

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 17R-0488T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO TELECOMMUNICATIONS
RULES 4 CODE OF COLORADO REGULATIONS 723-2-2130 THROUGH 2159 AND
2008(a).

REPLY COMMENTS OF CTIA

Pursuant to the Notice of Proposed Rulemaking that initiated this rulemaking proceeding, Colorado Public Utilities Commission (“Commission”) Decision No. C17-0575 (“*NOPR*”), CTIA hereby provides its reply comments addressing the initial comments filed in this proceeding.¹ As per the *NOPR*, this rulemaking is intended to amend the Commission’s Telecommunications Rules pertaining to 9-1-1 services, specifically the Commission rules set forth at 4 *Code of Colorado Regulations* 723-2-2130 through 2159, along with 2008(a) (the “Proposed Revised 9-1-1 Rules”).

As stated in the *NOPR*, the Proposed Revised 9-1-1 Rules are essentially the proposed rules that accompanied the 9-1-1 Advisory Task Force’s (“Task Force”) Petition² requesting that the Commission open a rulemaking to adopt 9-1-1 rule revisions that “the Task Force developed over the course of several months through the use of multi-stakeholder workshops.”³ The Proposed Revised 9-1-1 Rules included under the *NOPR* make only minor revisions to the

¹ The *NOPR* called for reply comments by September 4, 2017, which was Labor Day. Accordingly, pursuant to Commission Rule 1203(a), CTIA timely files these comments on September 5, 2017.

² Petition of the Colorado 9-1-1 Advisory Task Force for Rulemaking to Streamline, Update, and Improve Commission Rules 2130-2159 and 2008(a), Proceeding No. 17M-0319T (May 24, 2017) (“*Task Force Petition*”).

³ *NOPR* at p. 3, ¶ 4.

proposed rules submitted by the *Task Force Petition* for administrative corrections and consistency.⁴

I. Introduction

As CTIA noted in its initial comments, “[t]he draft redline of the Commission’s 9-1-1 Rules attached as Exhibit A [to the *Task Force Petition*] is the result of many hours of work, discussion, and compromise by a widely diverse set of 9-1-1 service stakeholders.”⁵ The proposed rules submitted by the Task Force endeavored “to identify areas of the rules where consensus could be reached without engaging in deeper questions of the Commission’s jurisdictional authority regarding 9-1-1 service provided by Originating Service Providers, Intermediary Aggregation Service Providers, and Public Safety Answering Points [“PSAPs”].”⁶ The *Task Force Petition* also emphasized that, “[b]ecause of the extensive work done over the several months of workshop meetings . . . it is anticipated that any such comments or changes [in the formal rulemaking proceeding] would be fairly limited.”⁷

Indeed, most parties providing initial comments, including governmental authorities and PSAPs, recognized and abided by the understanding that comments and proposed changes to the Proposed Revised 9-1-1 Rules should be limited, in recognition of the extensive work at the Task Force level to reach consensus. For instance, Adams, Arapahoe, Broomfield and Jefferson Counties simply noted that those 9-1-1 authorities “participated in the multi-stakeholder workshops that led to the proposed rules,” but otherwise made no substantive changes and requested no changes to the Proposed Revised 9-1-1 Rules.⁸ Charter expressed appreciation for

⁴ *Id.* at pp. 3-4, ¶ 8.

⁵ *Task Force Petition* at 11.

⁶ *Id.* at 3.

⁷ *Id.* at 4.

⁸ Initial Comments of the 911 Authorities for Adams, Arapahoe, and Broomfield/Jefferson Counties, at p. 2.

the collaborative manner in which Commission “Staff sought input from the telecommunications industry and public safety answering points and managed the workshop process,” and proposed only minor revisions to “correct typos, add clarity, or otherwise be consistent with the consensus reached during the workshop process.”⁹ Similarly, CenturyLink’s comments were limited to “not[ing] a few minor changes that should be made to make sure the rules are clear.”¹⁰

The expectation of minimal changes expressed in the *Task Force Petition* was based on the extensive effort at the Task Force level to reach consensus: “The process for the [Task Force] committee meetings was established as an open, consensus-based workshop, in which different sections of the 9-1-1 Rules were reviewed at multiple meetings, with each section being reviewed at least twice.”¹¹ The 14 Task Force workshops averaged 24 participants per meeting.¹² As the *Task Force Petition* further observed, “[t]he [Task Force’s] proposed changes significantly streamline the 9-1-1 Rules by removing unnecessary, redundant, or outdated language, update the Rules with current terminology or redefines existing terminology in a technology-neutral manner to better ‘future-proof’ the 9-1-1 Rules, and makes significant improvements to the 9-1-1 Rules regarding the topics of 9-1-1 network diversity and resiliency contingency planning.”¹³

The Task Force effort was intended to accomplish the important goal of updating the Commission’s 9-1-1 rules as described in the *Task Force Petition*, and to do so without wading back into the contentious waters that characterized Proceeding No. 15R-0318T, an earlier 9-1-1

⁹ Comments of Bresnan Broadband of Colorado, LLC and Time Warner Cable Information Services (Colorado) LLC at p.1.

¹⁰ CenturyLink’s Initial Comments at p.1.

¹¹ *Task Force Petition* at p. 3.

¹² *Id.*

¹³ *Id.* at p. 4.

rulemaking that was ultimately abandoned and dismissed. The contentious issues in Proceeding No. 15R-0318T related to the “deeper questions of the Commission’s jurisdictional authority,” alluded to in the *Task Force Petition*.¹⁴ CTIA will not here reiterate its full arguments in Proceeding No. 15R-0318T, other than to note that commercial mobile radio services (“CMRS”) and CMRS providers are expressly included as “[s]ervices, products, and providers exempt from regulation” pursuant to C.R.S. § 40-15-401. The question of Commission jurisdiction over CMRS Originating Service Providers (“OSPs”), as well Voice-over-Internet-Protocol (“VoIP”) OSPs, are precisely the “deeper questions” that the Task Force effort sought to avoid, and did avoid. And, having held 14 workshops each attended by an average of 24 participants, and having reviewed each consensus rule it proposed at least twice, the Task Force expected that comments and proposed changes in this *NOPR* proceeding would “fairly limited.”¹⁵

Nonetheless, in its initial comments, the Boulder Regional Emergency Telephone Service Authority (“BRETSA”) proposed that the Commission consider changes to the Proposed Revised 9-1-1 Rules that are anything but “fairly limited.” BRETSA proposes that the Commission revisit well-settled principles and arrangements for routing CMRS and VoIP OSP 9-1-1 calls to the Basic Emergency Service Provider’s (“BESP”) selective router. BRETSA’s proposal, late in this process, threatens to undermine the good work of the Task Force and convert this proceeding from a fairly uncontroversial adoption of consensus rules into an extended and contentious proceeding that would again founder on the issue of Commission jurisdiction over OSPs. The Commission should therefore decline BRETSA’s invitation to re-engineer Colorado’s 9-1-1 architecture in this proceeding and focus on adopting the consensus rules proposed by the Task Force.

¹⁴ *Id.* at p. 3.

¹⁵ *Id.* at p. 4.

The Commission should also reject the West Region 9-1-1 Authorities' (Montrose County, *et al.*) proposed revision to Rule 2143(d) relating to BESPs' reliability and contingency plans. Proposed Revised Rule 2143(d) would compel a BESP to file a plan that identifies and describes its demarcation points with other BESPs, ALI providers, and PSAPs. The West Region 9-1-1 Authorities suggest including demarcation points with OSPs in order to facilitate expeditious repairs and recovery from basic emergency service outages and service degradations. This proposal, too, would alter the Task Force's carefully negotiated consensus proposal and unnecessarily introduce controversial issues into this docket. Therefore, the Commission should also reject the West Region 9-1-1 Authorities' proposed change.

II. Response to BRETSA Comments

BRETSA's comments¹⁶ focus on a Larimer Emergency Telephone Authority ("LETA") complaint proceeding against CenturyLink, relating to 9-1-1 outages and diversity issues in Estes Valley.¹⁷ To be sure, these are important issues, but they are already being addressed in the LETA complaint proceeding. Based primarily on the issues already framed in that complaint proceeding, BRETSA calls on the Commission to also do something in this rulemaking proceeding, but the Commission action that BRETSA seeks is not entirely clear.

At times BRETSA appears to be addressing the issue of diverse facilities into Estes Valley. For instance, BRETSA observes that "Proceeding No. 16F-0955T, is an ongoing complaint proceeding against CenturyLink brought by LETA which is seeking to have CenturyLink, *in its role as BESP*, provide *diverse* routing from the CenturyLink Estes Park and

¹⁶ BRETSA's Comments on the Proposed Amendments to the Rules Regulating Basic Emergency Telephone Service ("BRETSA Comments").

¹⁷ Larimer Emergency Telephone Authority, Complainant, v. Qwest Corporation, d/b/a CenturyLink QC or CenturyLink, Respondent, Proceeding No. 16F-0955T ("LETA complaint").

Allenspark Central Offices to the 9-1-1 Selective Router.”¹⁸ At other times, BRETSA appears to be urging the Commission to revisit the existing OSP-BESP network interconnection arrangements by which CMRS and VoIP 9-1-1 calls are routed to the BESP’s selective router. For instance, BRETSA contends that “[t]he Commission should also address whether wireless and VoIP providers should follow the FCC Rules and bear the *cost* of transporting their customers’ 9-1-1 calls to the 9-1-1 Selective Router, and whether that requirement can and should be extended to Colorado LECs.”¹⁹

Other than noting typographical corrections, however, BRETSA provides no suggested revisions or redlines to the revised proposed rules, making it difficult to ferret out what BRETSA is asking the Commission to do.²⁰ Regardless, whether BRETSA is suggesting that OSPs should be required to provision or pay for diverse connectivity to the BESP selective router, or whether BRETSA is suggesting that the Commission order some entirely new regime to replace the primary OSP-BESP interconnection architecture already in place, the Commission should reject BRETSA’s proposal for numerous reasons.

To begin with, while CTIA is not a party to and has not participated in the LETA complaint proceeding, to the best of CTIA’s knowledge there has been no suggestion that the Estes Valley outages at issue in that proceeding related to any CMRS facilities. Accordingly, there is no basis to consider in this rulemaking whether CMRS OSP connectivity to the BESP should be reconsidered, re-engineered, or augmented. In particular, BRETSA acknowledges that these are settled issues in Colorado, quoting at length the testimony of Gary Klug—a LETA witness in the complaint proceeding, and also the Commission’s former Chief Engineer.

¹⁸ BRETSA Comments at p. 7, ¶ 10 (emphasis in original).

¹⁹ *Id.* at p. 12. (emphasis in original).

²⁰ The *NOPR* requested that “[t]o the extent a participant disagrees with the proposed rules, comments should include suggested rule revisions, in legislative format. *NOPR* at p. 2.

BRETSA states that: “As indicated by Mr. Klug’s testimony, with the advent of Wireless E9-1-1 Service and later VoIP service, the Commission required the BESP to also take responsibility for the transport of 9-1-1 calls from the wireless providers’ Mobile Switching Center (“MSC”) and VoIP Emergency Services Gateway to the 9-1-1 Selective Router.”²¹

Nonetheless, BRETSA suggests that it would be appropriate for the Commission in this rulemaking to revisit this well-established 9-1-1 architecture in Colorado and “address whether wireless and VoIP providers should follow the FCC Rules and bear the *cost* of transporting their customers’ 9-1-1 calls to the Selective Router.”²² Again, it is not clear if BRETSA is referring to the cost for primary connectivity to the selective router, diverse connectivity issues (which was the genesis for the LETA Complaint), or both. Regardless, BRETSA’s proposal would represent a significant change to not just the Task Force’s proposed consensus rules, but also a significant change to the manner in which the issue of 9-1-1 architecture has been handled in Colorado for years. BRETSA’s suggestions represent precisely the kind of contentious issues that the Task Force intentionally and carefully avoided.

Indeed, BRETSA appears to be the only party calling for the Commission to revisit the question of how CMRS and VoIP 9-1-1 traffic will be carried to the BESP selective router. Not even LETA, the complainant in Proceeding No. 16F-0955T, contends that the Commission should revisit that question in this rulemaking. BRETSA acknowledges that it made this same proposal in the Task Force workshops, but garnered no support: “There did not appear to be any interest among the participants in the Workshops in changing the current structure of 9-1-1 in Colorado at this time.”²³ The Commission should follow the Task Force’s lead and decline

²¹ BRETSA Comments at p. 4, ¶ 5.

²² BRETSA Comments at p. 12 (Conclusion) (emphasis in original).

²³ *Id.* at pp. 5-6, ¶ 7.

BRETSA’s invitation to reinvent Colorado’s 9-1-1 architecture here, particularly given that BRETSA’s proposal was not echoed by other PSAPs/governmental authorities.²⁴ In addition, there is no factual record here to undertake any re-determination or reassignment of cost responsibility for the routing of 9-1-1 traffic to the selective router, if that is what BRETSA truly has in mind, and such an effort would be the antithesis of what the *Task Force Petition* contemplated.

Further, BRETSA’s fundamental legal premise—that FCC rules “require” OSPs to bear the cost of transporting their customers’ 9-1-1 calls to the selective router— is incorrect. In the *King County* proceeding BRETSA references, the FCC stated that: “[W]e hereby clarify that, in the *absence of an agreement to the contrary* between the parties, the input to the 911 Selective Router shall serve as the demarcation point for allocating costs between wireless carriers and PSAPs, both with respect to the delivery of Phase I information and with respect to the delivery of Phase II information.”²⁵ Further, “[n]oting that a variety of situations exists in approximately 6,000 PSAPs across the nation, *including differences in state laws*, the configuration and technical sophistication of existing network components used to provide E911 service, and agreements between carriers and PSAPs, the Bureau observed that the application of ‘a uniform federal mandate that prevents the relevant stakeholders from reaching other, mutually-acceptable arrangements’ should be avoided”²⁶ In other words, contrary to BRETSA’s contention, no FCC rule or order “requires” wireless OSPs to bear the cost of transporting their customers’ calls

²⁴ In that regard it is also worth noting that the Task Force’s minimum voting membership is comprised of 29 voting positions, and 18 of those positions belong to 911 Authority Boards/PSAPs. *Task Force Petition* at pp. 1-2. In light of that, BRETSA’s acknowledged inability to generate support for its proposal at the Task Force level is particularly telling.

²⁵ *In the Matter of Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request of King County, Washington*, CC Docket No. 94-102, Order on Reconsideration, 17 FCC Rcd 14789, ¶ 10 (July 24, 2002) (emphasis added).

²⁶ *Id.* at ¶ 3 (emphasis added).

to the BESP’s selective router. There is no “uniform federal mandate,” and states and stakeholders are free to implement a different model.²⁷

III. Response to West Region 9-1-1 Authorities Comments

The West Region 9-1-1 Authorities suggest a revision to Rule 2143(d) relating to the BESP’s reliability and contingency plan to be provided to the Commission and to PSAPs.²⁸ Proposed Revised Rule 2134(d)(ii) would require a BESP filing such a plan to identify and describe its demarcation points with other BESPs, ALI providers, and PSAPs. The West Region 9-1-1 Authorities propose revising that provision to include demarcation points with OSPs in order to facilitate “fast and efficient repairs and recovery of basic emergency service outages and service degradations.”²⁹ They propose that this OSP demarcation information could be treated as confidential in the BESP reliability and contingency plan.³⁰

The West Region 9-1-1 Authorities do allow that, by this proposed revision to Rule 2143(d)(ii), they “do not intend that the State should regulate OSPs”³¹ CTIA appreciates that recognition, but nonetheless has concerns because this proposed revision is misaligned with the basic premise of Rule 2143, which is not meant to impose any obligations on OSPs: “Nothing in this rule shall be construed to impose any obligation on any provider other than

²⁷ Further, Section 40-15-401(1)(c), C.R.S. exempts CMRS service from regulation, and the Commission therefore does not have the authority to order or a specified CMRS network design or architecture. This is certainly true as to diverse CMRS connectivity to the selective router, if that is what BRETSA is calling for. CenturyLink and LETA both recognize this, as BRETSA itself noted: “LETA correctly admits that wireless providers do not have any obligation to build diverse connections from their end users to the selective routers.” BRETSA Comments at 7, ¶ 10 (quoting July 25, 2017 Answer Testimony of CenturyLink Witness Timothy Kunkelman, Proceeding No. 16F-0955T, p.11, lines 1-11).

²⁸ Initial Comments of West Region 9-1-1 Authorities, Attachment A at p. 13, Comment MG36.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

BESPs.”³² While CTIA recognizes that inclusion of OSP demarcation points in BESP’s reliability and contingency plan is not in fact an obligation placed on OSPs, the Task Force’s proposed rule was crafted to avoid such issues and the West Region 9-1-1 Authorities’ suggested amendment is contrary to the Task Force’s deliberations and conclusions in this regard. Further, the demarcation point between different carriers’ networks is sensitive and not publicly disclosed information, both from a critical infrastructure perspective and in terms of competitive considerations. Even if provided as confidential in the BESP reliability and contingency plan, this sensitive information might still be subject to public disclosure under the Colorado Open Records Act.³³

In addition, including this information in the BESP reliability and contingency plan would not facilitate faster repair and recovery of basic emergency services. The BESP is already well aware of its demarcation points with OSPs, and providing this same information to the Commission and PSAPs will do nothing to expedite BESP trouble-shooting in the event of a service interruption. CTIA views this proposal as a significant proposed change to the consensus Task Force rules, and the Commission should therefore reject this proposal.

IV. CONCLUSION

The majority of commenters, including CTIA, support the Commission’s adoption of the Proposed Revised 9-1-1 Rules, which fully reflect the consensus rules proposed by the Task Force. The Proposed Revised 9-1-1 Rules constitute a comprehensive update to the Commission’s 9-1-1 rules. Considerable effort went into development of the consensus Task Force rules that were agreed to by all parties – including BRETSA and the West Region 9-1-1 Authorities. The Commission can update its rules and avoid the controversy that arose in

³² *Proposed Revised Rules*, Rule 2143(i).

³³ C.R.S. § 24-72-200.1, *et. seq.*

Proceeding No. 15R-0318T by adopting the Proposed Revised 9-1-1 Rules. Accordingly, the Commission should reject BRETSA's and the West Region 9-1-1 Authorities' suggested amendments to the Proposed Revised 9-1-1 Rules.

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of September, 2017 the foregoing Reply Comments of CTIA were filed, and served by the Colorado Public Utilities Commission solely via its electronic filing system.

/s/ Philip J. Roselli
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