



July 27, 2015

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

**Re: 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**

Dear Ms. Dortch:

On July 23, 2015, Harold Feld, Senior Vice President; and Meredith Rose, Staff Attorney of Public Knowledge met with Daniel Alvarez and Daniel Kahn of Chairman Wheeler's office.

The Commission should clarify that when a carrier's copper network is destroyed by natural disaster, the carrier must file a section 214 request within an explicit timeframe if they decline to rebuild the network. The November 2014 Declaratory Ruling merely specifies that section 214 applicability is not determined by the tariff involved. While it is possible to read a broad intent behind the Commission's Declaratory Ruling, the fact remains that the Declaratory Ruling does not explicitly lay out an affirmative obligation for carriers to file under section 214 following a natural disaster. Because this continues to be a point of contention among carriers and Commissioners alike, the Commission should explicitly clarify its intention in issuing the ruling.

The Commission should tentatively adopt real-time measurement metrics over a six-month period (three months before copper retirement, and three months after) to assess comparability of service. Carriers have not proposed any useful evaluation criteria, opting instead to drag out the process.<sup>1</sup> In the absence of any meaningful suggestions, real-time measurements would provide a tangible alternative to allow the Commission to move forward in its rulemaking, and would clearly meet the statutory objective of

---

<sup>1</sup> The sole suggestion put forward by carriers thus far (the presence of a dial tone) is, in addition to being artificially minimal, so burdened with caveats regarding the potential expense and difficulty of obtaining even that bare minimum, that the carriers have rendered this "proposal" essentially meaningless.

ensuring that discontinuance would not “impair” service to all, or any portion of, the local community. Public Knowledge can, at the Commission’s request, provide a list of sites that provide the basis for technical comparisons.

Public outreach will be critical to ensuring the success of the transition. Experience with the digital television (DTV) transition shows that technology upgrades are most effective when the public is informed early and often.

Companies must be responsible participants in the educational process. As companies develop their transition plans, they should be required to share information about the timeline, nature of the transition, and possible backup power concerns with effected localities and local authorities, state governments, and state public utility commissions. Direct-to-consumer letters must include meaningful informational material, including a description of the carrier’s transition plan, and a description of the consumer’s rights during and after the transition. Companies cannot omit critical details (such as the strengths and limitations of the new technology), and must not exploit the transition to “upsell” consumers into new packages by omitting information. Carriers should disclose to consumers which services will be available after the transition, and inform them which new service most closely mirrors their old service. Carriers must be held accountable for all statements made to consumers by their agents, contractors, sales staff, and other employees, with regards to both the technology transitions and service broadly.

However, we acknowledge that incumbents cannot go it alone. AT&T’s early transition report noted that the participation of small and mid-sized businesses was difficult to secure, as every phone call or letter was assumed to be a sales pitch, and was subsequently ignored. The Commission should continue to evaluate its role in informing the public on a going-forward basis.

The Commission plays a critical role in ensuring consumers are informed about the technology transitions broadly, and backup power issues more specifically. Although the Commission cannot be in every state, it should consider identifying areas that are at high risk of losing service during the technology transitions. The FCC should collaborate with local advocates in these areas to ensure that the challenges they encounter as telephone providers change technology are recorded, and can be resolved. Additionally, federal agencies (including the Department of Homeland Security and the Federal Emergency Management Agency) must update the guidance on their websites to reflect the fact that, in the future, wireline telephones will not be guaranteed to work in an emergency, and that consumers who plan to rely on the telephone should obtain backup power.

Consumers dependent on Lifeline supported services must also be protected. Carriers participating in Lifeline must continue to offer Lifeline-eligible voice service post-transition, and must make clear to consumers which services are covered under the program and which are not. Consumers must not be transitioned onto a service they cannot afford.

Public safety dictates that backup power options be universally available, and structured in such a way that consumers may prepare and stockpile commercially available sources of power. Carriers must offer these backup options at the point of sale, and must continue to make these options available to consumers under the same terms and conditions (including price) *even if the consumer initially declined them at the point of sale*. Additionally, consumers must be able to purchase, and not merely rent, these backup options.

In accordance with Section 1.1206(b) of the Commission's rules, this letter is being filed with your office. If you have any further questions, please contact me at (202) 861-0020x108.

Respectfully submitted,

/s/ Meredith Rose  
Staff Attorney  
Public Knowledge  
1818 N. St., NW  
Suite 410  
Washington, D.C. 20036  
(202) 861-0020

cc: Daniel Alvarez  
Daniel Kahn