Framework' for Disasters and Emergencies* (Apr. 27, 2016) (press release).

response to maintain operations during emergencies and disasters.[4] The Framework consists of six main components that wireless carriers should address to improve continuity in network operations during times of disaster: (1) Providing for Roaming Under Disasters; (2) Fostering Mutual Aid During Emergencies; (3) Enhancing Municipal Preparedness and Restoration; (4); Improving Public Safety Awareness Regarding Service and Restoration Status; (5) Increasing Consumer Readiness and Preparation, and; (6) Improving Public Awareness Regarding Service and Restoration Status.[5] Nevertheless, since the adoption of the Framework, numerous widescale communications outages have occurred following major natural disasters including hurricanes and wildfires.[6]

As part of the 2018 Consolidated Appropriations Act, Congress passed the Securing Access to Networks in Disasters Act, or the SANDy Act. That law amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act to expand the categories of essential service providers that may access a disaster site to restore and repair essential services in an emergency or major disaster without being denied or impeded by a federal agency. Services to be considered essential are wireline or mobile telephone service, Internet access service, radio or television broadcasting, cable service, or direct broadcast satellite service. The law also requires the FCC to publish a study by March of 2021 on the public safety benefits, technical feasibility, and cost of providing the public with access to 9-1-1 services, through the use of Wi-Fi hotspots, during times of emergency when mobile service is unavailable.

B. T-Band

In 1970, the FCC granted public safety entities and business-industrial users in 11 major U.S. metropolitan areas access to certain portions of the spectrum between 470 MHz and 512 MHz, commonly referred to as the T-Band, on a shared basis with incumbent TV broadcast users.[7] Since then, local and regional public safety and law enforcement entities have built out

[4] *Id.*

[5] *Id.*

[6] *See e.g.*, *Cell Networks Suffer Outages in Harvey's Wake*, Wall Street Journal (Aug. 27, 2017); *Hurricane Irma Took 7 Million Cable and Wireline Subscribers Offline,* Ars Technica (Sept. 13, 2017); *Puerto Rico is Nearly Entirely Cut Off From Cellphone Service, Leading to Low Tech Solutions*, USA Today (Sept. 28, 2017); *Phones Fail in California Fires, Highlighting Cell Vulnerability*, Bloomberg (Nov. 16, 2018); *Camp Fire Evacuation Warnings Failed to Reach More Than a Third of Residents Meant to Receive Calls*, Los Angeles Times (Nov. 30, 2018).

[7] Federal Communications Commission, *Amendment of Parts 2, 89, 91, and 93,* First Report and Order, Docket No. 18261, 23 FCC 2d 325 (1970). The 11 major metro areas utilizing the T-Band are New York City, Los Angeles, Chicago, Washington/Baltimore, Philadelphia, San Francisco, Boston, Dallas/Fort Worth, Houston, Miami, and Pittsburgh.

radio and data communications systems that today serve a combined population of more than 90 million Americans.[8]

As part of the Middle Class Tax Relief and Job Creation Act of 2012, Congress directed the FCC to reallocate the T-Band spectrum used by public safety entities for commercial use.[9] The FCC is required to begin auctioning T-Band spectrum by February 2021 and clear all public safety operations from the band by early 2023.[10] Proceeds from the auction would then go toward covering relocation costs imposed on displaced public safety users through a grant program administered by the National Telecommunications and Information Administration.[11] According to a June 2019 Government Accountability Office report, FCC officials estimate that revenues from auctioning the entire T-Band would not exceed $2 billion. The estimated costs associated with relocating these incumbent public safety users, however, are estimated to amount to between $5 to $6 billion.[12]

C. 9-1-1 Fees

The FCC is required by law to submit an annual report to Congress on fees and other charges that states collect to help fund 9-1-1 services.[13] In its most recent report, the FCC found that states and other reporting jurisdictions collected fees or charges totaling roughly $2.68 billion in 2018.[14] Of the 56 jurisdictions responding to the FCC's data request in 2018, the FCC's Public Safety and Homeland Security Bureau identified five states as diverting or transferring 9-1-1 or Enhanced 9-1-1 fees for purposes other than funding 9-1-1 or Enhanced 9-1-1 services or system upgrades.[15]

D. Emergency Alerts

The Emergency Alert System (EAS) is a mechanism that allows the President to send emergency alerts to Americans through broadcast TV and radio, cable systems, and satellite systems. The FCC, with the help of the Federal Emergency Management Agency (FEMA) and

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[8] *See* National Public Safety Telecommunications Council, *T-Band Update Report* (May 2016).

[9] Pub. L. No. 112-96, § 1603 (47 U.S.C. § 1413).

[10] *See* National Public Safety Telecommunications Council, *T-Band Report* (Mar. 2013).

[11] Pub. L. No. 112-96, § 1603 (47 U.S.C. § 1413).

[12] Government Accountability Office, *Emergency Communications: Required Auction of Public Safety Spectrum Could Harm First Responder Capabilities* (Jun. 2019) (GAO-19-508).

[13] Pub. L. No. 110-283 (2008).

[14] Federal Communications Commission, *Eleventh Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges* (Dec. 19, 2019).

[15] *Id.* at 3. The states identified as diverting 911 funds in 2018 were Nevada, New Jersey, New York, Rhode Island, and West Virginia.

the National Weather Service, is responsible for implementing EAS at the national level. All EAS participants are required by the FCC to have the technical capability to transmit Presidential alerts, although distribution of EAS messages are done on a voluntary basis at the state and local level. A message initiated by the appropriate authority cascades down to the public through a hierarchical system. Once the alert message is encoded, it is broadcast from one or more EAS participants and relayed to additional stations until all affected EAS participants have received and delivered the message to the public.

The Wireless Emergency Alert (WEA) system was established in 2006 when the Warning, Alert, and Response Network (WARN) Act was signed into law.[16] Since its launch in 2012, the WEA system has allowed wireless customers to receive geographically-targeted emergency alert messages that are originated by authorized federal, state, local, or tribal government authorities through FEMA's Integrated Public Alert and Warning System (IPAWS). Wireless carriers participate in WEA on a voluntary basis yet, according to industry, providers participating in WEA cumulatively serve over 99 percent of wireless subscribers in the United States.[17] Consumers do not have to sign up for WEA and automatically receive four types of alerts: (1) alerts issued by the President; (2) alerts involving imminent threats to safety or life; (3) Amber Alerts, and; (4) alerts conveying recommendations for saving lives and property.[18]

E. Suicide Prevention

The National Suicide Prevention Lifeline (Lifeline) is a network of 163 crisis centers that can be accessed by people experiencing suicidal crisis or emotional distress at 1-800-273-8255 (or 1-800-273-TALK).[19] According to the Substance Abuse and Mental Health Services Administration, more than 47,000 Americans died by suicide and more than 1.4 million adults attempted suicide in 2017.[20] The following year, more than 2.2 million calls were placed to the Lifeline.[21]

In 2018, Congress passed the National Suicide Hotline Improvement Act, which directed the FCC to analyze the effectiveness of the existing Lifeline and examine the feasibility of

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[16] Pub. L. No. 109-347 (2006).

[17] CTIA, Consumer Resources: Wireless Emergency Alerts (www.ctia.org/wireless-emergency-alerts) (accessed Feb. 20, 2020).

[18] Federal Communications Commission, *Consumer Guide: Wireless Emergency Alerts* (Dec. 19, 2019) (www.fcc.gov/sites/default/files/wireless_emergency_alerts_wea.pdf).

[19] U.S. Department of Health and Human Services, *National Suicide Hotline Improvement Act: The Substance Abuse and Mental Health Services Administration Report to the Federal Communications Commission*, at 5 (Feb. 7, 2019).

[20] *Id.* at 2.

[21] *Id.* at 5.

designating a 3-digit dialing code in its place.[22] In its report to Congress, the FCC recommended designating 9-8-8 as the single, 3-digit dialing code for callers to access the Lifeline.[23]

In December 2019, the FCC unanimously adopted a Notice of Proposed Rulemaking to begin implementing 9-8-8 as the nationwide, 3-digit dialing code for accessing the Lifeline.[24]

II. LEGISLATION

A. H.R. 5926, RESILIENT Networks Act

Reps. Pallone (D-NJ) and McNerney (D-CA) introduced H.R. 5926, the "Reinforcing and Evaluating Service Integrity, Local Infrastructure, and Emergency Notification for Today's (RESILIENT) Networks Act." The RESILIENT Networks Act requires the FCC to adopt rules requiring pre-planned coordination agreements among providers of advanced communications service to take effect for times of emergency, including roaming agreements and mutual aid arrangements. The RESILIENT Networks Act directs the FCC to adopt rules to improve coordination between communications providers and public safety answering points (PSAPs), as well as covered public safety entities. The legislation includes mechanisms to ensure that these first responders are provided with network outage data to help guide disaster response.

The FCC, in consultation with the Secretary of Energy, is required to establish a master point-of-contact directory to facilitate communication between PSAPs, utilities, and communications service providers. Under the RESILIENT Networks Act, the FCC, in consultation with the Secretary of Energy and the Secretary of Homeland Security, would also have to ensure that providers of advanced communications service take measures to integrate backup power, including generators and batteries, into their networks for times of emergency and pre-planned power downs.

The FCC, in consultation with the Secretary of Energy and Secretary of Homeland Security, would also be required to issue best practices for coordination between communications service providers and utilities for times of emergency and during pre-planned power downs. The Act also creates a process whereby utilities and providers of advanced communications service can share information so utilities can prioritize reenergizing the most critical communications networks.

To help stop accidental network line-cuts following emergencies, the RESILIENT Networks Act requires the FCC to issue a report to Congress on the effectiveness and feasibility of expanding one-call notification systems to include advanced communications services. The

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[22] Pub. L. No. 115-233 (2018).

[23] Federal Communications Commission, *Report on the National Suicide Hotline Improvement Act of 2018* (Aug. 14, 2019).

[24] Federal Communications Commission, *Implementation of the National Suicide Hotline Improvement Act of 2018*, Notice of Proposed Rulemaking, WC Docket No. 18-336, FCC 19-128 (rel. Dec. 16, 2019).

bill would also require the FCC to study, and issue rules, that account for and leverage 5G wireless networks' particular challenges and their inherent advantages in times of emergency.

Finally, the bill requires the Comptroller General to audit the FCC's response to the 2017 Hurricane Season in Puerto Rico. The Comptroller General then must publish a report of this audit, including findings and recommendations, and the FCC must take action to address issues raised in the Comptroller General's report.

B. H.R. 3836, Wireless Infrastructure Resiliency during Emergencies and Disasters (WIRED) Act

Rep. Eshoo (D-CA) introduced H.R. 3836, the "Wireless Infrastructure Resiliency during Emergencies and Disasters (WIRED) Act." The WIRED Act would amend the Communications Act to specify that state and local governments may impose reasonable requirements to promote resilient wireless communications infrastructure for situational awareness during a natural disaster.

C. H.R. 4856, Reliable Emergency Alert Distribution Improvement (READI) Act

Reps. McNerney (D-CA), Bilirakis (R-FL), Gabbard (D-HI), and Olson (R-TX) introduced H.R. 4856, the "Reliable Emergency Alert Distribution Improvement (READI) Act." The READI Act amends the Warning, Alert, and Response Network Act to include emergency alerts from FEMA as a type of alert that subscribers of mobile service may not block from their devices, as currently, alerts from the President may not be blocked.

The bill also directs the FCC to adopt regulations to facilitate coordination with State Emergency Communications Committees (SECCs) over alerts issued under the EAS. The READI Act requires the FCC to review and certify SECC-submitted State EAS plans not less than once per year, and to create a State EAS plan content checklist for evaluating such submissions.

The READI Act also requires the FCC to complete rulemakings to establish a process for receiving reports of false alerts, modify the EAS protocols to allow for repeating messages when alerts remain pending, and examine the feasibility of enabling EAS distribution over the internet, including content streaming services.

D. H.R. 4194, National Suicide Hotline Designation Act

Reps. Stewart (R-UT) and Moulton (D-MA) introduced H.R. 4194, the "National Suicide Hotline Designation Act." The National Suicide Hotline Designation Act amends the Communications Act to designate 9-8-8 as the universal dialing code for the Lifeline. The National Suicide Hotline Designation Act allows states to impose a fee or charge on commercial mobile or IP-enabled voice service subscribers' bills for the support or implementation of 9-8-8 services. The National Suicide Hotline Designation Act also requires the FCC to evaluate, and

submit a report to Congress on, the feasibility and cost of automatically providing the dispatchable location of calls to 9-8-8.

E. H.R. 451, Don't Break Up the T-Band Act

Reps. Engel (D-NY), Zeldin (R-NY), Green (D-TX), and King (R-NY) introduced H.R. 451, the "Don't Break Up the T-Band Act." The Don't Break Up the T-Band Act would repeal the requirement on the FCC to reallocate and auction the 470-512 MHz spectrum band, also known as the T-Band.

F. H.R. 5928, FIRST RESPONDER Act

Rep. Walden (R-OR) introduced H.R. 5928, the "Fee Integrity and Responsibilities and To Regain Essential Spectrum for Public-safety Operators Needed to Deploy Equipment Reliably (FIRST RESPONDER) Act." The FIRST RESPONDER Act would repeal the requirement on the FCC to reallocate and auction the 470 through 512 MHz spectrum band, also known as the T-Band. The bill also instructs the FCC to issue rules designating specific purposes and functions that are considered acceptable expenditures of state-collected 9-1-1 fees. The FIRST RESPONDER Act also directs the FCC to establish the "Ending 9-1-1 Fee Diversion Now Strike Force" (Strike Force) to consider whether existing Federal laws and regulations, as well as the prospect of new criminal penalties, are effective mechanisms for ending the practice by states of diverting 9-1-1 fees for non-9-1-1 related purposes. In addition to the FCC's annual report to Congress on 9-1-1 fees, the FIRST RESPONDER Act requires the Strike Force to submit a report to Congress with recommendations for ending diversion of 9-1-1 fees by states.

G. H.R. 5918, Emergency Reporting Act of 2020

Reps. Matsui (D-CA), Eshoo (D-CA), Thompson (D-CA) and Huffman (D-CA) introduced H.R. 5918, the "Emergency Reporting Act." The Emergency Reporting Act requires the FCC to establish formal processes to take effect in instances when the Commission activates the Disaster Information Reporting System (DIRS). Under the Emergency Reporting Act, the FCC would be required to issue a preliminary report, not later than six weeks after the deactivation of DIRS, covering the scale and scope of communications service outages. After issuing a preliminary report, the FCC would be required to hold at least one public field hearing in communities affected by the disaster not later than four months following the deactivation of DIRS. The Commission would then be required, not later than eight months after deactivating DIRS, to issue a comprehensive final report on the event, including recommendations to improve the resiliency of affected communications networks and recovery efforts. Finally, the Emergency Reporting Act instructs the FCC to initiate a rulemaking to establish requirements within the Network Outage Reporting System for alerting PSAPs of communications service disruptions that may affect the origination or transmission of 9-1-1 calls or relevant caller location information.

H. H.R. 1289, Preserving Home and Office Numbers in Emergencies (PHONE) Act

Rep. Thompson (D-CA) introduced H.R. 1289, the "Preserving Home and Office Numbers in Emergencies (PHONE) Act." The PHONE Act amends the Communications Act to prohibit providers of wireline voice service from reassigning phone numbers of subscribers in area covered by a major disaster declaration, for the duration of the declaration. The prohibition may extend for a period of up to two years if requested by the subscriber. The PHONE Act also prohibits providers of wireline voice service from assessing early termination fees to cancel service, or connection fees to re-subscribe at a new address, for subscribers whose residence is rendered inaccessible or uninhabitable due to a major disaster.

III. WITNESSES

The following witnesses have been invited to testify:

Matthew Gerst
Vice President, Regulatory Affairs
CTIA

Sue Ann Atkerson
CEO
Behavioral Health Link

Anthony Gossner
Fire Chief
City of Santa Rosa (Calif.)

Joseph Torres
Senior Director of Strategy and Engagement
Free Press and Free Press Action

Daniel Henry
Regulatory Counsel and Director of Government Affairs
National Emergency Number Association

Allen F. Bell
Distribution Manager
Georgia Power Company