

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Modernizing the FCC Form 477 Data Program)	WC Docket No. 11-10
)	
)	

**REPLY COMMENTS OF
THE USTELECOM ASSOCIATION**

The USTelecom Association (USTelecom)¹ is pleased to submit these reply comments on the Commission’s Further Notice of Proposed Rulemaking regarding modernizing the FCC Form 477 Data program (*477 NPRM*).² While USTelecom agrees with majority of the comments in this proceeding, there is one discrete comment raised by the Boulder Regional Emergency Telephone Service Authority (BRETSA) that causes USTelecom members concern.³

More specifically, BRETSA asks the Commission to add a 9-1-1 reporting obligation to the FCC Form 477.⁴ BRETSA suggests that the Commission should consider requiring all providers to include on their FCC Form 477 filing information pertaining to redundancy and diversity of transport facilities for telecommunications services providing 9-1-1 calling capability.⁵ They argue that because there are many wireline central offices which are not

¹ USTelecom is the nation’s leading trade association representing service providers and suppliers for the broadband innovation industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications and broadband services to hundreds of millions of customers around the world.

² *In the Matter of Modernizing the FCC Form 477 Data Program*, Further Notice of Proposed Rulemaking, WC Docket No. 11-10, 32 FCC Rcd 6329 (Aug. 3, 2017) (*477 NPRM*).

³ Comments of the Boulder Regional Emergency Telephone Service Authority (BRETSA), WC Docket No. 11-10 (filed Oct. 10, 2017).

⁴ *Id.* at 6.

⁵ *Id.*

connected to the broader PSTN by redundant and diverse facilities, particularly in rural, sparsely populated and mountainous areas of the country and as a result, wireless 9-1-1 calls and text messages, and VoIP calls, are not routed or switched by such central offices or other local facilities, and therefore, are not even identified as such, until after the wireless or broadband traffic is transported beyond the local (wireline central office serving) area to the wireless Mobile Switching Center (MSC) or the Internet Gateway and VoIP Call Routing Function (VoIP CRF).⁶ BRETSA is concerned that if wireless and VoIP service in an area is not protected by diverse routing, wireless and VoIP calls never reach the MSC or VoIP CRF during an outage of the transport facility such as would result from a fiber cut.⁷

However, this suggestion to add yet another layer of required data to the FCC Form 477 reporting is completely unnecessary and duplicative. The Commission already requires the collection of this information and other similar data in the context of outage reporting and annual 9-1-1 resiliency certifications.⁸ Requiring such information on the FCC Form 477 would be in direct conflict with the Commission's commitment to ensure that data collection as a regulatory burden are not duplicative and merely for the sake of regulation.⁹

Additionally, requiring this sort of information on the FCC Form 477 would be counter to the Commission's previous finding that this information is sensitive and should be kept confidential. In multiple orders on this subject, the Commission has acknowledged that such

⁶ *Id.* at 4-5.

⁷ *Id.*

⁸ 47 C.F.R. §4.9(h); *In the Matter of Improving 911 Reliability and Reliability and continuity of Communications Networks, Including Broadband Technologies*, Report and Order, PS Docket Nos. 13-75 and 11-60, FCC 13-158 (Dec. 12, 2013) (*Resiliency Order*); *In the Matter New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 04-35, FCC 04-188 (Aug. 4, 2004) (*Part 4 Order*).

⁹ Commissioner O'Rielly's March 3, 2017 blog post, <https://www.fcc.gov/news-events/blog/2017/03/03/taking-stock-fcc-paperwork-burdens>. Commissioner O'Rielly states "While I strongly believe in data driven decision making and the need to ensure accountability, I have to question how much of the existing information collection is truly justified. I've observed that every new FCC policy seems to require a brand new data collection. And, once in place, the rules can live on long past their usefulness. Moreover, without sufficient coordination within the agency, the burdens can pile up without any clear understanding of the total burden on any given segment of the industry."

data is highly sensitive and needs to be protected to ensure that networks cannot be infiltrated.¹⁰

The Commission should respect that finding and continue to collect redundancy and resiliency information only through the current reporting mechanisms.

BRETSA points to the Commission's general statement that the purpose of the NPRM is to potentially revise the data collection to ensure the collection of accurate and reliable information to support its decision and policy making ability,¹¹ however, the Commission never makes any proposals to address 9-1-1 service in this proceeding. USTelecom believes that in attempting to raise this here, BRETSA is throwing a red herring into the proceeding. However, even if the existing 9-1-1 resiliency data collection does not cover the entirety of the data that BRETSA seeks to be collected, any subsequent efforts to collect this information must be accomplished via a process with sufficient procedural safeguards to ensure that this data is kept confidential and/or exempt from FOIA disclosure, similar to network outage data collected via the Part 4 of the Commission's rules or the 9-1-1 resiliency certification data.

¹⁰ See *e.g.*, *Part 4 Order* at para 6 and *Resiliency Order* at para 151.

¹¹ BRETSA Comments at 1.

For the reasons discussed herein, as the Commission considers various proposals to modernize the FCC Form 477, it should tread carefully and not adopt requirements that would result in minimal additional benefits while placing onerous, prescriptive requirements on providers. USTelecom and its members whole-heartedly support the Commission's initiative to ensure that the best available data is being collected, but USTelecom asks the Commission to carefully consider the issues addressed herein so new rules do not become the source of unnecessary and burdensome regulations.

Respectfully submitted,

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