

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Ensuring Customer Premises Equipment Backup	)	PS Docket No. 14-174
	)	
Technology Transitions	)	GN Docket No. 13-5

**REPLY COMMENTS OF BRIGHT HOUSE NETWORKS, LLC**

Bright House Networks, LLC, the nation’s sixth largest cable operator, submits these reply comments to oppose regulations that would require all “fixed” interconnected VoIP services to utilize equipment that includes backup power.

**I. Customers Do Not Value Dedicated Backup Batteries for their Landline Service.**

When Bright House Networks began to offer VoIP telephone services more than a decade ago, it elected to include a backup battery as part of the service, in part, based on the belief it would benefit customers by enabling them to maintain telephone service during brief power outages. In the intervening years, in support of this ideal, the company spent approximately \$36 million to purchase batteries, the cost of which is ultimately borne by customers. Over time, it became apparent that customers did not value this service, and for good reasons – inclusion of a battery, for various reasons, did not, *in practice*, provide backup power for the vast majority of customers, and more appealing alternatives were readily available in the market.

To illustrate the point, the equipment that Bright House Networks deploys displays a red light to warn that the battery is exhausted, but fewer than 1% of customers ever contacted customer service seeking replacement batteries during this period. Also, during this same period, when Verizon stopped offering backup batteries for its interconnected VoIP services, Bright

House Networks did not notice any appreciable defection of Verizon customers as a result of Verizon's change in battery policy.

In 2014, after significant consideration, Bright House Networks changed its policy making batteries optional for new installations, with batteries available for purchase for approximately \$35 plus shipping. A truly negligible number of customers decided to purchase a battery after receiving notice that the service will not function without power, confirming Bright House Network's prior observations of the low demand and value consumers place on backup batteries for their landline phones. At present, Bright House Networks receives approximately sixty requests per month from customers for new or replacement batteries, over a customer base in excess of 1 million telephone customers (and tens of thousands of new installations each month).

For a typical Bright House Networks customer, after all, these numbers make sense. Today, customers rely on their mobile phones and other sources of back-up power during a commercial power outage. And, in any event, the vast majority of its customers use only cordless phones throughout the home, so a backup battery in their telephone modem is useless. As noted by many commenters, consumers use UPS, portable power packs, solar, or even manual cranks to power mobile and cordless phones and other devices in the home that they prioritize, including equipment used for VoIP service, at their option. In light of consumer practices in today's market, and the ubiquitous availability of numerous options available to them, it is not only unnecessary for the Commission to mandate a backup battery, it is of *no use* to the vast majority of Bright House Networks customers.

It would be extraordinarily wasteful to force consumers to pay (either directly or indirectly) for batteries that they don't want, and harmful to the environment to require the

production and ultimate disposal of tens of millions of unnecessary batteries. Batteries can contain heavy metals that contaminate the environment when incinerated or buried at waste facilities.<sup>1</sup> Consumers who voluntarily choose to subscribe to VoIP services after being advised of its power limitations should be free to decide whether or how to provide backup power to meet their needs. Unlike UPS and other retail power options, a battery in the VoIP equipment would only power the VoIP service. The Commission should not force consumers who use these more versatile power options to also pay for the duplicative cost of an additional limited-function battery from their VoIP provider. Nor should it force consumers to pay for a battery that does not work in their situation.

A battery mandate would not only force batteries upon telephone customers who do not want or cannot use them, but also upon customers who no longer even have VoIP service at all. As the Commission knows, many consumers are electing to discontinue landline telephone service and rely solely on mobile service. As they do, a battery mandate would increase the number of useless backup batteries that will end up stranded in multifunction devices that consumers keep for their other services. These stranded batteries will needlessly provide power to the unused telephone modem portion of the device during each outage, and then draw more power to recharge each time that power is restored.

Consumers should have a right to choose to use VoIP modems that do not include backup batteries, just as the Commission has expressly sought to protect consumers' "right to attach" other consumer premises equipment as they see fit, for telephone terminal equipment<sup>2</sup> and video navigation devices.<sup>3</sup> It is inconsistent with those principles to effectively prohibit consumers

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<sup>1</sup> See Environmental Protection Agency, Batteries, at <http://www.epa.gov/osw/consERVE/materials/battery.htm>.

<sup>2</sup> 47 C.F.R. Part 68.

<sup>3</sup> 47 C.F.R. § 76.1201.

from attaching non-harmful CPE for VoIP services simply because it lacks a backup battery that most consumers don't want or need.

## **II. The Commission Should Avoid Chaining Consumers and Providers to Current Technologies.**

Supporters of a battery mandate appear to be fixated with the past, when VoIP was new and mobile phones not yet ubiquitous. But it is important the Commission also consider the potential impact of its proposed rules for years into the future, rather than the past. As AT&T explained in its comments, an enduring regulatory requirement for certain VoIP providers to provide battery backup is likely to inhibit potential innovation in the future development of VoIP service delivery.<sup>4</sup> It is extremely difficult to predict the evolution of consumer demand for communications equipment. Consumers have repeatedly suffered from the unintended consequences of regulations adopted without any time horizon that are premised on mistaken predictions or on current facts that later change. Very often, a particularly harmful consequence is the preclusion of previously unforeseen new services that cannot be offered, at least not in ideal form, because of the limitations of a rule.

That risk is real in this proceeding. Service providers may be precluded from offering IP handset or other solutions that would not require the use of a modem at all. Voice services that do not require a separate modem may become increasingly important for cable operators, as such services can operate outside the home, such as over Wi-Fi. The notion of a bright line between “fixed” and other VoIP services will become more blurred in the future in ways that cannot now be predicted, and a line could be drawn in a way that would preclude service providers classified

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<sup>4</sup> See, e.g., AT&T Comments at 10 (“once the Commission establishes minimum backup power requirements, service providers inevitably will build systems to meet those requirements, rather than experimenting with new technologies and systems that might better meet their customers’ needs. Rules that establish de facto industry standards thus could delay or derail new devices and technologies that offer consumers cutting-edge features and functionalities they might otherwise desire.”).

as “fixed” from offering new types of services. It would violate the Commission’s policy of competitive neutrality if over-the-top and mobile VoIP providers had unfettered ability to test and use new technologies while cable operators remained saddled with inferior and expensive equipment forced upon them by outdated regulatory mandates. The Commission’s proposed rule would also impede innovation because consumer electronics manufacturers would be forced to use designs that are compatible with battery backup options, which could preclude smaller more energy-efficient designs that might otherwise be preferred by consumers. Technological mandates for battery backup could also complicate, if not inhibit, the efficient integration of stand-alone phone modem functionality into multi-function devices such as gateways. Therefore, a battery mandate would not only impose tens of millions of dollars in battery costs on consumers, but also potentially even greater harm from the suppression of innovation.

### **III. Conclusion**

Consumers should have the option to purchase a backup battery from their service provider. To mandate a battery in every home when it provides *no* benefit to the vast majority of our customers would be incredibly wasteful and unnecessary. A decade of experience taught us this lesson. The Commission should, therefore, decline to adopt any rule that mandates a battery for VoIP services.

Respectfully submitted,

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