

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Rulemaking 18-03-011

**REPLY COMMENTS OF COMCAST PHONE OF CALIFORNIA, LLC (U-5698-C)  
ON PROPOSED DECISION ADOPTING WIRELINE PROVIDER  
RESILIENCY STRATEGIES**

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In accordance with CPUC Rule 14.3, Comcast Phone of California, LLC (“Comcast”) respectfully submits these comments in reply to comments filed by other parties on the Proposed Decision Adopting Wireline Resiliency Strategies (“PD”) in the above-captioned proceeding.

**I. THE OPENING COMMENTS STRONGLY SUPPORT COMCAST’S PROPOSED CHANGES TO THE PD**

The opening comments indicate broad agreement that requiring communications providers to provide backup power merely shifts responsibility from the investor-owned utilities to communications providers and does nothing to protect Californians from wildfire danger. The proposal put forward by the California Cable & Telecommunications Association (“CCTA”) more appropriately balances the safety risks with the need for backup power and should be adopted. If the Commission nonetheless regrettably elects to adopt the PD as the final decision instead of the more reasonable and defensible CCTA proposal, at the very least it should implement the changes to the PD proposed in Comcast’s opening comments.

**A. There is Broad Agreement that the PD Errs in Imposing an Unrealistic, Infeasible Eight-Month Implementation Period for Backup Power**

In its opening comments, Comcast detailed why the PD’s proposed eight-month deadline for deploying fixed backup generators at more than 1,500 Comcast network facilities in the Tier 2 and 3 High Fire-Threat Districts (“HFTDs”) is infeasible and unsupportable.<sup>1</sup> Comcast further explained that the PD’s *de facto* requirement to comply with an unrealistic implementation schedule by deploying portable, gasoline-powered generators in the field during a PSPS event or wildfire raises a host of significant safety, environmental, and other practical challenges that the PD erroneously ignores.<sup>2</sup> Other wireline providers echo Comcast’s concerns. Cox explains that implementation will require “far longer than 8 months” and that “full compliance with the proposed resiliency requirement in the time allotted is impossible.”<sup>3</sup> Charter similarly states that “the present timelines are likely impossible to execute and misaligned with the factual record,”<sup>4</sup> and CCTA concurs that the proposed compliance timeline would “likely be impossible to achieve for the nearly 30,000 wireline facilities” in the Tier 2 and 3 HFTDs.<sup>5</sup>

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<sup>1</sup> See Comcast Comments at 6-8.

<sup>2</sup> See *id.* at 9-11.

<sup>3</sup> Cox Comments at 3.

<sup>4</sup> Charter Comments at i.

<sup>5</sup> CCTA Comments at 3. See also Small LECs Comments at 2 (“Even if limited to wireline facilities in Tier 2 and 3 [HFTDs] . . . it may not be technologically or economically feasible to implement 72 hours of backup power for all essential communications equipment throughout their networks in eight months.”).

Commenters also note the PD’s error in affording wireless carriers *50 percent more time* than wireline providers to implement backup power *on vastly fewer facilities*.<sup>6</sup> As Cox observes, “[t]he Commission should not punish wireline providers with a more arduous compliance schedule . . . because the Commission’s issuance of the wireline PD falls in closer proximity to the next fire season.”<sup>7</sup> Cox also correctly notes that the PD’s assertion that wireline providers were “on notice” about possible backup power rules<sup>8</sup> is no substitute for a decision specifying the requirements, and that requiring preparation for an unknown regulatory mandate long before a final order violates principles of due process.<sup>9</sup> Finally, Charter is correct that the March 2020 ruling *seeking comment* on the Assigned Commissioner’s proposal “does not make the PD’s compressed timelines . . . any more reasonable or feasible.”<sup>10</sup>

Only one party, the Public Advocates Office (“Cal Advocates”), expressly endorses an eight-month implementation period, suggesting that it will “ensure” wireline providers have ubiquitous 72-hour backup power in the Tier 2 and 3 HFTDs “by October 2021.”<sup>11</sup> The record makes clear that this is a fallacy. Installing on-site generators at thousands of network facilities is a long, difficult process, and many factors that determine the speed of generator deployment fall outside wireline providers’ control.<sup>12</sup> As Charter observes, installing backup power at tens of thousands of facilities across the state is “a multi-year process”;<sup>13</sup> and the Small LECs aptly describe an eight-month implementation timeline as “aspirational.”<sup>14</sup> Accordingly, the opening comments strongly support Comcast’s proposal to extend the 72-hour backup power implementation period to at least 18 months.

**B. There is Wide Agreement that the PD Errs in Requiring Wireline Providers to File Communications Resiliency Plans within Four Months**

Comcast explains in its opening comments why the Commission should modify the PD to extend the period for wireline providers to submit their initial Communications Resiliency Plans to at least six months.<sup>15</sup> Charter also calls for six months to file Resiliency Plans, given “the logistical challenges of

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<sup>6</sup> See, e.g., Charter Comments at 3-7; CCTA Comments at 3; Cox Comments at 7.

<sup>7</sup> Cox Comments at 6.

<sup>8</sup> *Id.* (citing PD at 54).

<sup>9</sup> See Cox Comments at 5-6.

<sup>10</sup> Charter Comments at 6.

<sup>11</sup> Cal Advocates Comments at 1.

<sup>12</sup> These factors include the availability of equipment, the need for encroachment permits, community resistance, siting challenges, etc. See Comcast Comments at 8-9.

<sup>13</sup> Charter Comments at 4.

<sup>14</sup> Small LECs Comments at 3.

<sup>15</sup> See Comcast Comments at 13 (explaining that by August, wireline providers will have a much better understanding of when and how many backup generators their vendor(s) can supply, which encroachment permits

satisfying the PD’s requirements,”<sup>16</sup> while Cox explains that the PD’s inexplicable discrepancy between the timeframe for wireline and wireless providers to submit similar plans (four vs. six months) is arbitrary and capricious.<sup>17</sup> Cox is correct that, if anything, wireline providers should be afforded *more* time than wireless providers to complete their plans, given that they must take stock of vastly more network facilities that require backup power.<sup>18</sup>

**C. There is Wide Recognition that the Commission Must Provide Wireline Providers More Flexibility to Avoid Endangering the Public and Workers**

In its comments, Comcast explains why the Commission should clarify in any final decision that it will not require the deployment or operation of backup power in circumstances where a wireline provider reasonably believes doing so would create an imminent danger to workers or the public.<sup>19</sup> Charter also requests to modify the PD “to reflect that the obligation to maintain service applies unless doing so is impossible or infeasible as a result of unforeseen events”<sup>20</sup> in order to “account for circumstances that are unknown or unknowable at the time of an advance waiver request.”<sup>21</sup> Frontier asks the Commission to revise the PD to “explicitly recognize that there may be instances where the mandated minimum service level will not be available to all customers, despite the implementation of reasonable resiliency measures by the communications providers.”<sup>22</sup> Comcast supports the changes proposed by Charter and Frontier.

On the other hand, the Commission should reject the Joint Parties’ proposal to make the already-onerous waiver process even more cumbersome and unworkable by, among other things, requiring “investment, cost, and timeline[.]” data with waiver requests and allowing only for temporary waivers.<sup>23</sup> While the Joint Parties suggest that 100 percent compliance is simply a matter of time and money, the reality is that 72 hours of backup power may *never* be feasible or safe for many wireline facilities. Waivers are not “loophole[s] to avoid the general obligations,” as the Joint Parties wrongly suggest,<sup>24</sup> but rather

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have been approved or remain pending, which network facilities present siting challenges, which network facilities can safely be equipped with portable generators, and where waivers will be needed).

<sup>16</sup> Charter Comments at 6. *See also* Small LECs Comments at 3 (calling for “greater flexibility . . . in connection with the development, submission, and updating of [Communications Resiliency Plans]”).

<sup>17</sup> Cox Comments at 7.

<sup>18</sup> *Id.*

<sup>19</sup> *See* Comcast Comments at 2-3 (explaining that unforeseen circumstances such as changing weather and fire conditions, road closures and access restrictions, and orders from law enforcement or fire officials may affect universal compliance with a 72-hour backup power mandate).

<sup>20</sup> Charter Comments at 8.

<sup>21</sup> *Id.* at i.

<sup>22</sup> Frontier Comments at 5.

<sup>23</sup> Joint Parties Comments, Revisions to FOF, COL and Ordering Paragraphs at ii (Ordering Para. 1).

<sup>24</sup> Joint Parties Comments at 4.

are essential components of a holistic and realistic resiliency strategy needed to reflect “factors that come into play over which the wireline provider may have very little control.”<sup>25</sup>

## **II. THE COMMISSION SHOULD REJECT PROPOSALS TO EXPAND THE BACKUP POWER MANDATE AND REVISIT CUSTOMER PREMISES BACKUP POWER**

CPUC Rule 14.3(c) requires comments on a proposed decision to focus on “factual, legal or technical errors,” and those that do not “will be accorded no weight.” Under this standard, the Commission must reject arguments that merely disagree with the PD’s conclusions without identifying errors.

Cal Advocates urges the Commission to “clarify that the 72-hour Backup Power Requirements also apply to communities with insufficient wireless service coverage located outside Tier 2 and Tier 3 HFTDs.”<sup>26</sup> This would not be a “clarification,” but rather, a substantial and unworkable expansion of the backup power mandate. The PD explicitly states that its requirements are “narrowly tailored only to facilities-based wireline providers offering service in California’s Tier 2 and Tier 3 [HFTDs].”<sup>27</sup> Cal Advocates asserts that “[a] significant number of Californians live in areas outside of Tier 2 and Tier 3 HFTDs with limited access to wireless communications” and repeats prior arguments that backup power also should be required in “communities with limited communications network redundancy.”<sup>28</sup> But it was not error for the PD to reject that proposal in favor of a more “narrowly tailored” approach, which is crucial to help mitigate the serious negative consequences of a broader backup power mandate.

In any event, Cal Advocates’ proposal to rely on CalSPEED data to identify communities without adequate wireless coverage would be misguided and ineffective for reasons that Comcast has explained in its prior comments.<sup>29</sup> Such a subjective, data-intensive exercise would exponentially complicate the process of implementing the backup power mandate and never could be accomplished in the 18 months Comcast reasonably believes will be required for deployment just in the Tier 2 and 3 HFTDs—much less the unrealistic eight-month period proposed in the PD.

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<sup>25</sup> PD at 79.

<sup>26</sup> Cal Advocates Comments at 2.

<sup>27</sup> PD at 25. The PD further states that “the Commission may review whether this narrow requirement provides sufficient protection to all Californians . . . during a later phase of this proceeding.” *Id.* at 57. While Comcast believes the record already weighs decisively against a broader backup power mandate, these statements belie any suggestion that the PD left its approach to communities outside the Tier 2 and 3 HFTDs unclear or unresolved.

<sup>28</sup> Cal Advocates Comments at 2-3.

<sup>29</sup> See Comcast Reply Comments on Wireline Ruling at 38 (noting that whether mobile wireless customers have data speeds of 25/3 Mbps or 10/1 Mbps is irrelevant to whether they can call 911 or receive text message alerts in an emergency, and that reliance on outdated broadband data to find that *half the state or more* lacks wireless coverage is not credible).

The Commission also should not seek comment “on the need for further action to support the provision of backup power in customer premises, including increased access at no charge or reduced charge for medically vulnerable customers.”<sup>30</sup> While the Joint Parties claim that the PD “errs by failing to address these concerns,”<sup>31</sup> the record on this topic is fully developed, and the PD *extensively* discusses the relationship between backup power in wireline networks and at customer premises, as well as the division of responsibility for power in each location.

While some of its assumptions are flawed,<sup>32</sup> the PD reflects a clear and appropriate distinction between “the obligation wireline providers have to maintain service on their end of the network” and the “multiple strategies that consumers use to maintain backup power.”<sup>33</sup> Consequently, the PD requires Emergency Operation Plans to “include customer education on the need for backup battery or generator power at the customer premises.”<sup>34</sup> The Joint Parties contend that “existing educational efforts . . . have not resulted in widespread adoption of backup power in customer premises” and fault the PD for not revisiting the outreach requirements that the Commission adopted in D.10-01-026.<sup>35</sup> But this disagreement with the PD’s policy judgments does not amount to error, and the Commission therefore should accord it no weight,<sup>36</sup> in accordance with CPUC Rule 14.3(c).

### III. CONCLUSION

For all of the above reasons, the Commission should modify the PD to reflect the CCTA proposal, which would achieve the Commission’s goals and benefit Californians reasonably and without producing the substantial safety and other harms and costs inherent in the PD. At the very least, the Commission should modify the PD to (1) allow wireline providers 18 months to comply with the backup power mandate and six months to submit Resiliency Plans, and (2) clarify that it will not require the deployment or operation of backup power in circumstances where a wireline provider reasonably believes doing so would create an imminent danger to workers or the public. Finally, it should reject proposals to expand the backup power mandate beyond the HFTDs or revisit customer premises backup power requirements.

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<sup>30</sup> Joint Parties Comments at 3.

<sup>31</sup> *Id.*

<sup>32</sup> For instance, the PD relies on anecdotes to find a “significant increase in the number of generators that have been purchased” by California residents since the 2019 PSPS events. PD at 60.

<sup>33</sup> *Id.* at 61.

<sup>34</sup> *Id.*

<sup>35</sup> Joint Parties Comments at 3.

<sup>36</sup> If anything, the Joint Parties’ comments underscore Comcast’s experience that an extremely small—and declining—portion of voice customers are interested in purchasing backup batteries, despite the FCC requirement that they be offered that option. *See* Comcast Comments on Wireline Ruling at 41-42.

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