

**DISSENTING STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Improving 911 Reliability*, PS Docket No. 13-75; *Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket No. 11-60.

I have been sincere in my comments that I want to find common ground with my colleagues so items can be approved unanimously. We have an obligation to try to work together for the greater good. Sadly, this is one of those instances where the gap was too wide to bridge. It didn't have to be this way.

The safety of our nation's citizens is not a partisan issue. I take a backseat to no one in trying to ensure Americans are protected in times of need. In fact, everyone supports a fully functioning and reliable 9-1-1 system, especially during major catastrophes. When people's lives are at stake – real life and death matters – our communications networks need to be ready and able to meet the challenges.

The question becomes what is the best way to make sure this happens. I proposed several edits and supported changes proposed by Commissioner Pai that would have narrowed the rules while still meeting that goal. While I appreciate that some small changes were made, the key suggestions of both of us were rejected.

One of my requests was to minimize the burdens on so-called good actors. Let's be clear: I am a strong proponent of strenuously enforcing the Commission's rules. However, we should try to find a way to lessen the burdens over time on the good actors – communications companies whose networks and services are continually operational and meet the Commission's requirements. In other words, do they have a clean checklist and are their alternative measures, if necessary, ensuring reliable 9-1-1 service year after year? This seems immensely reasonable in light of the requirement that certifications be filed annually, instead of biennially, as was the case in the original draft. After a couple certifications, we ought to know those companies that go the extra mile for compliance and probably don't need to be scrutinized under the item's rubric of a never-ending, yearly certification scheme. My idea of a simple waiver process to ease the burdens for good actors was rejected without much debate.

My support for a waiver process is not because I support the free-market and less regulation, which I do. It is because I know that the compliance costs are going to be passed on to consumers – including the struggling families deciding whether to keep phone service – that are going to pay more each month for unnecessary regulations. The Commission has found a way to drive up consumer costs by burdening truly good actors for no real benefit.

I am equally troubled that my simple proposal to replace the vague, non-committal review of the newly imposed rules in five years – a review that is not mandated to be completed – was also dismissed. For too many years and in too many situations, the Commission enacted rules with no mechanism to fully and faithfully determine, in the future, whether such rules should be retained or modified. Accordingly, I proposed a variety of sunset mechanisms to ensure that the Commission would have to revisit these 9-1-1 reliability rules in order to preserve them. I even went so far as to propose that the Commission or the Bureau could extend the rules if the certifications and other relevant data showed that there was still a need for the rules. As incredible as it may seem, this was rejected due to a view that the providers should have the burden to request a rulemaking to show that rules should be eliminated. I disagree. What became clear through this process is that there is great resistance to sunset Commission rules. For those that want to explore real FCC process reform, let's start there.

For these reasons, I dissent to this Order. Sadly, this was a missed opportunity. It was well within our grasp to produce a 5-0 vote. Despite my dissatisfaction, I thank the staff for all of their hard work. It's on to the next item for me.