

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

In the Matter of)
)
Ensuring Continuity of 911 Communications) PS Docket No. 14-174

OPPOSITION OF CENTURYLINK¹

CenturyLink files this Opposition to the Petition for Reconsideration submitted by the National Association of State Utility Consumer Advocates, *et al.* on November 16, 2015 in the above-referenced docket.² The NASUCA Petition asks the Federal Communications Commission (“FCC” or “Commission”) to reconsider the conclusion in its Report and Order issued in this docket on August 7, 2015³ that “carriers are not required to provide back-up power, and need only make back-up power available at the customer’s option and expense.”⁴ As discussed more thoroughly below, CenturyLink urges the Commission to deny the NASUCA Petition because it is procedurally infirm and otherwise without merit.

¹ This submission is filed by, and on behalf of, CenturyLink, Inc. and its subsidiaries.

² Petition for Reconsideration of the National Association of State Utility Consumer Advocates, The Benton Foundation, The Maryland Office of People’s Counsel, Public Knowledge, The National Consumer Law Center (on behalf of its low-income clients), The Public Utility Law Project of New York, The Center for Rural Strategies, The Greenlining Institute, The Broadband Alliance of Mendocino County and Access Sonoma Broadband filed in PS Docket No. 14-174 on November 16, 2015 (“NASUCA Petition”).

³ *In the Matter of Ensuring Continuity of 911 Communications*, PS Docket No. 14-174, Report and Order, 30 FCC Rcd 8677, rel. Aug. 7, 2015 (“Report and Order”).

⁴ NASUCA Petition at 2 (citation omitted).

I. NASUCA’S PETITION IS PROCEDURALLY INFIRM BECAUSE ITS ARGUMENTS HAVE ALREADY BEEN CONSIDERED AND REJECTED IN THIS PROCEEDING

The NASUCA Petition relies on arguments that have already been made in this proceeding, and thus should be denied on procedural grounds pursuant to Section 1.429(*l*) of the Commission’s Rules, 47 C.F.R. § 1.429(*l*). Section 1.429(*l*)(3) instructs that petitions for reconsideration may be dismissed or denied when they raise arguments that have already been considered and rejected by the Commission within the same proceeding.⁵ Here, NASUCA argues for the Commission to reconsider its backup battery approach primarily because “[i]ndividual customers should not be making the decision about whether 911 calling is available[.]” and “[i]nstead, [backup power] should be the responsibility of the carrier, with the costs...distributed among all the carrier’s customers.”⁶

In supporting its conclusion not to place that burden on carriers, the Commission acknowledged how few customers today avail themselves of backup power options available today, or choose to rely on wireless service that provides an alternate means of reaching 911.⁷ Additionally, the position shared by NASUCA and its joint petitioners would have also raised a substantial cost issue, as carriers would have been required to bear the sizeable expense of equipping all subscribers with backup power. The Commission considered this issue as well in concluding to require service providers to provision backup power at the requesting subscriber’s expense.⁸ The Report and Order explains how the combination of low compliance costs to

⁵ 47 C.F.R. § 1.429(*l*)(3).

⁶ NASUCA Petition at 8-9.

⁷ Report and Order, 30 FCC Rcd at 8691-92 ¶ 37.

⁸ Report and Order, 30 FCC Rcd at 8697 ¶ 46.

service providers along with the enhanced continuity of 911 communications the new rules will enable together yield a net public benefit.⁹ The Report and Order also thoroughly explains how the new mandatory minimum subscriber disclosure obligations it implements are specifically targeted to educate consumers so they can make informed decisions about their backup power needs and be able to act upon them,¹⁰ which goes to another concern raised in the NASUCA Petition.¹¹

These portions of the Report and Order demonstrate how the arguments in the NASUCA Petition have been already addressed in the course of this proceeding. As a result, the NASUCA Petition should be either denied or dismissed consistent with the Commission's Rules.

II. THE REPORT AND ORDER REPRESENTS SOUND DECISION-MAKING, SUPPORTED BY THE RECORD

The Report and Order is the product of a well-developed record representing multiple points of view. As the NASUCA Petition notes, the rules adopted in the Report and Order differ from the initial proposals set forth in the Notice of Proposed Rulemaking.¹² That is because the record in this proceeding illustrates that transitions to new technologies are well underway and that the initial proposals are unjustified based on the state of the market. Almost 50% of consumers are using wireless-only phones with over 90% having at least some wireless service,¹³ thus providing an alternative to 911 access from the traditional network. While many providers of new technologies offer backup power solutions to their customers without a regulatory

⁹ Report and Order, 30 FCC Rcd at 8697-98 ¶ 47.

¹⁰ See, e.g., Report and Order, 8700-02 ¶ 53, 8702-03 ¶¶ 56, 57, 8704 ¶ 60, 8712-13 ¶ 84.

¹¹ NASUCA Petition at 9 (expressing concern about customers who are “simply shortsighted”).

¹² NASUCA Petition at 2, *and see also* at 11, 12.

¹³ See, e.g., Concurring Statement of Commissioner Michael O’Rielly, 30 FCC Rcd at 8736.

mandate to do so, the vast majority of customers do not avail themselves of the backup power options that are available to them.¹⁴ Additionally, numerous consumers using the wireline network have chosen to rely on cordless phones which require the availability of power to function. Against this backdrop, the Report and Order takes measurable steps to inform consumers about the backup power limitations of new technology while also arming them with information to take additional measures, should they desire to do so. Costly, sweeping backup power mandates advocated by NASUCA and the joint petitioners were not adopted, because the record showed that they were not warranted.

III. CONCLUSION

For the reasons stated above, the Commission should deny or dismiss the NASUCA Petition and uphold the Report and Order.

Respectfully submitted,

CENTURYLINK

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¹⁴ *See, e.g.*, Concurring Statement of Commissioner Michael O’Rielly, 30 FCC Rcd at 8737 (“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[]”) (citation omitted).

CERTIFICATE OF SERVICE

I, Ross Dino, do hereby certify that I have caused the foregoing **OPPOSITION OF CENTURYLINK** to be:

- 1) Filed with the Secretary of the FCC via ECFS in PS Docket No. 14-174; and
- 2) With a copy served via first-class U.S. Mail, postage prepaid, on the recipients

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December 31, 2015