



July 9, 2015

*Ex Parte Notice*

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

**Re: Technology Transitions, GN Docket No. 13-5; Ensuring Customer Premises Equipment Backup Power for Continuity of Communications, PS Docket No. 14-174.**

On Tuesday, July 7, 2015 the undersigned on behalf of NTCA–The Rural Broadband Association (“NTCA”) along with David Cohen and Jeff Smith of GVNW Consulting, Inc. (the “Rural Representatives”) met with Travis Litman, Legal Advisor to Commissioner Jessica Rosenworcel. The parties discussed the customer premises equipment (“CPE”) battery backup proposals contained in a November 25, 2014 Federal Communications Commission (“Commission”) Notice of Proposed Rulemaking (“NPRM”).<sup>1</sup>

The Rural Representatives stated that the Commission should refrain from adopting any backup power mandates on carriers. The affirmative choices that consumers have been making over the last decade or more demonstrate that they place little value on the availability of standby backup power for a landline voice service. As the Commission has already acknowledged, 41 percent of Americans have fully “cut the cord” and rely on a mobile wireless phone as their *only* voice service.<sup>2</sup> Even in homes that continue to subscribe to a landline voice service, it is likely that the vast majority utilize a cordless phone.<sup>3</sup> The Rural Representatives stated that consumers are well

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<sup>1</sup> *Ensuring Customer Premises Equipment Backup Power for Continuity of Communications*, PS Docket No. 14-174, *Technology Transitions*, GN Docket No. 13-5, *Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers*, RM-11358, *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, *AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593, Notice of Proposed Rulemaking, FCC 14-185 (rel. Nov. 25, 2014) (“NPRM”).

<sup>2</sup> *Id.*, ¶ 9.

<sup>3</sup> *See*, Consumer Electronics Association, *Digital America: State of the U.S. Consumer Electronics Industry 1* (2013), available at <http://www.ce.org/News/Publications/Digital-America.aspx>. (stating that in 2013, three-quarters of all landline phone purchased in the United States were cordless.)

aware of the backup power implications of making such choices and are rapidly making those choices nonetheless.

Moreover, there is little indication in the record that those American consumers that continue to subscribe to a wireline voice service have a desire for backup power. As several nationwide and cable voice providers have stated, only a small percentage of consumers choose to purchase a backup power battery when offered to them.<sup>4</sup> The February 6, 2015 comments of Cincinnati Bell in this proceeding included a very interesting case study that supports the conclusion that consumers place little value on the availability of backup power. Cincinnati Bell stated that after the 2008 Hurricane Ike power outage that caused nearly 2 million people to lose power for up to nine days, they responded by attempting to market their landline services to cable and Voice over Internet Protocol (“VoIP”) subscribers by promoting the availability of backup power should the customer choose to subscribe to Cincinnati Bell’s voice service. Cincinnati Bell “saw little to no uptick as a result and landline loses continued at a steady pace despite the lack of backup power with alternative services.”<sup>5</sup>

The Rural Representatives then emphasized that rural rate-of-return carriers (“RLECs”) take seriously both the responsibility to provide their customers with the standby backup power commensurate with consumers’ needs and demonstrated preferences and to educate their customers as to the backup power availability of non line-powered voice services. RLECs have a strong commitment to public safety and their customers’ access to voice service in the event of a power outage or other emergency or disaster situation, as they live and work in the small communities they serve and thus have unparalleled accountability to their neighbors and a personal stake in the reliability of their networks. In keeping with that commitment, the Rural Representatives’ members and clients report that the provision of a backup battery that is capable of providing approximately eight hours of standby backup power<sup>6</sup> is typically a standard part of a fiber-to-the-home (“FTTH”) installation. Based on the above-discussed points, the Rural Representatives stated that mandates beyond this eight hour standard would impose unreasonable and unnecessary costs on RLECs.

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<sup>4</sup> National Cable & Telecommunications Association (“Cable”) *Ex Parte* Letter, GN Docket No. 13-5, PS Docket No. 14-174 (fil. May 18, 2015), p. 2 (stating that “an exceedingly small percentage of cable voice customers purchase batteries for their CPE when offered and *that there is no demonstrable increase in demand for batteries following extended power outages*. This experience suggests that the customers rely on alternative means of communicating (i.e., mobile devices and services) if the voice equipment in their home is not working.”) (emphasis added). *See also*, Verizon *Ex Parte* Letter, GN Docket No. 13-5, PS Docket No. 14-174 (fil. May 22, 2015), p. 2 (stating that “only a very small number of customers elect to purchase battery back-ups given the near ubiquitous use of cell phones and customers’ adoption of cordless telephone handsets in the home.”).

<sup>5</sup> Comments of Cincinnati Bell, PS Docket No. 14-174, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593 (fil. Feb. 5, 2015), p. 7; *See also*, Cable May 18 *Ex Parte* Notice, p. 2 (“there is no demonstrable increase in demand for batteries following extended power outages.”).

<sup>6</sup> Consistent with the discussion of “standby backup power” in the NPRM, this refers to “the availability of standby backup power, not actual talk time.” NPRM, fn. 110.

In discussing certain of the proposals contained in the NPRM, the Rural Representatives emphasized the critical yet often overlooked distinction between the costs involved in providing a backup battery upon initial installation of subscribers' service and the costs of certain proposals that would require the upgrading or replacement of the Network Interface Device or other carrier-installed equipment placed at the customer premises. RLECs as a whole utilize several different vendors for this equipment (and thus their capabilities vary). Generally speaking however, in many cases increasing the standby backup power available to consumers, or adding additional battery life monitoring within the network or notification features at the customer premises would require the services of an RLEC technician. RLECs are unique in that they primarily serve rural areas where density and distance are significant and expensive complicating factors. Many of these companies operate in areas with less than 10 and in cases less than five subscribers per square mile. A "truck roll" to many of these locations can consume several hours per customer location. Trucks rolls to each existing customer location to upgrade the battery and or related equipment would impose significant manpower costs on RLECs (in addition to the cost of the upgraded equipment being installed).

In terms of any requirement that providers monitor the health of customers' batteries and provide notifications as to the impending need for replacement, the Rural Representatives stated that a number of RLECs do not have this capability at this time and that complying with such a mandate would require significant expense. This would likely include possibly dispatching technicians to each customer location in addition to upgraded equipment across the network as a whole. Moreover, whether customers would heed such notifications and the issue of liability should they choose to ignore those notification is unclear. Again, considering that customers place so little value on the availability of backup power, the number of cordless phones in use and the alternatives that most consumers use (*i.e.*, mobile wireless), such a mandate would fail any cost/benefit analysis.

In terms of any mandate that would require replacement of carrier-installed equipment placed at the customer premises with an external backup solution utilizing commonly available battery sizes (*e.g.* D-Cell batteries), the Rural Representatives stated that the size of their membership (particularly as compared to nationwide providers) limits their ability to drive innovation in the equipment market. Thus, the cost of acquiring such devices is likely to be higher for the smaller providers. While certain parties have stated their intention to begin utilizing such a solution, they have also stated that the technology they plan to use is not compatible with that of other providers.<sup>7</sup> As NTCA noted in initial comments in this proceeding, a move toward greater standardization in the market for backup power battery technology would potentially lower the costs for smaller providers. Yet, again, at present this technology is not widely available to nor a cost-effective solution for RLECs.

Moreover, offering consumers the option to purchase from their provider an increased backup power capability beyond the eight-hour capability typically installed by RLECs would also impose significant costs on RLECs. For one, these carriers would be required to purchase and keep on hand an assortment of such batteries. In addition, the use of such batteries would

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<sup>7</sup> Verizon *Ex Parte* Letter, GN Docket No. 13-5, PS Docket No. 14-174 (fil. May 22, 2015), p. 2 (stating that the Verizon "PowerReserve" which utilizes conventional D-cell batteries "is designed to work with Verizon equipment only and will not power other providers' network terminals.").

typically require RLECs to also keep on hand the Network Interface Device or other carrier-installed equipment that must be placed at an individual customer's premises in order to utilize such batteries. The dispatch of a technician to the customer's location would also be necessary. Based on the limited value that consumers place on the availability of backup power, as referenced above, few, if any, consumers would be willing to absorb the cost of obtaining such backup power. Thus, such a requirement if adopted would impose substantial costs on RLECs at a time when they are endeavoring to invest in their broadband networks to meet consumer demand for increased bandwidth and new and innovative IP-enabled services.

The Rural Representatives then reiterated that based on the consumer preferences stated above, any rational cost/benefit analysis strongly militates against any additional mandates imposed in this proceeding. To the extent that the Commission does impose *any mandates*, they should be at best "forward-looking," that is, applying in any and all cases *only* to new customer installations.

Based on the above discussed points, the Rural Representatives stated that continued consumer education should be the foundation of any Commission action in this proceeding. The Rural Representatives stressed that any consumer education provisions adopted should remain flexible and must allow RLECs to tailor their consumer disclosures as to backup power availability based on their current capabilities, internal systems and their years of experience in serving their customer bases (and the experience that the Rural Representatives have in working with RLECs to comply with consumer protection and other mandates). More specifically, while bill inserts (in addition to point of sale disclosures) may be the best solution for some RLECs, others may not have the ability to adopt such a practice quickly and without significant expense related to upgrades of automated billing systems. Other RLECs may find that bill inserts have been ineffective in the past and that other forms of disclosure (email notifications for example) are, in their experience, more effective. In any case, flexibility should be the touchstone of any consumer education requirements adopted here. Finally, the Rural Representatives stated that the Commission could work to create a "safe harbor" consumer notification provision that would provide guidance to carriers of all sizes.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,  
/s/ Brian J. Ford  
Brian J. Ford  
Regulatory Counsel

cc: Travis Litman