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July 30, 2015

Via ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* Filing of the American Cable Association on Ensuring Customer Premises Equipment Backup Power for Continuity of Communications, PS Docket No. 14-174, and Technology Transitions GN Docket No. 13-5

Dear Ms. Dortch:

On July 27, 2015, Ross Lieberman, Senior Vice President of Government Affairs, American Cable Association (ACA), and Thomas Cohen, Kelley Drye & Warren LLP, Counsel to ACA, met separately with Daniel Alvarez, Legal Advisor for Wireline, Public Safety, and Homeland Security to Chairman Wheeler, and with Amy Bender, Legal Advisor, Wireline, to Commissioner O’Rielly to discuss the Notice of Proposed Rulemaking (“NPRM”) in the above-referenced dockets regarding the provision of backup power for customer premises equipment (CPE).¹ In these meetings, they made the following points:

Offer of Battery Backup Capability for Voice Service – The Commission should require that a cable operator’s offer to provide battery backup capability for voice service be made only once at the point of sale of the voice service by a representative of the operator who is charged

¹ See *In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications*, PS Docket No. 14-174, *Technology Transitions*, GN Docket No. 13-5, *Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers*, RM-11358, *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, *AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Internet Special Access*, RM-10593, Notice of Proposed Rulemaking and Declaratory Ruling, FCC 14-185 (rel. Nov. 25, 2014).

Marlene H. Dortch
July 30, 2015
Page Two

with taking orders for service. In contrast, an installer of equipment at the customer premises is not charged with this task and should not be required by the Commission to discuss such an offer, provide any disclosures related to an offer, or take orders based on offers made at the point of sale.

Small Provider Transition – The obligation by smaller cable operators (those with fewer than 100,000 voice service customers) to offer battery backup capability should not become effective until 180 days after operators with more than 100,000 voice customers are required to come into compliance. ACA provided detail on its rationale, based on Commission precedent, for setting the amount at 100,000 voice customers in its *ex parte* submission of June 24th. In setting the breakpoint, the Commission should recognize that it is not providing an exemption from the obligation, only delaying implementation.²

Information Disclosures – ACA understands and agrees that at the point of sale a cable operator’s representative should provide consumers considering subscribing to voice service with sufficient information about the need for and use of battery backup capability, including that the service will not work during a power outage, backup batteries with standby power of the mandated duration can be purchased by the customer to address this issue,³ and the customer may need to install the battery and will need to monitor the charge of the battery and install a replacement. ACA members have found that, to be most useful, consumer disclosures, such as those that would be made at the point of sale about battery backup availability and capability, should be straightforward and relatively succinct. It therefore urges the Commission to give operators, especially smaller operators, freedom to craft the appropriate battery backup disclosure and to use their websites for the provision of more elaborate information.

Finally, ACA members pride themselves on being part of their communities, and over the years, they have developed various ways to educate consumers on emergency-preparedness needs and procedures and on dealing with and recovering from a natural disaster. They ask the Commission to recognize this history and to not require that providers have an obligation to educate or inform their customers about dealing with power outages unrelated to the battery backup requirement and unrelated to their provision of voice communications service. Further,

² See Letter from Thomas Cohen, Counsel to American Cable Association, to Ms. Marlene Dortch, Secretary, Federal Communications Commission, PS Docket No. 14-174 and GN Docket No. 13-5 (June 24, 2015).

³ ACA does not object to an initial requirement of 8 hours of standby time, evolving to 24 hours after 3 years. ACA also supports permitting cable operators to assess a reasonable charge for provision of battery backup customer premises equipment and batteries.

KELLEY DRYE & WARREN LLP

Marlene H. Dortch
July 30, 2015
Page Three

in providing information about services they provide, ACA members should have flexibility to continue to craft and deliver information to serve local needs.

This letter is being filed electronically pursuant to Section 1.1206 of the Commission's rules.

Sincerely,



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cc: Daniel Alvarez
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