

Settlement Agreement

The parties to this Settlement Agreement are Larimer Emergency Telephone Authority, Complainant (“LETA”), Qwest Corporation d/b/a CenturyLink QC, Respondent (“CenturyLink”), and Boulder Regional Emergency Telephone Service Authority, Intervenor (“BRETSA”). Herein, the parties are referred to collectively as “Parties,” and individually as Party or by its name.

This Settlement Agreement is premised upon the following:

- The Parties recognize several unique factual and legal issues are presented in LETA’s Complaint in Proceeding No. 16F-0955T. The Parties further recognize factual and legal issues may also be relevant to Proceeding No. 17R-0488T, the rulemaking proceeding, and Proceeding No. 17AL-0487T, the Advice Letter No. 3156 filed by Qwest Corporation d/b/a CenturyLink QC (“CenturyLink”) for an Initial Tariff Regarding Next Generation 911 ESInet (NG9-1-1 ESInet), both of which are also pending before the Colorado Public Utilities Commission (“Commission”). Both LETA and BRETSA have filed comments in the rulemaking proceeding and have sought to intervene in the tariff proceeding. This Settlement Agreement includes dismissal without prejudice of LETA’s Complaint in Proceeding No. 16F-0955T, but the Parties acknowledge and agree that a Party’s rights in any other proceeding are not prejudiced, waived, or otherwise affected by this Settlement Agreement, including a Party’s rights in the rulemaking proceeding and the tariff proceeding.
- As used herein, “Diversity” means physical and geographic diversity.
- The Parties will work towards long-term, sustainable, and cost-effective solutions to the challenges of deploying Diversity for basic emergency service between the Allenspark and the Estes Park central offices and the Estes Park and Loveland central offices.
- CenturyLink has deployed its own network facilities and reached agreements with third parties (notably PRPA) that will provide Diversity between the Loveland and Estes Park central offices commencing no later than March 30, 2018. This Diversity will be through two fiber paths each provisioned large enough to carry landline, wireless, and VoIP traffic. The agreements with third parties necessary to provide this Diversity expire on December 31, 2019, but it is possible for the agreements to be negotiated in the future to extend beyond December 31, 2019.
- While Diversity for basic emergency service between the Loveland and Estes Park central offices will be achieved through December 31, 2019, more work and negotiation needs to be done to (a) provide Diversity for basic emergency

service between the Allenspark and Estes Park central offices before and after December 31, 2019, if feasible, (b) provide Diversity for basic emergency service between the Loveland and Estes Park central offices after December 31, 2019, (c) determine the costs of Diversity for basic emergency service after December 31, 2019, and (d) determine the responsibility for the costs and the potential sources for funding after December 31, 2019 – whether by contributions from CenturyLink, LETA, BRETSA, all PSAPs statewide, HCSM funding, PUC Order, or other sources.

In reliance upon and expressly incorporating that background, the Parties agree as follows:

1. Within two (2) days of CenturyLink providing LETA with copies of the leases or lease extensions signed with PRPA for the short-term solution between the Loveland and Estes Park central offices, LETA shall prepare and file a Joint Motion to approve this Settlement Agreement under Rule 1408, which shall include a request that LETA's Complaint be dismissed without prejudice and that the hearing set for September 26 and 27, 2017, be vacated. BRETSA and CenturyLink shall join in that motion. If, in the future, a complaint is filed related to the issues in LETA's Complaint, then the Parties agree to cooperate to expedite the pre-hearing process in order to hold a prompt hearing, including but not limited to, using the Jointly Stipulated Facts, the Joint Stipulated Exhibits, discovery responses, pre-filed testimony, and pre-hearing briefs filed in Proceeding No. 16F-0955T, updated or supplemented as necessary.

2. As used throughout this Settlement Agreement, the phrase "Settlement Period" means the time period between the effective date of this Settlement Agreement through December 31, 2019. CenturyLink will implement a short-term diversity solution using its own facilities and the facilities obtained through the PRPA leases discussed above no later than March 30, 2018. Beginning on September 20, 2017 and continuing until the short-term diversity solution is fully operational, CenturyLink will provide LETA and BRETSA updates of its progress towards implementation every other week by way of a status email. Beginning on the earlier of (a) the date the short-term solution is fully operational, or (b) March 31, 2018, and continuing until December 31, 2019, CenturyLink will assure that the Estes Park-to-Loveland central office segment of the ES circuits/trunks that connect the Estes Park central office to the CenturyLink selective routers (or their functional equivalent) are routed with Diversity for basic emergency service. CenturyLink warrants and represents that, based upon its determination of the work needed to implement this short-term solution, it cannot agree to provision this Diversity any sooner than March 30, 2018, but CenturyLink promises to use its best efforts to try to implement it sooner, and, possibly, as early as January 30, 2018.

3. During the Settlement Period, CenturyLink will work with BRETSA, LETA, the Town of Estes ("TOE") and any others in good faith, using best efforts,

and with full disclosure of information to LETA and BRETSA, to determine whether Diversity for basic emergency service between the Allenspark central office and the Estes Park central office is technically and economically feasible.

4. During the Settlement Period, CenturyLink will assure that the MOE circuits (or their functional equivalents) LETA purchases from CenturyLink that connect LETA's demarcation points to the Estes Park PSAP are routed with Diversity. LETA may at any time, in its sole discretion, make changes to its MOE consistent with the terms of the contract with CenturyLink for those services and may elect not to renew its MOE contract. LETA reserves its rights as to all of its operational decisions, including whether to designate its Estes Park PSAP or any other PSAPs as additional demarcation points. CenturyLink agrees to work with LETA in good faith and consistent with Commission rules and other applicable legal requirements regarding any such decisions.

5. In addition to the updates set forth in paragraph 2, during the Settlement Period, CenturyLink will provide LETA and BRETSA with status updates once per month until Diversity of basic emergency service is complete for both Estes Park-to-Loveland and Allenspark-to-Estes Park or if changes are made to the Diversity solutions for basic emergency service in the future. Until no longer required by the Commission, CenturyLink will continue to file updates regarding Diversity each March 1 and September 1 in the Inquiry Docket, Proceeding 13I-1147T.

6. The intent of the Settlement Period is to work and negotiate towards, but not guarantee, a long-term Diversity solution for basic emergency service consistent with the short-term solution provided during the Settlement Period between the Loveland and Estes Park central offices and contemplated to be deployed in the future between the Allenspark and Estes Park central offices.

7. During the Settlement Period, neither LETA nor BRETSA will pay anything for any Diversity for basic emergency service provided pursuant to this Settlement Agreement. In the future, CenturyLink will not seek reimbursement for or to recoup costs related to its provision of Diversity for basic emergency service to LETA and BRETSA during the Settlement Period.

8. As to costs for provisioning Diversity for basic emergency service after the Settlement Period, all Parties reserve their rights to advocate for or against any positions, including but not limited to: cost allocation principles, methodologies, cost determinations, funding sources, alternative solutions, rules, regulations, or laws regarding the requirements to provide Diversity for any services or the requirements for any Party to bear the cost of such Diversity, or in what amounts. However, it is the intent of the Parties that no Party should have to pay twice for any Diversity provided, whether directly or indirectly, and the Parties agree not to advocate in any proceeding for a position that would have that effect. Thus, for example, neither LETA nor BRETSA should have to pay for

Diversity costs (if it is agreed or determined that either must contribute) in an individual tariff proposed by CenturyLink and also in a statewide tariff developed pursuant to proposed Rule 2143(a) under consideration in Proceeding No. 17R-0488T.

9. CenturyLink will have ongoing communication with LETA and BRETSA about CenturyLink's decisions that will enhance or diminish Diversity or capacity for basic emergency service in LETA's and BRETSA's respective jurisdictions and will consider in good faith all alternatives related to the provisioning of Diversity for basic emergency service in the long term, including feasibility.

10. If CenturyLink ceases to provide Diversity for basic emergency service at any point during the Settlement Period, then BRETSA or LETA may pursue all legal and regulatory remedies at any time by serving written notice by email to CenturyLink through Timothy Goodwin and Timothy Kunkleman or any successor to either of them at the addresses for notice provided below. CenturyLink shall have thirty days after service the written notice to cure any failure to provide Diversity for basic emergency service pursuant to this Settlement Agreement.

11. Except as noted in this paragraph, no Party's obligations or responsibilities in this Settlement Agreement will change during the Settlement Period based on changes in PUC rules or CenturyLink's tariffs. All Parties reserve the right in any proceeding, diversity plan, or tariff process to advocate that costs for Diversity from Allenspark to Estes Park and from Estes Park to Loveland after the Settlement Period should or should not be included in the proceeding, plan, or tariff. BRETSA and LETA must pay any Commission-approved tariff rate for the BESP's provision of basic emergency service, even if the tariffed rate applies during the Settlement Period.

12. This Settlement Agreement shall not be a precedent for any proceeding, and this Settlement Agreement cannot be used as evidence that any Party supports the principles, approaches, or methodologies of the Settlement Agreement outside of this particular proceeding or a proceeding to enforce the Settlement Agreement. No Party admits that the legal and factual claims and arguments made by any other Party in Proceeding No. 16F-0955T are correct, and all Parties reserve their rights to advocate any position in any other proceeding, including arguments that Diversity is feasible based on the routes or paths identified on Exhibit TDK-106.

13. The Parties agree this Settlement Agreement is consistent with and not contrary to the public interest and should be approved and authorized by the Commission in Proceeding No. 16F-0955T.

14. The Parties will support all aspects of the agreement embodied in this Settlement Agreement in any hearing conducted to determine whether the Commission should approve this Settlement Agreement, and/or in any other hearing, proceeding, or judicial review relating to this Settlement Agreement or the implementation or enforcement of its terms and conditions. Each Party also agrees that, except as expressly provided in this Settlement Agreement, it will take no action in any administrative or judicial proceeding, or otherwise, which would have the effect, directly or indirectly, of contravening the provisions or purposes of this Settlement Agreement.

15. This Settlement Agreement shall not become effective until the Commission issues a final order approving the Settlement Agreement, which order does not contain any modification of the terms and conditions of this Settlement Agreement that is unacceptable to any of the Parties to the Settlement Agreement. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Party, that Party may withdraw from the Settlement Agreement and shall so notify the Commission and the other Parties in writing within ten (10) days of the date of the Commission order. The Parties agree to consider in good faith any request by the Commission for a waiver of compliance with any of the Commission's Rules and Regulations to the extent necessary to permit all provisions of this Settlement Agreement to be carried out and effectuated. In the event the Commission does not issue a final order approving the Settlement Agreement or a Party exercises its right to withdraw from the Settlement Agreement, this Settlement Agreement shall be null and void and of no effect in this or any other proceeding, and the Parties will proceed to hearing at the earliest practicable hearing date thereafter.

16. Nothing in this Settlement Agreement shall constitute a waiver by any Party with respect to any matter not specifically addressed in this Settlement Agreement. In the event this Settlement Agreement becomes null and void for either of the reasons noted in the preceding paragraph, this Settlement Agreement, as well as the negotiations or discussions undertaken in conjunction with the Settlement Agreement, shall not be admissible into evidence in this or any other proceeding.

17. The Parties state that they have reached this Settlement Agreement by means of a negotiated process, and that the results reflected in this Settlement Agreement are just, reasonable, and consistent with and not contrary to the public interest.

18. This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original. This Settlement Agreement may be executed and delivered by facsimile and the Parties agree that such facsimile execution and delivery shall have the same force and effect as delivery of an original document with original signatures, and that each Party may use such facsimile signatures as evidence of the execution and delivery of this Settlement

Agreement by the Parties to the same extent that an original signature could be used.

19. Each individual signing this Settlement Agreement warrants and represents that the individual is duly and expressly authorized to so act on behalf of entity he or she purports to represent, and each Party acknowledges that each other Party relies upon that warranty and representation.

20. Notices shall be served as follows:

Larimer Emergency Telephone Authority
ATTN: LETA Board of Directors
380 N. Wilson Ave.
Loveland, CO 80537
kculp@leta911.org

And copy of the notice to: Tracy Oldemeyer (see signature block)

Boulder Emergency Telephone Service Authority
ATTN: Edward McEldowney
1805 33rd Street
Boulder, Colorado 80301
McEldowneyE@bouldercolorado.gov

And copy of the notice to: Joseph P. Benkert (see signature block)

QWEST CORPORATION
ATTN: Timothy Kunkleman
QWEST CORPORATION DBA CENTURYLINK QC
931 14th Street, 12th Floor
Denver, Colorado 80202
Timothy.Kunkleman@CenturyLink.com

And copy of the notice to: Timothy Goodwin (see signature block)

IN WITNESS WHEREOF, the Parties hereto have executed this Settlement Agreement effective as of September 18, 2017 as follows:

LARIMER EMERGENCY TELEPHONE
AUTHORITY, Claimant

By: _____
Kimberly Culp,
Chief Executive Officer

APPROVED AS TO FORM ONLY:
LARIMER EMERGENCY TELEPHONE
AUTHORITY, Claimant

By: _____
Tracy A. Oldemeyer, #28246
CLINE WILLIAMS
WRIGHT JOHNSON & OLDFATHER, L.L.P.
215 Mathews St., Suite 300
Fort Collins, CO 80524
E-mail: toldemeyer@clinewilliams.com

BOULDER REGIONAL EMERGENCY
TELEPHONE SERVICE AUTHORITY,
Intervenor


By: _____
Joe Pelle, Chair

By: _____
Greg Testa, Vice Chair

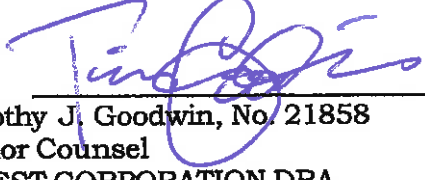
BOULDER REGIONAL EMERGENCY
TELEPHONE SERVICE AUTHORITY,
Intervenor

By: _____
Joseph P. Benkert - 16776
Joseph P. Benkert, P.C.
8506 Porcupine Pointe
Parker, CO 80134-2786
E-Mail: jbenkert@telecommmlaw.com

QWEST CORPORATION, Respondent


By: 
Authorized Representative
Guy Gunther, VP Operations
Printed name and title

QWEST CORPORATION, Respondent

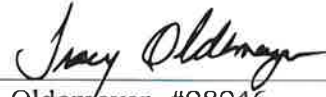
By: 
Timothy J. Goodwin, No. 21858
Senior Counsel
QWEST CORPORATION DBA
CENTURYLINK QC
931 14th Street, 12th Floor
Denver, Colorado 80202
tim.goodwin@centurylink.com

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LARIMER EMERGENCY TELEPHONE AUTHORITY, Claimant

By: 
Kimberly Culp,
Chief Executive Officer

APPROVED AS TO FORM ONLY:
LARIMER EMERGENCY TELEPHONE AUTHORITY, Claimant

By: 
Tracy A. Oldemeyer, #28246
CLINE WILLIAMS
WRIGHT JOHNSON & OLDFATHER, L.L.P.
215 Mathews St., Suite 300
Fort Collins, CO 80524
E-mail: toldemeyer@clinewilliams.com

BOULDER REGIONAL EMERGENCY TELEPHONE SERVICE AUTHORITY, Intervenor

By: 
Joe Pelle, Chair

By: 
Greg Testa, Vice Chair

BOULDER REGIONAL EMERGENCY TELEPHONE SERVICE AUTHORITY, Intervenor

By: 
Joseph P. Benkert - 16776
Joseph P. Benkert, P.C.
8506 Porcupine Pointe
Parker, CO 80134-2786
E-Mail: jbenkert@telecommmlaw.com

QWEST CORPORATION, Respondent

By: _____
Authorized Representative

Printed name and title

QWEST CORPORATION, Respondent

By: _____
Timothy J. Goodwin, No. 21858
Senior Counsel
QWEST CORPORATION DBA
CENTURYLINK QC
931 14th Street, 12th Floor
Denver, Colorado 80202
tim.goodwin@centurylink.com