

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

In the Matters of	§	
	§	
911 Governance and Accountability	§	PS Docket No. 14-193
	§	
Improving 911 Reliability	§	PS Docket No. 13-75

INITIAL COMMENTS OF TEXAS 9-1-1 ENTITIES

Table of Contents

	<u>Page No.</u>
I. Summary of Initial Comments	3
II. Policy Statement.....	7
III. Notice of Proposed Rulemaking	7
A. Revisions to Existing Rule 12.4.....	7
B. Proposed New Rule 12.5.....	10
C. Proposed New Rule 12.6.....	15
D. Proposed New Rule 12.7.....	16
IV. Conclusion	18

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

In the Matters of	§	
	§	
911 Governance and Accountability	§	PS Docket No. 14-193
	§	
Improving 911 Reliability	§	PS Docket No. 13-75

INITIAL COMMENTS OF TEXAS 9-1-1 ENTITIES

The Texas 9-1-1 Alliance,¹ the Texas Commission on State Emergency Communications,² and the Municipal Emergency Communication Districts Association³ (collectively, the “Texas 9-1-1 Entities”) respectfully submit the following initial comments in the Federal Communication Commission’s (the “Commission’s”) above-referenced proceedings seeking to propose specific rules designed to address system failures that resulted in recent multi-state 9-1-1 outages.⁴

¹ The Texas 9-1-1 Alliance is an interlocal cooperation entity composed of 25 Texas emergency communication districts with E9-1-1 service and related public safety responsibility for more than approximately 60% of the population of Texas. These emergency communication districts were created pursuant to Texas Health and Safety Code Chapter 772 and are defined under Texas Health and Safety Code Section 771.001(3)(B).

² The Texas Commission on State Emergency Communications (“CSEC”) is a state agency created pursuant to Texas Health and Safety Code Chapter 771, and by statute is the state program authority on emergency communications. CSEC oversees and administers the Texas state 9-1-1 program under which 9-1-1 service is provided in 214 of Texas’ 254 counties, covering approximately two-thirds of the geography and one-fourth of the state’s population.

³ The Municipal Emergency Communication Districts Association (“MECDA”) is an association of 26 municipal emergency communication districts, as defined under Texas Health and Safety Code § 771.001(3)(A), that are located primarily in the Dallas-Fort Worth area.

⁴ *911 Governance and Accountability; Improving 911 Reliability*, PS Docket Nos. 14-193 and 13-75, Policy Statement and Notice of Proposed Rulemaking, FCC 14-186 (rel. Nov. 21, 2014) (“NPRM”) (*available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-14-186A1.pdf*).

I. Summary of Initial Comments

The Commission's Policy Statement on new 9-1-1 service elements sets forth two guiding principles: (i) appropriate redundancy and reliability safeguards should exist and (ii) significant changes in 9-1-1 service should be coordinated in a transparent manner.⁵ The inclusion of clear, competitively neutral, and non-discriminatory expectations regarding 9-1-1 service will benefit the public and all stakeholders. 9-1-1 service must be appropriately redundant and reliable given its critical public safety purpose, but it must also be technically feasible, increases in costs should be prudent and justified, and major changes should be coordinated in a reasonable transition. The issue in the context of any revised and additional Commission regulations on these matters is the proper balancing of the potentially competing considerations.

In some respects, the Commission's rule proposals appear to be arguably over- and under-inclusive. In other respects, that issue remains to be determined, depending upon additional clarification of the intended scope and coverage of the proposed rules. As such, these initial comments address the proposed revisions to existing Rule 12.4 and the proposed addition of new Rules 12.5, 12.6, and 12.7, including identifying outstanding issues, offering potential alternatives, and requesting certain clarifications. These comments also note instances where collaborative discussion of alternatives may ultimately yield more effective approaches.

For purposes of the proposed revisions to Rule 12.4, the Commission should clarify certain questions regarding the scope and applicability of the revised rule. For example, the proposed rule revisions apply to entities that provide 9-1-1 service capabilities "indirectly as a contractor or agent of another entity," which leaves much room for misunderstandings and differing interpretations as to its scope and applicability. As explained herein in the context of

⁵ NPRM at 16.

comments with regard to proposed new Rule 12.7, there may be alternative ways to address gaps that could otherwise arise in the context of redundancy and reliability, transparency, and situational awareness.

Proposed new Rule 12.5(a) would require a Covered 911 Service Provider to provide public notification to the Commission at least 60 days before it makes “major changes” to existing 9-1-1 network architecture or services that “affect...more than one state.”⁶ Proposed Rule 12.5(b) also would require a Covered 911 Service Provider to file a public notification with the Commission and receive Commission approval (except as otherwise provided) at least 60 days prior to the discontinuance, reduction, or impairment of existing 9-1-1 services in more than one state.⁷ It is reasonable for the Commission to require documentation of certain 9-1-1 service matters, such as identification of which Covered 911 Service Provider is actually providing 9-1-1 selective routing or its IP equivalent. However, micromanagement by the Commission of all 9-1-1 changes as “major” changes is unwarranted. For purposes of changes with regard to 9-1-1 service, the Commission can simply take its existing interconnection rules applicable to Incumbent Local Exchange Companies (“ILECs”), and simply refine and tailor those existing rules for all Covered 911 Service Providers with additional appropriate 9-1-1 specificity.

With regard to the Commission’s questions addressing scenarios where ILECs transitioning from the public switch telephone (“PSTN”) to IP could have the effect of reducing or eliminating the availability of some or all legacy related 9-1-1 service components, it is in the public interest to provide for minimum timelines of 18 to 24 months for ILEC Section 214 discontinuance, with an option for a 12-month extension. In new entrant situations, an additional extra safeguard period of 12 months may be warranted for good cause shown. It is also in the

⁶ *Id.* at 38.

⁷ *Id.* at 39.

public interest for the Commission to timely address NG9-1-1 interconnection type issues, because failure to do so soon may delay the Session Initiation Protocol (“SIP”)⁸ as a viable 9-1-1 interconnection option and delay the sending of location information with 9-1-1 calls.

Proposed new Rule 12.6 appears somewhat ambiguous on the intent of the applicability of the certification requirement to entities providing one or more of the capabilities of a Covered 911 Service Provider, but who did not provide such capabilities “prior to November 21, 2014.”⁹ If the purpose of proposed new Rule 12.6 is to address new Covered 911 Service Providers and new deployments between annual certifications required by Rule 12.4, then a better way to express it may be to simply say that for any deployment not addressed within the Covered 911 Service Provider’s last Rule 12.4 annual certification, an interim filing is required to include any new deployments during the period until the next annual filing. However, if adding new Rule 12.6 is meant to require an independent certification for entities providing new IP-based capabilities – as opposed to simply a supplement of the last annual certification under Rule 12.4 – then the Commission should consider reconciling that requirement with 12.4 and any other applicable regulations on 9-1-1 service. The Commission should avoid potential ambiguities with regard to the provisioning of 9-1-1 service, and reconcile any potential conflicts, to be consistent for the benefit of public safety.

The addition of proposed new Rule 12.7 provides that the Covered 911 Service Provider responsible for transport of 9-1-1 calls and associated information in each jurisdiction, pursuant to a contractual relationship with the 9-1-1 authority, shall be the 9-1-1 Network Operations

⁸ SIP is a communications protocol for signaling and controlling multimedia communication sessions. The most common applications of SIP are in Internet telephony for voice and video calls, as well as instant messaging all over Internet Protocol (IP) networks.

⁹ NPRM at 40.

Center Provider (“9-1-1 NOC Provider”) in that jurisdiction.¹⁰ The Commission describes the 9-1-1 NOC Provider as the “transport” entity directing delivery of 9-1-1 calls, but designation of the 9-1-1 NOC Provider as the single entity responsible is too limiting, and will likely not fulfill the Commission’s intent in proposing Rule 12.7.

It is unwise to designate arbitrarily in advance the entity to serve in each jurisdiction as the 9-1-1 NOC Provider for all current and future deployment arrangements and 9-1-1 disruption situations, without considering the specific details of each jurisdiction. The Texas 9-1-1 Entities thus propose that Rule 12.7 be revised to authorize each jurisdiction to identify and document the appropriate 9-1-1 NOC Provider or 9-1-1 NOC Providers. The Texas 9-1-1 Entities further propose to add provisions in Rule 12.7 (i) requiring that each 9-1-1 NOC Provider submit and keep current an Emergency Operations Plan (“EOP”), and (ii) granting authority to each 9-1-1 NOC Provider to request and obtain from each affected Covered 911 Service Provider the necessary information to complete an EOP. Because proposed Rule 12.7 is directed at situational awareness and information sharing during disruptions in 9-1-1 service, adding an EOP requirement would serve as a preparedness document identifying the procedures and processes in the event of a 9-1-1 service disruption. In addition, this type of preplanning documentation approach is similar to what the Commission considered to be important aspects in the Commission’s recent Order and Consent Decree with Verizon.¹¹ Moreover, an EOP document could address the increasingly complex multi-vendor environment, by including things such as requiring all vendors to be on conference calls as appropriate when working outages,

¹⁰ *Id.* at 41.

¹¹ *See, In the Matter of Verizon*, File Nos. EB-SED-14-00017189, EB-SED-14-00017676, and EB-SED-14-00017373, Order and Consent Decree (rel. Mar. 18, 2015) (*available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0318/DA-15-308A1.pdf).

along with requiring timely status updates to the Commission, state PUCs, and public safety entities.

II. Policy Statement

The Commission Policy Statement preceding the NPRM provides two guiding principles for every entity with a role in 9-1-1 call completion:

[W]e believe that every entity with a role in 911 call completion should be guided by two principles: First, any new elements of 911 architecture or service should have the necessary redundancy and reliability safeguards, along with the appropriate governance mechanisms, to maximize reliability and protect public safety. Second, significant changes in 911 service should be coordinated in a transparent manner with the Commission and with state and local authorities. To the extent that technology transitions and changes in the market for 911 services create real or perceived gaps in the delivery of reliable and resilient 911 service, the Commission will act, in cooperation with state and local partners, to close those gaps and set clear expectations regarding each service.

These guiding principles should not be matters of dispute with regard to provisioning 9-1-1 service. Efforts to close gaps and provide clear, competitively neutral, and non-discriminatory expectations regarding 9-1-1 will unquestionably benefit the public and all stakeholders. It is axiomatic that the interconnected networks used to provide 9-1-1 service must be appropriately redundant and reliable. Equally true is that the regulations applicable to Covered 911 Service Providers must be technically feasible, and any resulting increases in costs should be prudent and justified, with all activities coordinated in a manner that achieves a reasonable and transparent transition for major changes in 9-1-1 network architecture and services.

III. Notice of Proposed Rulemaking

A. Revisions to Existing Rule 12.4

Existing Rule 12.4 is focused on annual attestation certifications by Covered 911 Service Providers, and on capabilities such as 9-1-1 call routing, automatic location information, and automatic number identification done by the service provider having a “direct” responsibility

relationship associated with that provisioning. More specifically, the items in the existing version of Rule 12.4 address “reasonable measures” or demonstrated “alternative measures” on critical 9-1-1 circuits, diversity audits, monitoring links, physical diversity, circuit auditing, backup power, and network monitoring.

The proposed revision to Rule 12.4: (i) adds to the specific listed items, “or any other capability required for delivery” of 9-1-1, E9-1-1, or NG9-1-1; (ii) removes the term “directly” and replaces it with “whether directly or indirectly as a contractor or agent to any other entity”; (iii) adds specific requirements on “geographically distributed,” “load balanced,” and “situational awareness”; (iv) adds requirements on “database and software configuration and testing” and “situational awareness and information sharing”; and (v) adds that for items other than those specifically listed in the existing or proposed version, the Covered 911 Service Provider must certify “reasonable measures” annually, or if those measures cannot be certified, then the Commission may accept alternative measures “that are reasonably sufficient.”¹²

Taking all of the proposed revisions to Rule 12.4 together, and assuming that a governmental authority is an “entity” (although by definition a governmental authority is not a “Covered 911 Service Provider”), certain questions arise on the scope and applicability of the rule that require further clarification. First, with regard to the new requirement to ensure that any software or database used by a Covered 911 Service Provider is designed, configured, and tested for reliable operation, would software developers or the suppliers of such databases now be considered Covered 911 Service Providers and thus subject to the “reasonable measures” requirement? If so, would the answer be different if the customer of the software developer or supplier is a 9-1-1 governmental authority that, except for the specific exclusion provided in the

¹² NPRM, pp, 35-38.

rule, otherwise fits the definition of a Covered 911 Service Provider? Second, if database suppliers and software developers are not independently covered, does that provide an incentive for Covered 911 Service Providers to essentially compel governmental authorities to have a direct relationship with the database suppliers and software developers? Third, with regard to a governmental authority that purchases, leases and/or obtains the databases and software for its own account but then hires a third party to manage or integrate the day-to-day operation, does that third party integrator/manager become a Covered 911 Service Provider for purposes of the rule? Fourth, if governmental authorities are operating the 9-1-1 systems, is there voluntary information that could be shared with the Commission that would be helpful? Fifth, in scenarios where there may be more than one Covered 911 Service Provider for the same system, including both a direct and indirect provider, which Covered 911 Service Provider would have responsibility to maintain real-time situational awareness under the proposed Rule 12.4 revisions?¹³

The redundancy and reliability alternatives of being able to switch between one or more available broadband networks may be completely out of the control of a single broadband network provider individually,¹⁴ but they can still be an important part of the optimal redundancy

¹³ The Commission has existing 9-1-1 service requirements for VoIP providers and wireless carriers, which are often subcontracted to third parties. Because VoIP Positioning Centers (“VPCs”) use their own systems and pANIs to route VoIP 9-1-1 calls, and wireless Mobile Positioning Centers (“MPCs”) use their own systems and wireless carrier pANIs to route wireless 9-1-1 calls, are VPCs and MPCs “Covered 911 Service Providers”? Are the VoIP providers and wireless carriers who utilize VPCs and MPCs, respectively, “Covered 911 Service Providers”? And, finally, do the VPC and MPC systems count as “used by the Covered 911 Service Provider” for the VoIP and wireless carriers?

¹⁴ See, e.g., <http://www.talari.com/solutions/> (“Whether the WAN is all MPLS, a hybrid WAN of MPLS and broadband, all Internet links, backed up with wireless, or extended to the cloud, Talari’s Software Defined THINKING WAN solution will ensure continuous availability and predictable performance for business applications to keep productivity moving at optimal speed.”); see also <http://www.cisco.com/c/en/us/solutions/enterprise-networks/intelligent-wan/index.html#~overview> (“As the volume of content and applications traveling across networks grows exponentially, organizations must optimize their WAN investments. Cisco Intelligent WAN (IWAN) helps you do just that.”).

and reliability approaches for a specific jurisdiction. As explained herein in more detail in the context of comments with regard to proposed Rule 12.7, there may be alternative ways to address gaps that could otherwise arise in the context of redundancy and reliability, transparency, and situational awareness.

B. Proposed New Rule 12.5

The addition of proposed new Rule 12.5 seeks to require public notification to the Commission at least 60 days before making “major” changes to existing 9-1-1 service that “affect...more than one state.”¹⁵ This would include, but not be limited to, a change in allocation of responsibilities with a subcontractor or third party, but exclude changes subject to an ILEC Section 251 public notice requirement and emergency changes. Proposed Rule 12.5 also seeks to require at least 60 days’ notification and Commission approval prior to the discontinuance, reduction, or impairment of existing 9-1-1 service that constitute in more than one state the exit from a line of 9-1-1 service, or a reduction or impairment of quality-of-service levels of 9-1-1 service.¹⁶ Proposed new Rule 12.5 excludes changes “initiated” by 9-1-1 governmental authorities, and changes subject to a Section 214 authorization.¹⁷

It is reasonable for the Commission to gather information as to which Covered 911 Service Provider is actually providing 9-1-1 selective routing or its IP equivalent, and for the Commission record not to be misleading or unclear in that regard.¹⁸ On the other hand,

¹⁵ NPRM, pp. 38-40.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ For example, a few years ago, the Denco Area 9-1-1 District (“Denco”) was in the process of deploying an IP 9-1-1 selective router via Verizon Business. Even though it did not involve a “multi-state change,” Verizon filed a Notice of Change with the Commission, and it was released for public comment. To our knowledge, the Commission received no comments regarding the notice. Thereafter, it is our understanding that Verizon made a nationwide business decision to no longer pursue providing IP selective routers. Verizon’s subcontractor, Intrado, accepted responsibility and completed the deployment for Denco. However, because

micromanagement by the Commission of all 9-1-1 service aspects through an overly broad definition of what constitutes a “major change” is unwarranted. The Commission has a reasonable Section 251 notification process for “major” changes that will potentially affect service of impacted parties – but those rules are currently limited to ILECs, although they do apply to services that are “telecommunications services or information services”¹⁹ As such, building on the existing Commission interconnection rules for ILECs that already apply to both telecommunications services and information services, for purposes of 9-1-1 service, the Commission should strongly consider taking its existing interconnection rules applicable to ILECs, and for all Covered 911 Service Providers simply refining those existing rules with additional appropriate 9-1-1 specificity, and providing that 9-1-1 service changes which affect other potentially impacted parties constitute “major” changes.

As early as the first Local Competition Order, the Commission explained:

Parties also argue that they need equal access to 911 and E911 services, including the underlying Automatic Location Indicator [sic] (ALI) database. Several state commissions have also asserted that such access is necessary for new entrants as well as incumbent LECs. NCTA asserts that competitors must have access to incumbent LEC systems for 911 and E911 services because currently only incumbent LECs maintain them. (Footnotes in original omitted)²⁰

But whether maintained by an ILEC, CLEC, or any other Covered 911 Service Provider, these same implications potentially affecting 9-1-1 service can apply to the other impacted stakeholder

Denco was no longer Verizon’s 9-1-1 customer, Verizon was not required to make an update filing. Intrado was gaining Denco as a 9-1-1 customer but, as a non-ILEC, Intrado was not required to file a section 251 notice. While all the interested 9-1-1 stakeholders received notice from Intrado and Denco for deployment purposes, if someone were looking only to the section 251 documentation in the Commission record, they might mistakenly conclude that Verizon was still the entity providing the IP selective router to Denco.

¹⁹ See 47 U.S.C. § 51.325 (d) (“For the purposes of §§ 51.325 through 51.335, the term *services* means telecommunications services or information services.”).

²⁰ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket Nos. 96-98, 95-185, First Report and Order at ¶ 470 (rel. Aug. 8, 1996) (“Local Competition Order”) (available at <http://apps.fcc.gov/ecfs/document/view?id=1722630009>).

parties. Moreover, the list of new stakeholders that must connect to 9-1-1 systems continues to increase, and will likely increase more in the context of NG9-1-1 service. Therefore, defining “major” 9-1-1 service changes as those which can potentially affect the 9-1-1 service of other impacted parties is a reasonable and prudent exercise of the Commission’s interconnection authority in the context of 9-1-1 service. This definition need not be limited to changes that impact more than one state, and should include addressing changes that impact IP interconnection for 9-1-1 as well.

The Commission also asked questions regarding scenarios where ILECs transitioning from the PSTN to IP networks could be reducing or eliminating the availability of some or all legacy related 9-1-1 service components.²¹ The Texas 9-1-1 Entities recently filed the following recommendations on those issues in another docket:

Under these potential circumstances, where requested by PSAPs or 9-1-1 authorities, it is reasonable for the Commission as a general rule to require that there will be an “available” minimum transition period of 18 to 24 months with an additional option for a 12-month extension before a legacy 9-1-1 selective router may be discontinued—unless the applicable PSAPs or 9-1-1 authorities specifically request or voluntarily agree in writing to a shorter minimum period. Depending on the specific facts and circumstances presented to the Commission by the interested parties with regard to a legacy 9-1-1 selective router discontinuance, it is possible that an extension beyond the time period in the general rule may be appropriate.²²

²¹ NPRM at ¶¶ 53-54 (“[W]e believe that incumbent 911 service providers that have historically taken responsibility for reliable 911 call completion have undertaken a public trust that cannot simply be relinquished at will. While incumbents are entitled to make decisions about their businesses and pursue new and different lines of service, they are not entitled to do so in a manner that endangers the public or leaves stakeholders uninformed with respect to the functioning of the combined network.” ... We therefore propose that covered 911 service providers that seek to discontinue, reduce, or impair existing 911 service in a way that does not trigger already existing authorization requirements should be required to obtain Commission approval. We seek comment on this proposal, and on ways the Commission might address the details of implementation.” [footnote in original omitted]).

²² *In the Matter of Technology Transitions*, CC Docket No. 13-5, Initial Comments of Texas 9-1-1 Entities at 4-5 (Feb. 5, 2015) (available at <http://apps.fcc.gov/ecfs/document/view?id=60001027137>).

With regard to non-ILECs, these types of issues should generally be addressed via contracts. But given the time that it can reasonably take to transition a truly “major” change, such as transitioning from legacy to IP selective routing, even in a fully competitive market, a minimum additional period of 12 months, in the event of a contractual dispute regarding extension (but assuming full payment comparable to at least the current rate during that additional period) upon a showing of good cause is a likely reasonable minimum additional “extra” period that balances both competitive market/contractual realities and unforeseen timing of public safety considerations.

Areas that either have transitioned, or are in the process of transitioning, their network architecture to IP technology, have usually not addressed “wholesale” 9-1-1 interconnection and competitive carrier issues that may be necessary to move beyond the early stage of NG9-1-1 transition. As the Commission stated, “We do not address here the application of the *King County Decision* to ESInets and other NG911 network components and defer for another day the complex issues of interconnection and cost recovery in an NG911 environment.”²³ The Commission’s intentional exclusion of these issues from consideration in the NPRM leaves a major gap in NG9-1-1 that may ultimately have potential adverse impacts on the reliability, transparency, and situational awareness that the Commission seeks to promote in this NPRM.

Interconnection is so fundamental to 9-1-1 service that Congress also expressly granted the Commission authority over PSAPs “with ownership or control,” with regard to VoIP providers having access to necessary elements.²⁴ Thus, interconnection is an area where the

²³ NPRM at ¶17, footnote 25.

²⁴ The NET 911 Improvement Act of 2008 provides: “(b) PARITY FOR IP-ENABLED VOICE SERVICE PROVIDERS.—An IP-enabled voice service provider that seeks capabilities to provide 9–1–1 and enhanced 9–1–1 service from an entity with ownership or control over such capabilities, to comply with its obligations under subsection (a), shall, for the exclusive purpose of complying with such obligations, have a right of access to such capabilities, including interconnection, to provide 9–1–1 and enhanced 9–1–1 service on the

Commission may have its broadest express statutory authority. But notwithstanding that fact, as far as IP interconnection for 9-1-1 service, the Commission has yet to consider these matters even though consideration may promote availability of SIP interconnection for 9-1-1, further advance sending location information with 9-1-1 calls, and perhaps be a fundamentally important potential contribution towards furthering NG9-1-1 nationwide via IP.

In sum, with regard to proposed Rule 12.5, the Commission should reasonably do three things for the benefit of 9-1-1 service, public safety, and the public interest. First, building on the existing Commission interconnection rules for ILECs that already apply to both telecommunications services and information services, for purposes of changes with regard to 9-1-1 service, the Commission can simply take its existing interconnection rules applicable to ILECs, and provide that 9-1-1 service changes which affect other potentially impacted parties are “major” changes. Second, with regard to the Commission’s questions regarding scenarios where ILECs transitioning from the PSTN to IP could be reducing or eliminating the availability of some or all legacy related 9-1-1 service components, it is in the public interest to provide for minimum timelines of 18 to 24 months for ILEC Section 214 discontinuance, with an option for a 12 month extension, and in new entrant situations, to provide for an additional extra period safeguard of 12 months for good cause shown. Third, it is also in the public interest for the Commission to timely address NG9-1-1 interconnection type issues, because failure to do so soon may delay SIP as a viable 9-1-1 interconnection option and delay the sending of location information with 9-1-1 calls.

same rates, terms, and conditions that are provided to a provider of commercial mobile service (as such term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))), subject to such regulations as the Commission prescribes under subsection (c) ... “(3) may modify such regulations from time to time, as necessitated by changes in the market or technology, to ensure the ability of an IP-enabled voice service provider to comply with its obligations under subsection (a) and to exercise its rights under subsection (b).”

C. Proposed New Rule 12.6

Proposed new Rule 12.6 requires “entities” that provide one or more capabilities of a Covered 911 Service Provider but did not do so “prior to November 21, 2014,” to certify to the Commission that they possess the technical and operational capability to provide reliable 9-1-1 service, have conducted reliability and security risk analysis, and understand and agree to abide by thereafter the Commission’s annual reliability certification and any other applicable Commission rules. But proposed Rule 12.6 appears somewhat ambiguous on the Commission’s intent. For example, did the Commission intend the phrase to mean that the entity did not provide “anywhere nationwide,” did not provide “in the state,” or did not provide to “in that particular region or to that particular customer”? Did the Commission intend for “provide” to be satisfied before that date by contract, testing or by “partial turn up”? Finally, did the Commission intend that an entity broken into many subsidiaries can rely on other subsidiaries or parent company to meet such requirements and deadlines?

It appears that at least one purpose of the November 21, 2014 date may simply be an attempt to catch new “Covered 911 Service Providers” or things not covered in the last provided “annual certification” under Rule 12.4. If the purpose is to address new Covered 911 Service Providers and new deployments since the last certifications, perhaps a better approach would be to simply say that “for any deployment not addressed within the Covered 911 Service Provider’s last Rule 12.4 annual certification,” an interim filing is required to include the new deployments during the period until the next annual filing. Because Rule 12.6 also appears to add “have conducted reliability and security risk analysis,” Rule 12.6 would seem to be proposing requirements beyond what is required by the Rule 12.4 annual filings. If such is the case, then it is reasonable to discuss and consider why such requirements are not simply proposed as

revisions to Rule 12.4 as a matter of competitive neutrality and fairness and to remove ability about how to interpret “did not provided by November 21, 2014” language.

If adding Rule 12.6 is meant to be an independent “certification” for new “Covered 911 Service Providers,” as opposed to simply a supplement to the last annual certification under Rule 12.4, then the Commission should consider reconciling this rule with Rule 12.4 and any other applicable regulations on 9-1-1 service. Moreover, the Commission and state PUCs have worked together in cooperation on multiple issues in the past, with examples of such being “numbering” matters and interconnection agreements and arbitration matters. The Commission should clarify this ambiguity.

D. Proposed New Rule 12.7

Proposed Rule 12.7 provides that the Covered 911 Service Provider responsible for transport of 9-1-1 calls and associated information, pursuant to a contractual relationship with the 9-1-1 authority, shall be designated as the 9-1-1 NOC Provider in that jurisdiction. The Commission describes the 9-1-1 NOC Provider as the “transport” entity “directing” delivery of 9-1-1 calls.²⁵ Proposed Rule 12.7 provides that the 9-1-1 NOC Provider shall, among other things, coordinate situational awareness and information sharing during disruptions in 9-1-1 service and communicate to any other affected covered service provider, PSAPs, state emergency management offices, and the Commission’s Operations Center, all information

²⁵ This could be read to be the entity with the intelligence for “directing” the transport of 9-1-1 calls (*e.g.*, the IP selective router or Emergency Service Routing Proxy [ESRP]) or the entity that is simply a transport network provider (*e.g.*, IP or MPLS network connecting PSAPs). However, neither one may be the optimal or appropriate 9-1-1 NOC in some or all cases. For example, in the Denco deployment discussed earlier, for example, “Intrado is the IP selective router provider of the intelligence for 9-1-1 call routing, but “Verizon Business” (with additional Denco microwave backup) is a transport network provider. In other deployments, a 9-1-1 authority governmental entity may be providing the IP selective router or ESRP functions. But in these situations a broadband transport provider that may have little 9-1-1 specific expertise may be one of the least desirable options, especially when there is more than one broadband transport provider for the same 9-1-1 system deployment.

reasonably available to mitigate the effects of the disruption and to restore 9-1-1 service. Proposed Rule 12.7 further provides that “all other Covered 911 Service Providers” shall communicate to the 9-1-1 NOC Provider all reasonably available information regarding the cause and scope of a disruption in 9-1-1 service that occurs on or affects portions of the 9-1-1 network that they own, lease, or otherwise operate or control, and shall respond promptly to any request for such information by the 9-1-1 NOC Provider.

Designation of the 9-1-1 NOC Provider as the single entity responsible is too limiting and will likely not fulfill the Commission’s intent in proposing Rule 12.7. An entity that is solely a transport provider may be the least informed about the underlying 9-1-1 network configuration and facilities being used, and in some cases the 9-1-1 systems service provider may not be the optimal choice for some or all aspects, either. Because it is unwise to establish the entity that should always be the 9-1-1 NOC Provider without considering the specific details of the jurisdiction, the Texas 9-1-1 Entities propose that Rule 12.7 be revised to authorize each jurisdiction to identify and document the 9-1-1 NOC Provider or 9-1-1 NOC Providers. This would include the availability and option for the 9-1-1 governmental authority to designate itself as the 9-1-1 NOC Provider, fully or partially, if that is the best answer for its specific jurisdiction deployment.

The Texas 9-1-1 Entities further propose to add to Rule 12.7 requirements that each 9-1-1 NOC Provider submit and keep current an EOP, and that each 9-1-1 NOC Provider has the authority to request and obtain from Covered 911 Service Providers the necessary information to complete an EOP. Because Rule 12.7 is directed at situational awareness and information sharing during disruptions in 9-1-1 service, adding an EOP requirement would serve as a critical preparedness document identifying the procedures and processes in the event of a disruption (*i.e.*,

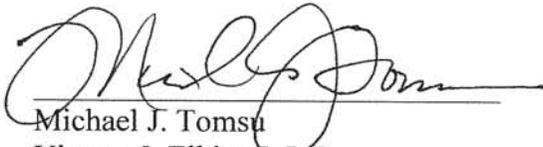
it complements the situational awareness role of the 9-1-1 NOC Provider by not having it start from scratch when there is a disruption event). In addition, this type of in advance preparedness documentation approach is similar to what the Commission considered to be important aspects in the Commission's recent Order and Consent Decree with Verizon.²⁶ But the EOP suggested herein is broader and potentially more effective in scope and coverage because it is not limited to solely one company and its subcontractors. Furthermore, an EOP document that includes all stakeholders may result in the more appropriate 9-1-1 NOC Provider providing situational awareness than might be the case solely under the NPRM's proposed approach. In an increasingly complex multi-vendor environment, an EOP would provide essential procedures and requirements for all entities necessary to respond to an outage.

IV. Conclusion

The Texas 9-1-1 Entities appreciate the opportunity to provide these initial comments on these important matters, and respectfully request that the Commission take action on these matters consistent with these initial comments.

²⁶ See, *In the Matter of Verizon*, File Nos. EB-SED-14-00017189, EB-SED-14-00017676, and EB-SED-14-00017373 at pp. 5-8 (rel. Mar. 18, 2015) (“Verizon shall develop and implement procedures to maintain current contact information for officials designated to receive outage notifications at each PSAP that it serves. Verizon also shall contact each PSAP that it serves to establish in advance and periodically review procedures for outage notifications under the Commission’s rules” ... “Verizon shall review and revise its existing processes for receiving, gathering, analyzing, and reporting information about outages on subcontractor networks to ensure that such processes (1) collect information known to its subcontractors about the impact of an outage on any PSAPs and (2) enable Verizon to notify contact personnel designated by any affected PSAP with available information that may be useful to the management of the PSAP to mitigate the effects of the outage. Specifically, Verizon shall use best efforts to, within 180 days” ... “Within ninety (90) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall set forth the Commission’s rules regarding 911 service reliability and outage notification and the Operating Procedures that Covered Employees shall follow to help ensure that Verizon complies with such rules. Verizon shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Verizon shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.”).

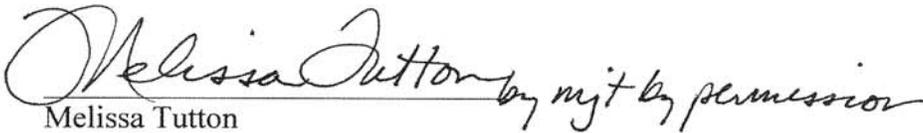
Respectfully submitted,



Michael J. Tomsu
Vinson & Elkins L.L.P.
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512-542-8527
512-236-3211 (fax)
mtomsu@velaw.com
On behalf of the Texas 9-1-1 Alliance



Patrick Tyler
General Counsel
333 Guadalupe Street, Suite 2-212
Austin, Texas 78701-3942
512-305-6915
512-305-6937 (fax)
Patrick.tyler@csec.texas.gov
On behalf of the Texas Commission on State Emergency Communications



Melissa Tutton
President
On behalf of the Municipal Emergency Communication Districts Association

On the comments:

Richard A. Muscat
Bexar Metro 9-1-1 Network District

March 23, 2015