

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

10-07-16
04:59 PM

Order Instituting Investigation to Address
Intrastate Rural Call Completion Issues.

Investigation 14-05-012
(Filed May 15, 2014)

**COMCAST PHONE OF CALIFORNIA, LLC'S (U5698C) COMMENTS ON
SEPTEMBER 27, 2016 ASSIGNED COMMISSIONER RULING**

Suzanne Toller
Zeb Zankel
Davis Wright Tremaine LLP
505 Montgomery Street, Suite 800
San Francisco, CA 94111-6533
Tel: (415) 276-6500
Fax: (415) 276-6599
Email: suzannetoller@dwt.com
zebzankel@dwt.com

Attorneys for Comcast Phone of California, LLC

Dated: October 7, 2016

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Investigation to Address
Intrastate Rural Call Completion Issues.

Investigation 14-05-012
(Filed May 15, 2014)

**COMCAST PHONE OF CALIFORNIA, LLC'S (U5698C) COMMENTS ON
SEPTEMBER 27, 2016 ASSIGNED COMMISSIONER RULING**

Pursuant to the Assigned Commissioner's Ruling ("9/27 ACR"), dated September 27, 2016, Comcast Phone of California, LLC (U5698C) ("Comcast Phone")¹ respectfully submits these comments on certain issues raised at public participation hearings and workshops.² As an initial matter, the list of questions presented in Section I of the 9/27 ACR expands the scope of this proceeding beyond the issues presented in the Order Instituting Investigation ("OIR") (issued May 21, 2014) and Scoping Memo and Ruling (issued May 6, 2015). Specifically, the questions venture into areas of 2-1-1, utility infrastructure, and service quality issues that were not contemplated in the scope of this proceeding, and therefore should not and cannot properly be the subject of a California Public Utilities Commission ("Commission") decision in this proceeding.³ Comcast Phone offers comments on certain of these questions to provide background information to the Commission without waiving any rights to contest the inclusion of these topics in any decision. Comcast Phone also comments on certain items addressed at the

¹ The May 6, 2015 Ruling added Comcast Phone as a respondent to this proceeding. As explained in its opening comments, all residential and business voice calls originated by Comcast Phone's non-certificated affiliate Comcast IP Phone, LLC in California use Voice over Internet Protocol ("VoIP") technology. Accordingly, Comcast Phone respectfully asserts that the Commission has no jurisdiction to require Comcast Phone to provide information regarding these calls given the clear deregulatory mandate of Public Utilities Code § 710 as to VoIP services. Comcast Phone provides these responses on a voluntary basis and without waiving any of its jurisdictional arguments.

² The 9/27 ACR "requests," but does not mandate, comments on the questions presented. Comcast Phone has voluntarily chosen to comment on certain, but not all, questions presented.

³ See *Southern California Edison Co. v. Pub. Util. Comm'n.*, 140 Cal. App. 4th 1085, 1106 (2006) ("The PUC's failure to comply with its own rules concerning the scope of issues to be addressed in the proceeding therefore was prejudicial.").

public participation hearing hosted in Santa Cruz, CA on September 20, 2016 (“Santa Cruz PPH”).

In this response, Comcast Phone urges the Commission to avoid duplication and waste by relying on the regulation and reporting systems already in place through the Federal Communications Commission (“FCC”), or already in operation by the Commission. Further, the Commission should avoid exploring issues where no problems have been demonstrated, or where issues are appropriately suited for other dockets. The Commission can, however, help ensure network redundancy and resiliency by enabling the deployment of certain utility infrastructure as described below. Comcast Phone also provides additional information regarding its responses on the record at the Santa Cruz PPH, including how Comcast Phone responds to customer social media posts.

I. COMMENT ON ASSIGNED COMMISSIONER RULING QUESTIONS

A. Response #1: The Commission should avoid duplication and waste by relying on the reporting systems already in place pursuant to Federal Communications Commission rules for both (i) rural call completion, and (ii) outages.

Question #1: *“Monitoring Call Completion Failures: Should the Commission establish a real-time reporting system for call completion failures within California?”*

It is unclear if this question is seeking comment on the adoption of a reporting system for (i) rural call completion failures due to blocking, failure to route calls, etc., or (ii) more broadly, for any rural call completion failure due to an outage. Each of these is addressed below.

1. Rural Call Completion Reporting

Rather than initiating a duplicative, burdensome, and wasteful rural call completion reporting system in California, the Commission can and should access the federal reporting system, which addresses completion information, among other things. Relying on the federal system, as opposed to establishing a separate California system for rural call completion

reporting, better serves the public interest for many reasons. First, as almost every party stated in their comments or responses submitted on June 12, 2015 on the Scoping Memo and Ruling, rural call completion issues are best addressed on a nationwide, not a state-by-state, basis.⁴ Even consumer advocates encouraged the Commission to “consider the FCC’s process as it addresses reporting on rural call completion in California.”⁵

Second, the FCC has been aggressive in addressing rural call completion issues. It established the Rural Call Completion Task Force in 2011, subsequently adopted extensive intra- and interstate call reporting requirements, and has made clear that it will make the reports available to the states.⁶ The FCC also established a rule prohibiting both originating and intermediate providers from sending a ringtone to the caller before the terminating provider has

⁴ *Comcast Phone Opening Comments* at 1-2 (“rural call completion issues are best addressed on a nationwide, not a state-by-state basis...”); *Charter Opening Comments* at 3-4 (“FCC has already comprehensively addressed intrastate and interstate rural call completion issues.... no other action of the Commission is needed.”); *Cox Opening Comments* at 7 (“The FCC has completed a thorough investigation into rural call completion problems...”); August 20, 2014 *Verizon Reply Comments to Order Instituting Rulemaking (OII)* at 1 (“there is substantial consensus that existing laws and rules [regarding rural call completion] are sufficient.”); July 14, 2014 *AT&T Opening Comments to OII* at 1-2 (“call termination in rural areas is not localized, but rather a national problem which requires FCC action to resolve”); *Consolidated (SureWest) Responses* at 3 (“the benefit of participating cooperatively with the FCC in its efforts to address the issue rather than duplicate the federal efforts may be an important lesson the Commission might learn ...”); *Frontier Opening Comments* at 2 (“the recent FCC activity and rulings regarding call completion fully address the concerns raised in this [OII].”); *Responses of Calaveras Tel. Co. et al. (“Small LECs”)* at 6 (“it is recommended that the Commission participate cooperatively with the FCC’s current efforts to address the problem rather than attempting to deal with the problem as a separate California-only issue.”).

⁵ *TURN and CforAT Comments* at 3 (June 12, 2015).

⁶ *FCC Launches Rural Call Completion Task Force to Address Call Routing and Termination Problems in Rural America*, News Release, 2011 FCC LEXIS 3926 (Sept. 26, 2011); *In re Rural Call Completion*, FCC 13-135, WC Docket No. 13-39, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 16154 ¶¶ 68, 109 (rel. Nov. 8, 2013) (“2013 Rural Call Completion Order”). In a related matter, the FCC modified its intercarrier compensation rules to address, in part, financial incentives with respect to call completion. *In re Developing an Unified Intercarrier Compensation Regime*, FCC 11-161, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (rel. Nov. 18, 2011).

actually signaled that it is alerting the called party.⁷ Additionally, the FCC has robust rules prohibiting carriers from blocking, choking, reducing, or restricting traffic in any way,⁸ and it has taken enforcement actions to address allegations of poor service to rural carriers.⁹

Third, in light of the comprehensive federal system, additional state-by-state reporting would be redundant at best, and more likely needless, burdensome, and wasteful expense that would ultimately be borne by consumers. Rural call completion is an issue best addressed from a national perspective, not on a state by state basis. In particular, the FCC and Congress have recognized that intermediate carriers, who generally operate on a national basis, are a key to addressing call quality issues. Congress is considering federal legislation to address this problem.¹⁰ Regulation (and data collection) by any state would almost certainly be less meaningful than Congress' and the FCC's more comprehensive framework, and thus necessarily less useful.

Additionally, in the Assigned Commissioner's Ruling ("9/8 ACR"), dated September 8, the question was posed: "Should the Commission receive copies of reports of call completion failures involving other states?"¹¹ While Comcast Phone believes no state action is required in

⁷ 2013 Rural Call Completion Order, 28 FCC Rcd 16154, ¶ 111.

⁸ *In re Developing a Unified Intercarrier Compensation Regime*, Declaratory Ruling, DA 12-154, 27 FCC Rcd 1351 (rel. Feb. 6, 2012).

⁹ *E.g.*, *In re Verizon*, Adopting Order, DA 15-308, 30 FCC Rcd 245 (rel. March 18, 2015); *In re Matrix Telecom, Inc.*, DA 14-679, Order, 29 FCC Rcd 5709, ¶ 1 (rel. June 4, 2014). As part of the *Verizon* consent decree, Verizon held a rural call completion workshop in Washington, D.C. on April 22, 2015. The workshop was held to discuss methods to identify and isolate the causes of, and to develop strategies to avoid, detect, and resolve rural call completion problems. A second workshop will be held in approximately two years to address the then-current state of rural call completion, notable successes, and continued challenges since the first workshop.

¹⁰ The House amended and passed S. 253, The Communications Act Update of 2016, on September 27, 2016. The amendments to the bill included the previously approved House bill on the subject of rural call completion, H.R. 2566, Improving Rural Call Quality and Reliability. This legislation has now moved back to the Senate for consideration.

¹¹ 9/8 ACR at 4.

light of the FCC’s extensive program, if the Commission does plan to address rural call completion, it should focus only on California intrastate calling to avoid jurisdictional overstep and administrative waste. The Commission has no jurisdiction over interstate or non-California telecommunications activity. The FCC seemingly recognized this limitation by deciding to focus its data share with state commissions of rural call completion data “within their states.”¹² Further, there may be differences among the states, including rural population and regulatory schemes, that would make a review (and comparison) of other state reports ineffective for reviewing California rural call completion reports—essentially mixing apples and oranges.

2. Outage Reporting More Generally

As noted above, outage reporting is not an issue within the scope of this docket. Outage reporting is within the scope of the service quality proceeding,¹³ in which a recently issued decision declined to adopt any state specific rural outage reporting requirement.¹⁴ Moreover, state specific rural outage reporting requirements (i) run the risk of conflicting with the FCC’s outage reporting regime, which is currently undergoing review in an open FCC rulemaking,¹⁵ and (ii) will necessarily be less comprehensive than any outage reporting requirement that the FCC may adopt given the FCC’s broad scope of jurisdiction over many types of providers, including VoIP and wireless providers.

¹² *In re Rural Call Completion*, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-135, WC Docket No. 13-39, 28 FCC Rcd 16154, ¶46 & ¶109 (rel. Nov. 8, 2013) (“We will also be better able to advise our state partners of relevant problems *within* their states.”) (emphasis added).

¹³ R.11-12-001, *Order Instituting Rulemaking* at 13 (issued December 12, 2011).

¹⁴ See D.16-08-021, mimeo at 27 (“[T]he FCC is currently reviewing rural outage reporting by service providers”).

¹⁵ See *Amendments to Part 4 of the Comm’n’s Rules Concerning Disruptions to Communications*, Report and Order, Further Notice Of Proposed Rulemaking, and Order On Reconsideration, FCC 16-63, PS Docket No. 15-80, 31 FCC Rcd 5817 (rel. May 26, 2016).

B. Response #2: If needed, the Commission could use the current customer reporting systems to address false disconnected messages.

Question #2: What steps should the Commission take to address these falsely announced call completion failures? ... What additional steps should the Commission take to ensure that carriers appropriately recognize the location and county from which calls are placed so they are properly routed to 2-1-1 or other numbers? ... What steps should the Commission take to ensure that business network operators are informed about the steps they can take to enable callers to reach 2-1-1 or other short codes such as 8-1-1 (call before you dig), as well as 9-1-1, and that carriers take steps to enable such calls?

Although it is not clear, it appears that this question is seeking information about several topics: (i) false disconnect messages generally; (ii) proper routing to 2-1-1 based on geographic location; and (iii) short code dialing. As an initial matter, while the false disconnected messages to 2-1-1 reported at the Eureka PPH may implicate call completion issues, any inquiry into carrier recognition of call origination, 2-1-1 calls routing, or the actions necessary for business network operators to enable callers to reach short codes, exceeds the scope of this proceeding. These types of issues were not included in the OIR or Scoping Memo, and are attenuated from the task at hand, which is to address rural call completion issues.

The Commission has already demonstrated, in this docket, the appropriate action for addressing false disconnected or not in service messages. As discussed in the 9/8 ACR, when the Commission received reports of false disconnected or not in service messages, it issued a ruling requiring an investigation and a report by the companies implicated by the consumer reports of error messages.¹⁶ This model appropriately addresses any error messages that might arise.

Further, to ensure that the Commission is made aware of such error messages, the Commission already has in place an appropriate customer reporting system. The Commission's Consumer Affairs Branch ("CAB") already addresses informal complaints, submitted by

¹⁶ 9/8 ACR at 11-12, Ruling ¶ 1.

consumers against utility providers that are subject to Commission authority.¹⁷ If the Commission believes that consumers are not utilizing this process, then the Commission could choose to better advertise and promote this process with local organizations, like the organizations described in the ACR.¹⁸ Such efforts would be far more effective and efficient than inventing a new process. CAB already receives complaints through phone, mail, fax, *and online*.¹⁹ Accordingly, a separate web page to receive reports of error messages is unnecessary. The Commission should make use of existing programs before duplicating the efforts of existing programs.

C. Response #3: There is no reason for the Commission to explore collect call issues with VoIP-based phone services where no substantiated issue has been shown.

Question #3: Inability to place collect calls over VoIP-based phone services: Discuss information about this issue. What steps should the Commission take to gather information about the ability to place collect calls regardless of technology?

Comcast Phone is unaware of any issues relating to placement of collect calls involving VoIP services. As noted by Sarah DeYoung of CALTEL at the Santa Cruz PPH: “interconnected VoIP is certainly capable of delivering collect calls.” Moreover, with the proliferation of unlimited calling plans, such as Comcast’s XFINITY Voice Unlimited, reliance on placing collect calls has presumably materially diminished.

Further, out of all PPHs conducted in this proceeding, the issue of collect calls has come up only once in public comment—an audience member at the Guerneville PPH mentioned that he heard from “some techs in Los Angeles” that “you cannot receive collect calls from a VoIP

¹⁷ See Consumer Affairs Branch, <http://consumers.cpuc.ca.gov/cab/>.

¹⁸ 9/8 ACR at 5.

¹⁹ See Consumer Affairs Branch, <http://consumers.cpuc.ca.gov/cab/>.

line....”²⁰ Appropriately, the presiding Administrative Law Judge and Commissioner chose not to explore this comment further at the PPH. The allegation is simply not true with respect to Comcast’s VoIP offerings, and without a substantiated complaint or report, it would be a waste of the Commission’s and utility’s resources to add this topic to the already lengthy list of issues being explored in this rural call completion docket—especially if the Commission intends to reach a decision within the statutory time period, ending December 2016.

D. Response #4: Pole and line safety issues are outside the scope of the proceeding, and more appropriately addressed in the various proceedings and Commission programs created to address these issues.

Question #4: How should the Commission address concerns about pole overloading, leaning poles, low and dangling wires, wires attached to trees (dead and alive, near pest infested trees or in areas of high fire danger), poles bearing the weight of vegetation? What actions should the Commission take to address these issues and their effect on call completion, 9-1-1 and dial tone access?

Issues relating to pole safety are outside the scope of this docket. Any actions by the Commission to explore facility issues or compliance with General Order (“G.O.”) 95 to address lines or poles, should be addressed in the pending proceeding that is already focused on pole safety issues in high fire areas (R.15-05-006), through the Commission’s Electric and Communication Facility Safety Section (“ECFSS”) audit program, or through the G.O. 95 Rules Committee. Pole safety issues are technical and complex and require the participation of all pole owners and attachers—including electric utilities which are not parties to this docket. The aforementioned procedural vehicles have the requisite utility participation and technical expertise to address G.O. 95 compliance issues.

²⁰ Guerneville PPH Tr. at 809:7-16 (August 23, 2016). The speaker did *not* mention that such a call involved a prisoner, which Commissioner Sandoval indicated at the Santa Cruz PPH. Santa Cruz PPH Tr. at 963: 9-26 (Sept. 20, 2016).

E. Response #5(a): No further outage reporting requirements are necessary in light of current federal government activity and industry practices.

Question #5(a): Should 9-1-1 or dial outages be promptly reported to Public Safety Answering Points (PSAPs), local public safety officials, and the CPUC? Should outages be reported to the public? How widespread and lengthy should the outage be before the reporting is required? Should reporting requirements vary by area, e.g. rural vs. urban

The Commission need not, and should not, require additional outage reporting to PSAPs and the Commission because voice service providers already provide outage reports, including 9-1-1 outage reports, to the Commission pursuant to GO 133-D, Rule 4, and 9-1-1 outage reports to the PSAPs in California pursuant to Part 4 of the FCC's rules. In other words, additional outage reporting requirements would seek to achieve a goal which has already been achieved.

Additionally, the FCC has comprehensively addressed 9-1-1 outage reporting and is examining how its existing "Part 4" rules (governing Network Outage Reporting System ("NORS")) should be updated in several pending proceedings.²¹ In addition, the FCC currently has an open proceeding regarding 9-1-1 reliability.²² The Commission should rely on the outcome of these FCC proceedings, which address the entire 9-1-1 ecosystem.

Finally, Comcast has a comprehensive website that provides important information for PSAPs, including how and where to report 9-1-1 outages, 9-1-1 network changes, no record found, misroutes or requests for records to support emergency notification systems. See <http://psap.xfinity.com/>.

²¹ See, e.g., *In re Amendments to Part 4 of the Comm'n's Rules Concerning Disruptions to Communications*, Notice of Proposed Rulemaking, FCC 15-39, Second Report and Order, and Order on Reconsideration, 30 FCC Rcd 3206, ¶ 51 (rel. March 30, 2015).

²² See *In re 911 Governance and Accountability and Improving 911 Reliability*, Policy Statement and Notice of Proposed Rulemaking, FCC 14-186, 29 FCC Rcd 14208 (rel. Nov. 21, 2014).

F. Response #5(e): Telecommunications companies already build redundancy and resiliency into their networks, but they require Commission assistance to deploy on utility infrastructure to ensure such redundancy and resiliency.

Question #5(e): What steps should the Commission take to assure that an outage in one area of the local network does not bring down the network region-wide? What steps should the Commission take to promote resiliency, safety, and reliability for 9-1-1 and dial tone access for the public, safety officials, and first responders?

As noted above, it is essential that the Commission avoid venturing outside the scope of this proceeding into issues like outages, which are within the scope of the service quality proceeding. Moreover, it is important that the Commission recognize that modern networks already incorporate resiliency and redundancy into their design. In particular, packet-switched broadband networks, such as those deployed by Comcast, contain a host of redundancies in their architecture to avoid outages, including redundant fiber rings and optical node receivers. They break up information into small data packets, which can travel over multiple routes before being reassembled at their destination. Furthermore, the network is often capable of fixing itself through dynamic routing, backup power, and multiple access points to reach fiber and other facilities.

There are, however, several ways that the Commission can address gaps in communications facilities and services. Most notably, the Commission can ensure that cable companies and competitive local exchange carriers (“CLECs”) have access to utility poles, especially where such poles are jointly owned by incumbent local exchange carriers (“ILECs”) and investor-owned utilities (“IOUs”). Such action will ensure that providers can appropriately build out their networks and ensure the most current facilities, redundancy, and reliability. Similarly, the Commission can ensure the strength of the network by approving the recent petition (filed July 24, 2016) to extend the right-of-way rules for commercial mobile radio service (“CMRS”) facilities to wireless facilities installed by cable corporations. Approving this

petition will ensure that cable providers, offering voice and other services, can properly build and maintain their networks. Additionally, the Commission should allow competition in rural areas—allowing competition promotes consumer choice and provides incumbent companies with competitive incentives to enhance the robustness of their network.

G. Response #5(f): Utilities are in the best position to monitor their infrastructure, but if a PSAP must make contact with utilities regarding downed poles, such information should be directed to pole owners (e.g. electric utilities).

Question #5(f): What steps should the Commission take to ensure that Public Safety Officials, including counties, tribes, first responders, city, county and state emergency services operators, have direct access to Communications companies to report emergency issues such as a down wire or pole or other emergency issue?

As noted above, it is essential that the Commission avoid venturing outside the scope of this proceeding into infrastructure issues like downed poles and wires. Even if it were within the scope of this proceeding, which it is not, service providers already have mechanisms in place to address these issues and are in the best position to detect downed wires and poles. For example, Comcast has a Networks Operations Center (“NOC”) which monitors its network 24 hours a day, 7 days a week. In cases where a downed pole results in an outage, an alarm regarding that outage is automatically received by the NOC which then communicates to those in the company responsible for investigation and repair. Moreover, because Comcast Phone’s cable affiliate leases space on poles owned by IOUs and ILECs, there likely are multiple entities monitoring outage resulting from downed poles. With all due respect to local jurisdictions, the pole owners and attachers are in the best position to monitor for downed poles. Moreover, to the extent that the cities want to notify someone, Comcast Phone respectfully suggest that they notify the pole owners—usually the electric company and/or the ILEC—especially since, in the case of a downed pole, it may be difficult for a city to identify other attachers. Finally, by notifying the

pole owner of a downed pole, public safety and worker safety is best protected. To the extent that the pole carries an energized power line, no work on service restoration may safely begin until the power line is de-energized. The pole owner is in the best position to ensure that power lines are safely managed during restoration, especially given the high likelihood that the pole owner is the power company.

That said, Comcast does send a letter to PSAPs on an annual basis to remind them how to contact Comcast regarding any issues they might have. This would include issues relating to downed poles or other outages. As noted in Section E above, Comcast has a website designed specifically to provide support to PSAPs, including the contact telephone numbers, email address and fax number to reach the appropriate groups dedicated to addressing public safety issues.

H. Response #7: Any issues regarding delay in restoration of service is outside of the scope of this docket.

Question #7: What actions should the Commission take to address the actions regarding Frontier's call center and the role it played in delaying restoration of customer service or knowledge of customer problems? What lessons from the call center difficulties with Frontier might the Commission apply to other companies?

Any issues regarding delay in restoration of service is outside of the scope of this docket.

II. COMMENT ON ADDITIONAL ISSUES RAISED AT SANTA CRUZ PUBLIC PARTICIPATION HEARING

Regarding the Commissioner's inquiry into telecommunications company emergency contact information for public safety officials, which was discussed at the Santa Cruz PPH, see Comcast Phone's response to 5(f) above.

Regarding the Commissioner's inquiry at the Santa Cruz PPH into how telecommunications companies respond to outage reports on social media, Comcast Phone has confirmed that it is active on several social media channels, including Twitter, Facebook, Comcast online forums, Reddit, and DSL Reports. In fact, Comcast has rapidly expanded its

social media team over the past year, addressing thousands social media contacts per day, nationally.

Through this monitoring review process, Comcast's social media team directs issues to the appropriate internal groups as necessary for resolution. Items such as accounts of outages are directed to an engagement queue in which the social media team attempts to engage the contact outside of the social media context to validate and seek additional information. These escalated items are then sent to the appropriate Comcast department (e.g. substantiated posts regarding outages in California are sent to appropriate California team members to address such outages). Comcast does not monitor Down Detector because it is unable to validate the postings on this website.

Respectfully submitted this 7th day of October 2016.

/s/

Suzanne Toller
Zeb Zankel
Davis Wright Tremaine LLP
505 Montgomery Street, Suite 800
San Francisco, CA 94111-6533
Tel. (415) 276-6500
Email: suzannetoller@dwt.com
zebzankel@dwt.com

Attorneys for Comcast Phone of California, LLC