
Before the
Federal Communications Commission
Washington DC

In the Matter of)
)
Recommendations of the Independent Panel) EB Docket No. 06-119
Reviewing the Impact of Hurricane Katrina on)
Communications Networks)

To: the Commission

**Reply Comments of
the United Telecom Council**

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I. Introduction

The United Telecom Council (UTC, the Council) is pleased to take this opportunity to offer its replies to comments filed in the above-referenced proceeding.¹ UTC and its hundreds of critical infrastructure industry (CII) member entities – primarily electric, water and gas utilities and pipelines – are interested parties to this proceeding on multiple levels. First, they are FCC licensees of private, internal communications systems used to support provision of vital services to the public and already recognized by the Commission’s Katrina panel for their robustness through last year’s catastrophic disaster. Second, UTC’s electric utility members, especially, are relied upon for prompt and safe restoration of power following all kinds of disasters by other economic sectors – including the commercial communications industries of wireless, wired, broadcast and cable services. UTC welcomes the FCC’s exploration of the Katrina panel’s recommendations and believes the Commission can implement measures to help coordinate the communications sector’s preparedness for, and recovery from, inevitable future events.

II. Discussion

As the Commission is of course aware, recovery operations following a disaster on the scale of Hurricane Katrina are hugely complex, with communications playing a significant, but supporting, role. Thankfully, events such as 2005’s Katrina catastrophe are unusual; but they are not rare: the

¹ In the Matter of Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, *Notice of Proposed Rulemaking*, EB Docket No. 06-119, 71 Fed. Reg. 38564 (July 7, 2006) (NPR, Notice).

devastation of southern Florida from Hurricane Andrew came only thirteen years before, with California's Loma Prieta earthquake only three years before that. Lesser events, whether hurricanes, ice storms and blizzards, tornadoes, earthquakes, or the tragic manmade disasters for which the United States also must prepare, happen all too frequently and can be expected anywhere across the Nation.² Those involved in recovery efforts for all such events, including utilities, know that restoring normal life to affected communities as quickly and safely as possible takes constant planning and efficient coordination among all those involved. Utilities regularly engage in the first, but they must rely on Federal, state and local agencies for the second.

UTC applauds the Commission's efforts to determine its proper role in disaster recovery and to seek appropriate measures it can take to promote more efficient response and heightened preparedness for communications networks. To that end, UTC urges the FCC to 1) coordinate with other Federal agencies engaging in similar issues for the industries they regulate; and 2) to create a regulatory framework that encourages coordination among all emergency responders on communications issues. UTC cautions the Commission against moving beyond its authority and expertise in its efforts to improve disaster recovery efforts. And in its role as an industry representative association, UTC

² Planning for a pandemic also is occurring, especially within larger utilities. Such a disaster would focus less on outdoor work to repair damaged infrastructure and more on finding safe means of continuing operations due to high anticipated levels of employee absenteeism. Moreover, this kind of disaster would give rise to special and prioritized needs on the part of some utility customers, such as health care facilities. While a different type of disaster, the threat of pandemic still points to the need for planning and coordination among multiple industries, whether publicly or privately owned.

offers its own assistance in working with the FCC to streamline administrative processes in disaster situations.

A. The Presence of Utility Workers and Robustness of Utility Communications Networks Makes These Entities Natural Partners in Emergency Preparedness and Response.

UTC urges the FCC to include critical infrastructure industry (CII) entities such as utilities in its emergency communications coordination and planning efforts, for the simple reason that not to do so will hamper recovery. Regardless of the official definition assigned to them, utility personnel are emergency responders because an important part of their jobs is to respond to emergencies: to be on the ground restoring power, gas and safe water to citizens as soon as the immediate danger has passed. In all cases, these efforts will be bolstered by thousands of additional personnel from outside the affected utilities' service territories; UTC notes the comments of CLECO Corporation, a southwest Louisiana electric utility, referring to a "nearly 1,800 additional crews sent to assist the restoration effort" in its area alone.³ Another example is that of Mississippi Power, a subsidiary of the Southern Company, which operates in the southern Mississippi area also hard-hit by the storm: this utility's normal workforce of approximately 1500 (including all employees, not just line crews) swelled to approximately 11,000 workers within a few days after the storm.⁴ Such mutual aid is the normal practice among electric utilities, generally along ownership lines: investor-owned utilities (IOUs) tend to look to other IOUs for

³ Comments of CLECO Corporation, EB Docket No. 06-119 (CLECO), August 7, 2006, at 2.

⁴ "The Little Company that Could," *USA Today*, October 10, 2005, found at http://www.usatoday.com/money/companies/management/2005-10-09-mississippi-power-usat_x.htm.

assisting trucks and crews, while cooperatives look to other cooperatives.

Whatever Federal officials want to call them, these crews will be there, along with tree-cutting crews, catering, waste disposal, fuel and all the other service personnel that utilities contract with to make possible weeks of hard work by thousands of personnel away from their own homes.

Utilities know that disasters, of whatever kind, will be part of their business lives, and that recovering from such events as quickly and safely as possible is one of their most important responsibilities. Indeed, for IOUs, performance in these areas will be judged by state regulators, while municipal utilities report to local governments and cooperatives must answer to the Rural Utility Service (RUS) of the U.S. Department of Agriculture. Therefore, they formulate, and exercise regularly, detailed emergency response and mutual aid plans for responding to emergencies in their own service territories or helping other utilities. Part of this effort is to ensure that internal communications networks, whether wired or wireless, are ubiquitous throughout all areas of service territories and robust enough to survive disasters and offer the necessary support to recovery efforts..

The Panel Report notes the robustness of utility internal communications systems:

Electric utility networks . . . appeared to have a high rate of survivability following Katrina.[cite deleted] These communications systems did not have a significant rate of failure because (1) the systems were designed to remain intact to aid restoration of electric service following a significant storm event; (2) they were built with significant onsite back-up power supplies (batteries and generators); (3) last mile connections to tower sites and the backbone transport are typically owned by the utility and have redundant paths (both T1 and fixed microwave); and (4) the staff responsible for the communications network have a

focus on continuing maintenance of network elements (for example, exercising standby generators on a routine basis).⁵

CLECO's comments offer a company-specific example in describing the robustness of its 900 MHz private land mobile trunked radio system and supporting infrastructure.⁶ UTC submits that such examples point up the continued criticality of private, internal communications networks. Further, their expertise makes CII entities such as utilities natural partners to other, recognized responders such as traditional public safety and Federal personnel. The FCC should include utility representatives, either directly or through an industry association such as UTC, in emergency communications coordination efforts.

B. Interoperability Is a Major Concern for CII.

The robustness of utility communications systems through disasters like Hurricane Katrina points up the continued need for private, internal systems to support restoration, especially during power outages and when commercial communications networks are down. However, just as the public safety sector, CII entities suffer from a lack of spectrum and interoperability among responders.

Utilities and other CII entities operate their private land mobile radio (PLMR) voice and data systems on a variety of frequency bands, using a variety of technologies. These include 150-170 MHz, 450-512 MHz, 851-869 MHz and 896-901 MHz frequencies, among others.⁷ Technology in use ranges from

⁵ *Report and Recommendations to the Federal Communications Commission*, Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, June 12, 2006 ("Panel Report"), at 12-13.

⁶ *See generally*, CLECO.

⁷ UTC supports the comments of the American Petroleum Institute (API) in noting the lack of adequate spectrum for petroleum operations; the situation is very similar for utilities, which generally use the same frequencies and wireless equipment. UTC also support's API's statements concerning the potential harm to CII licensees should the Commission implement its

conventional to trunked, analog to digital; however, as the industry moves to implement more advanced technology to enable the next generation of both communications and energy infrastructures, it is deeply concerned about the availability of reliable spectrum and the need for interoperability. Another wrinkle: given their differing ownership types, utilities are eligible for either Industrial/Business (IOUs and cooperatives) or Public Safety (municipal utilities) pool frequencies of the PLMR bands.

Beyond the issues of growing congestion on existing PLMR spectrum and potential regulatory action that could deprive them of spectrum, CII entities have no designated spectrum for their use, making them more spectrum-deprived than public safety agencies. With thousands of personnel responding to emergencies anywhere in the country, interoperability is a major concern. UTC supports strongly the National Rural Electric Cooperative Association's comments concerning the need for a small amount of dedicated spectrum for CII use,⁸ and requests that the FCC initiate a rulemaking concerning possible CII use of returned 700 MHz guard band licenses adjacent to the 24 MHz public safety allocation.⁹

proposal to auction remaining "white space" in the 896-901/935-940 MHz PLMR frequency band. *See*, Comments of the American Petroleum Institute, EB Docket No. 06-119, filed August 7, 2006, at 6-9.

⁸ Comments of the National Rural Electric Cooperative Association, EB Docket No. 06-119 (NRECA), August 7, 2006, at 6-7.

⁹ *See*, Letter to Chairman Kevin Martin from Jill M. Lyon, UTC and Steve Sharkey, Motorola, *Re: Proposal for Use of Returned Nextel 700 MHz Guard Band Licenses*, submitted July 20, 2006.

C. Rather Than Creating Discrete Programs, the FCC Should Coordinate Efforts with Other Federal Agencies Responsible for Disaster Preparedness and Response.

As we all know, disaster response is a hugely complex undertaking, involving far more than communications issues. UTC recommends that the FCC coordinate its efforts with other Federal agencies involved in these efforts, rather than impose duplicative or burdensome requirements on licensees, especially those that are not in the communications business as their primary purpose. Utility representative associations, especially those focused on the core electric, gas and water functions, are deeply engaged with other Federal agencies such as the Department of Homeland Security and the Department of Energy in disaster recovery and emergency preparedness. Many of the issues raised in the NPR are also under discussion in those venues, and UTC notes the similarities between situations quoted by communications workers and those faced by electric and other utility workers. Recent industry discussions in the power industry alone include the following points:

1. **Personnel and Vehicle Identification** – There is a need to develop a credentialing program that will provide certainty to both utilities and public safety officials controlling access to disaster areas without hampering restoration efforts. Industry discussions have noted that, while utility workers generally carry ID and work from marked vehicles, contractors may not. Also, some workers may use personal vehicles, and logos on out-of-state utility trucks may not be

recognized by local officials. Such a credentialing system should be scalable, given the varying size of response efforts.¹⁰

2. **Travel Within and To-and-From Disaster Areas** – Government assistance is needed to clear roads and help local public safety officials manage traffic in affected areas. Utilities and other responders need to be able to move personnel and equipment from one area to another regardless of state boundaries. Such efforts may also require waivers of weight restrictions and other local ordinances for crews traveling from other states; moreover, Canadian and Mexican crews, who often respond to U.S. emergencies, sometimes experience difficulties crossing borders into the United States. The Federal government could help through expedited immigrations and customs, as well as waivers of vehicle or cargo restrictions.

3. **Fuel Issues** – Part of utilities' standard emergency preparedness planning is to contract in advance for fuel supplies to run generators and keep vehicles rolling. Government agencies should not seize such supplies, and overall recovery efforts may necessitate that utilities have priority access to fuel to maximize the speed and efficiency of restoration.

4. **Health and Safety Issues** – While carrying out restoration efforts, utility personnel have concerns about dangers to their security that could warrant Federal assistance to overburdened local public safety personnel. They may need special inoculations or anti-viral drugs depending on the area in which they will be working. Also, the extensive mutual aid preparation of many utility

¹⁰ Concerning this issue, UTC recognizes and supports NRECA's statements concerning wide-scale credentialing for both utility and contractor workers, while recognizing that this issue would not likely be addressed by the FCC. *See*, NRECA Comments at 5.

companies may include prior arrangements for hotel rooms, staging areas, transportation, food, helicopters, ice, portable toilets, etc. Government agencies should not pre-empt or impair such arrangements.

And there are other issues, including necessary waivers of environmental regulations, communications with the public about the status of power and water restoration and contact information-sharing between utilities and responsible government agencies.

UTC notes that none of the above issues is within the FCC's normal course of business; however, all of them are matters for discussion and resolution within the larger response community; in the case of the power industry, largely among associations, the U.S. Department of Energy and the U.S. Department of Homeland Security. As examples, UTC notes the Standard Operating Procedures adopted by the States of Louisiana and Georgia, which include measures to assist responders from multiple industries.¹¹ Such coordination is necessary to ensure that all parties engaged in restoration are involved in necessary information and resource sharing. Therefore, UTC agrees with the Department of Homeland Security that the Commission should work within the existing Federal framework to improve communications-related issues as a part of disaster preparedness and recovery, rather than through independent rulemaking.¹²

UTC also supports NRECA's comments, which question whether utilities "need be included in sector-wide readiness pre-positioning recommendations

¹¹ See, Comments of AT&T, Inc., EB Docket No. 06-119, filed August 7, 2006, Appendix.

¹² See, Comments of the Department of Homeland Security, EB Docket No. 06-119 (DHS), August 7, 2006, at 2.

due to the long-standing, successful, utility-specific emergency procedures already in place.”¹³ The primary purpose of CII entities is to maintain or restore vital services to the public such as power, gas, water, petroleum or railroad transportation. While these entities build and operate private communications networks – some of them very large -- to support these efforts and ensure worker safety, they are not commercial telecommunications service providers any more than public safety agencies are. Therefore, should the FCC decide to prepare a “Readiness Checklist” as proposed in the NPR for the communications industry,¹⁴ such a checklist should not be applied to CII, as it would have only limited relevance and could conflict with larger-scale, industry-specific emergency preparedness and response plans.¹⁵

D. The FCC’s Own Organization Should Encourage Emergency Communications Coordination Among Responders.

One of the FCC’s efforts to improve disaster preparedness has been the announcement of its new Public Safety and Homeland Security Bureau. While the Commission is to be commended for seeking to consolidate homeland security-related issues under one “roof” within the agency’s structure, UTC recommends that the agency’s own organization should encourage better coordination among all emergency responders. As currently formulated, this is

¹³ Comments of NRECA at 3.

¹⁴ *NPR* at ¶ 8.

¹⁵ While generally agreeing with commercial carriers’ comments stressing the importance of voluntary industry checklists and best practices, UTC opposes strongly any recommendation that the FCC be involved in electric power restoration priority planning (*see, e.g.*, *NPR* at ¶ 12; Comments of Verizon, EB Docket No. 06-119, filed August 7, 2006, at 22). Power restoration is a complex and utility-specific matter already subject to detailed planning, including regulators and stressing public safety, hospitals and other priorities based on highly specific knowledge of utility infrastructure and customers. UTC respectfully submits that this is not an appropriate area for FCC activity.

not likely to occur, as the issues and licensees assigned to the new Bureau are under-inclusive. If communications coordination before and after disasters, as well as interoperability efforts, are to be effective, the Bureau with these responsibilities should include all emergency responders, including utilities. As noted in the Katrina panel's report, these entities build strong communications infrastructure that could be of significant benefit during recovery efforts if they are included in planning. Moreover, since electric power restoration is so clearly an important issue for the commercial communications industries, information-sharing with utilities during restoration efforts creates a second reason for their inclusion within the new Bureau's purview. UTC recommends that the FCC include CII communications issues and licensing within the responsibilities of the new Bureau, as it has for Public Safety eligibles (some of which are utilities, as noted above). As an alternative, CII needs a Division-level "home" elsewhere within the agency that will understand its issues and work closely with the Public Safety and Homeland Security Bureau.

E. UTC Offers to Coordinate Special Temporary Authority for Member Industry Participants in Emergency Response.

The Notice, based on the Katrina panel's recommendations, contemplates the need for regulatory waivers or expedited Special Temporary Authority (STA) for licensees engaged in disaster recovery efforts.¹⁶ UTC offers its expertise as a Commission-certified frequency coordinator to assist in such efforts.

UTC stresses that the Wireless Telecommunications Bureau staff in Gettysburg, PA – the source of "emergency" STA grants during such events –

¹⁶ NPR at ¶ 9.

does an outstanding job in trying to meet licensee's needs. However, the large numbers of PLMR end users from the utility industry alone moving toward the anticipated disaster area, coupled with frequent uncertainty about their eventual destination, makes this a very difficult job with which an experienced private sector party may be able to help.

As a longtime PLMR frequency coordinator, UTC is extremely familiar with the frequency bands and service territories of its utility members and the industry as a whole. UTC also has established a communications mutual aid database on its website designed to provide communications contact information, equipment and frequency information for both host and visiting utilities engaged in disaster response. UTC therefore recommends that it be designated as an "STA coordinator" for the industry it represents in cases of emergency, with the authority to grant and coordinate emergency STAs.¹⁷ This would entail the use of UTC's coordination software to keep track of the frequencies in use by various utilities both en route to, and working in, disaster areas. Since utility crews often move from location to location during recovery efforts, UTC also would track the general location of personnel and communications equipment, notifying users to minimize the likelihood of interference with other licensees. The compilation of this information also could be helpful, to a small degree, in enabling interoperability among utilities where possible based on frequencies and equipment in use. Because utility crews need to use radios while traveling, and generally move toward a disaster before it happens -- where notice is possible, such as before a hurricane -- UTC recommends that this authority commence

¹⁷ *Accord*, NRECA Comments at 4.

when the likely disaster becomes apparent, rather than after a Presidential declaration.

III. Conclusion

UTC commends the Commission for creating the Katrina panel, and the panel for its comprehensive report. The Council recommends that the FCC move expeditiously to include all emergency responders in its communications preparedness and recovery efforts, and to include CII within the new Public Safety and Homeland Security Bureau. UTC also recommends that the Commission work with other designated Federal agencies charged with overall preparedness and recovery responsibilities to ensure consistent and non-duplicative measures, rather than impose additional and discrete requirements that may not be relevant to licensees not engaged in the commercial communications industry. Finally, UTC offers its frequency coordination expertise to assist the FCC as an emergency STA coordinator for the industries it represents.