



**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
 )  
Pulver.com and Evslin Consulting's Petition ) RM-11327  
for Rulemaking To Preserve Post-Disaster )  
Communications. )

**REPLY COMMENTS  
OF THE  
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> submits these reply comments<sup>2</sup> in response to the initial comments filed on April 27, 2006, as part of the Federal Communications Commission's (Commission or FCC) Public Notice<sup>3</sup> seeking comment on pulver.com and Evslin Consulting's (Pulver) petition for rulemaking to preserve post-disaster communications (Petition).<sup>4</sup> The Commission should deny the Pulver Petition as impractical and unjustified. The Commission currently has sufficient

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<sup>1</sup> NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

<sup>2</sup> NTCA silence on any positions raised by parties in this proceeding connotes neither agreement nor disagreement with their positions or proposals. Unless specifically stated below, NTCA reasserts its positions described in its April 27, 2006 initial comments filed in this docket.

<sup>3</sup> Federal Communications Commission Sets Pleading Cycle for Comment On Pulver.com and Evslin Consulting's Petition for Rulemaking to Preserve Post-Disaster Communications, RM-11327, DA 06-825, Public Notice (rel. April 7, 2006) (Public Notice).

<sup>4</sup> *Petition of Pulver.com and Evslin Consulting For Rulemaking To Preserve Post-Disaster Communications*, filed March 13, 2006 (Petition).

regulatory authority and has shown its willingness and flexibility to address long-term telecommunication outages caused by natural and man-made disasters.

## **I. ARGUMENT**

NTCA has argued that the Commission should reject the Pulver Petition as unnecessary and likely to deprive emergency providers and the Commission with critical flexibility to respond.<sup>5</sup> The carriers who commented in this proceeding agreed with NTCA uniformly. AT&T correctly noted that Pulver’s proposal (requiring mandatory emergency voice mail or 2-hour porting capability inside and outside of rate centers) will lock carriers into a specific emergency response plan that “does not take account of the particular facts giving rise to a service outage ... [thus depriving] carriers of the necessary flexibility to respond ... in the most effective manner.”<sup>6</sup> BellSouth referred to the proposed rules as “nonsensical,”<sup>7</sup> and to the two-hour port requirement as “unreasonable” and “unachievable” because this interval is shorter than the existing voluntary wireless-to-wireless interval under ideal conditions.<sup>8</sup> NTCA agrees with BellSouth’s characterization, as well as Sprint Nextel’s assessment that the rulemaking as “ill-conceived and flawed” because the proposed rules will divert precious resources towards rule compliance and away from service restoration.<sup>9</sup> Verizon correctly asserted that the network upgrades necessary to achieve these proposals would provide “little or no benefit to customers affected by a disaster.”<sup>10</sup>

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<sup>5</sup> NTCA Comments, p. 5.

<sup>6</sup> AT&T Inc., Comments, pp. 2, 4.

<sup>7</sup> BellSouth Comments, p. 3.

<sup>8</sup> BellSouth Comments, p. 5, n. 10.

<sup>9</sup> Sprint Nextel Comments, pp. 1, 2.

<sup>10</sup> Verizon Comments, p. 1.

Rural E911 providers must retain broad flexibility in crafting emergency response plans as disasters and their consequences are not the same in every circumstance. For example, imposing a 2-hour porting or emergency voice mail services requirements on rural incumbent local exchange carriers (ILECs) in states that experience ice storms and heavy snow fall is extremely impractical since these companies must prioritize their efforts and cannot afford the generator battery back-up power to port or implement auxiliary voice mail services until the electric power companies repair the downed lines. Rural carriers send their crews to the storm-damaged areas, often risking their own safety, to install and maintain back-up generators so that their customers can have at least emergency voice services and, if battery power is available, DSL functionalities within 24 hours of the initial outage.<sup>11</sup> These rural carriers typically have disaster restoration plans triaged and tailored for their service territories, subscribers and services.<sup>12</sup> Their plans generally include redundant facilities, resource assistance agreements with other telephone companies, subscriber education programs (educating the public to keep a corded phone available since cordless phones will not work when the electricity is out), and back-up generators (while urging customers to keep voice conversations restricted to emergency calls only to extend the battery life). A blanket porting or voice mail

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<sup>11</sup> During an October 4-6, 2005 snowfall near Dickinson, North Dakota, over 18 inches of heavy, wet snow fell in 48 hours, crushing tree limbs under its weight and making travel nearly impossible due to underlying slush conditions. A rural telephone company reports that it was able to restore service to its 1300 subscribers in the area within 24 hours. The same rural carrier reported that its community's National Guard trucked away 34,000 square yards of trees from the streets after the storm.

<sup>12</sup> Another rural carrier reported that an ice storm on November 27, 2005 hit parts of South Dakota and Minnesota and toppled 11,500 poles, coating power lines with 2-3 inches of ice, and leaving 157 towns, 56,500 homes and businesses without electricity for 3-9 days because all 7 power companies were shut down. The rural carrier's technicians were able to restore basic voice services within 24 hours by installing generators. At one point, the carrier's office served as the community shelter as it was one of the few buildings that had back-up power and a shower. The rural carrier reported that restoring telephone service to homes served by fiber-to-the-home posed additional difficulties as the power source for the fiber was in the homes, not in the central office, so generators had to be placed in the individual homes.

requirement would negate those plans' effectiveness and cause more harm to rural subscribers and rural ILECs than necessary by diverting limited resources. Rural carriers must be allowed to create disaster recovery plans suited to their territories and terrain.

AT&T and others accurately report the problems associated with out-of-LATA porting described by the Local Number Portability Administration Working Group of the North American Numbering Council.<sup>13</sup> This study, released shortly after Pulver.com filed its Petition, concluded that porting numbers outside of the rate center affected terminating call rating and billing issues.<sup>14</sup> The Commission should heed these warnings and not require (as opposed to permit) carriers to port numbers outside of the rate center during an emergency.

The Commission has exercised its authority and granted Special Temporary Authorizations (STAs) to AT&T to aid in disaster recovery by allowing carriers to share non-public network information during the upcoming hurricane season.<sup>15</sup> BellSouth, Qwest and Verizon have similar pending petitions.<sup>16</sup> The Commission need not create new authority via a rulemaking to enhance communication recovery, especially since the Pulver Petition does not address the costs inherent in upgrading rural carriers' networks to achieve emergency voice mail systems. NTCA agrees with Verizon that "the burdens

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<sup>13</sup> AT&T, Inc., Comments, p. 5; BellSouth Comments, p. 7, n. 17; Verizon Comments, p. 5.

<sup>14</sup> LNPA Final Report, Exhibit A to AT&T, Inc., Comments, p. 5.

<sup>15</sup> AT&T, Inc., Comments, p. 4.

<sup>16</sup> BellSouth, Qwest and Verizon have likewise sought STA and waivers. *Petition of BellSouth Corporation For Special Temporary Authority And Waiver To Support Disaster Planning and Response*, WC Docket No. 06-63 (filed Apr. 4, 2006); *Petition of Qwest for Special Temporary Authority and Waiver To Support Disaster Planning and Response*, WC Docket No. 06-63 (filed Apr. 13, 2006); *Petition of Verizon for Special Temporary Authority and Waiver To Support Disaster Planning and Response*, WC Docket No. 06-63 (filed Apr. 3, 2006). BellSouth Comments, p. 4, n. 7; Verizon Comments, p. 1, n. 4.

of establishing voicemail service and providing related customer support to each affected customer would be substantial,” especially for small rural carriers.<sup>17</sup>

The VON Coalition incorrectly asserts that the Petition’s proposals are feasible and reasonable, yet fails to recognize that the Commission already has the ability to waive its porting rules if the situation demands waiver.<sup>18</sup> Not every disaster is a Katrina hurricane that affects 3 million subscribers, knocks out 1,000 cell sites and 36 PSAPs,<sup>19</sup> yet VON and Pulver would have the same porting requirement apply in those situations as where fewer lines are affected. Rural ILECs must retain flexibility to tailor their disaster recovery plans to their specific needs and resource constraints.

## II. CONCLUSION

For all the reasons set forth in NTCA’s initial comments, the Commission should deny the Pulver Petition.

Respectfully submitted,

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May 12, 2006

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<sup>17</sup> Verizon Comments, pp. 2, 6. As Verizon noted, voicemail is not a service supported by USF funds. 47 C.F.R. § 54.101(a); Verizon Comments, p. 3.

<sup>18</sup> VON Coalition Comments, pp. 2, 10.

<sup>19</sup> Data provided by VON Coalition, Comments, pp. 4, 5, 11.

## CERTIFICATE OF SERVICE

I, **Rita H. Bolden**, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in RM-11327, DA 06-825 was served on this 12th day of May 2006 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons listed below:

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