

September 6, 2007

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
12th Street Lobby, TW-A325  
Washington, D.C. 20554

**Re: Ex Parte Communication, EB Docket 06-119,  
WC Docket No. 06-63**

Dear Ms. Dortch:

On September 5, 2007, Christopher Guttman-McCabe, Vice President, Regulatory Affairs, Paul Garnett, Assistant Vice President, Regulatory Affairs, and Brian Josef, Director, Regulatory Affairs, CTIA – The Wireless Association® (“CTIA”), met with Chief Derek Poarch, Lisa Fowlkes, Deputy Bureau Chief and Tim Peterson, Chief of Staff, of the Public Safety and Homeland Security Bureau (the “Bureau”), concerning the Commission’s Order implementing the recommendations of the Hurricane Katrina Panel. Specifically, CTIA discussed the Commission’s emergency back-up power rule and its potential impact on wireless carriers.

Planning for continuity of service in the event of a disaster has been a critical part of wireless carriers’ operations since well before Hurricane Katrina. Carriers have developed their own array of best practices to anticipate and resolve problems created by both natural and man-made disasters. These business continuity plans reflect each individual carrier’s knowledge of its particular network and geographic area served. Providing carriers with flexibility to implement their own plans, rather than adopting inflexible requirements, enable carriers to pre-position portable cell sites, back-up generators, fuel, other equipment, and personnel in a manner that facilitates the most rapid and appropriate responses to improve the likelihood that carriers’ networks remain operational in a disaster.

During the meeting, CTIA shared with the Bureau the aggregated results of a CTIA survey of Tier I and Tier II wireless carrier members (*i.e.*, those wireless carriers representing the vast majority of the nation’s wireless subscribers). CTIA explained that:

- (1) Of those carriers responding to the survey by September 4, 2007 with back-up duration information, on average more than 88 percent of carrier cell sites have emergency back-up power located on-premises;
- (2) At least 80 percent of those cell sites had back-up power for four (4) hours or more;

- (3) In addition to on-site back-up power sources, wireless carriers also have thousands of portable generators at their disposal; and
- (4) Carriers maintain the ability to share resources across common wireless platforms (as discussed below).

CTIA explained that these figures have been achieved by the industry absent any mandate to provide back-up power, thereby proving carriers' strong incentive to ensure network reliability and resiliency. CTIA also noted that these numbers do not reveal carriers' steps to enhance back-up power resources and duration in specific locations. For example, in areas of the country more prone to weather-related or man-made power outages (*e.g.*, hurricanes or brown-outs), carriers have increased their back-up power at many sites, with some even designed for 24 hours of back-up power.<sup>1</sup>

CTIA further explained that, unlike other segments of the telecommunications industry, wireless carriers can utilize resources outside of their own wireless networks to benefit subscribers. Specifically, during past natural and man-made disasters (including Hurricane Katrina), carriers have implemented "home-in-home" roaming agreements to enhance network coverage, as well as agreements for sharing inter-carrier spectrum, backhaul resources and back-up power. In addition to portable generators discussed above, carriers maintain cellular on wheels ("COWs") and cellular on light trucks ("COLTs") that can be flexibly positioned and deployed depending on the particular circumstances of the event.

In response to the Bureau's request for an estimate of CTIA members' ability to comply with the June 8, 2007 back-up power rule, Section 12.2 of the Commission's rules, CTIA shared the approximate averages of its survey results of responding Tier I and Tier II wireless carriers as of September 4, 2007. CTIA estimates that:

- (1) approximately 17 percent of respondents' existing cell sites may be unable to comply with an on-site, eight hour back-up power requirement due to applicable federal, state and local laws as well as zoning and building codes;
- (2) approximately 19 percent of respondents' existing cell sites may be unable to comply with this requirement due to physical or structural reasons (*e.g.*, insufficient space, weight limitations, inadequate ventilation, etc.); and
- (3) approximately 27 percent of respondents' existing cell sites may not be allowed to install on-site back-up power due to applicable site lease agreements (*e.g.*, leases may contractually limit the space needed to install back-up power equipment and would require lease renegotiation prior to installation).

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<sup>1</sup> See, *e.g.*, T-Mobile Comments in Support of Petitions for Reconsideration, EB Docket No. 06-119, WC Docket No. 06-63, at 7 (filed Sept. 4, 2007).

CTIA observed that the above figures are estimates. In the time allotted, carriers lack the resources to conduct the detailed research into all applicable laws and building codes, engineering surveys, and leases. CTIA also noted that carriers may have “double-counted” specific sites in which physical or structural constraints may prevent on-site compliance with the eight hour power rule and a solution would require renegotiating the site lease (*e.g.*, rooftop site cannot accommodate additional weight of batteries / generators, resulting in an attempt to relocate backup equipment on additional ground space, triggering lease renegotiation). The result would be that the same single site would be counted twice in response to categories 2 and 3 above.

CTIA also pointed out that carriers’ interpretation of the rule applied to Distributed Antenna Systems (“DAS”), repeaters, and micro- and pico-cell sites and related equipment, automatically triggered a negative survey response. This further distorted the response rates.

The results of CTIA's survey reinforce the statements and declarations in CTIA's petition for reconsideration, underscoring the technical and legal infeasibility of compliance with the back-up power rule.

Pursuant to Section 1.1206 of the Commission’s Rules, this letter is being electronically filed with your office. If you have any questions regarding this submission, please contact the undersigned.

Sincerely,

*/s/ Christopher Guttman-McCabe*

Christopher Guttman-McCabe

cc: Chief Derek Poarch  
Lisa Fowlkes  
Tim Peterson