Federal Communications Commission
Washington, D.C. 20554

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DA 16-475

Small Entity Compliance Guide

Ensuring Continuity of 911 Communications

Report and Order
FCC 15-98
PS Docket Nos. 14-174
Report and Order Released: August 7, 2015

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 1-866-418-0232

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Objectives of the Proceeding

For over one hundred years, consumers have trusted that they will hear a dial tone in an emergency even when the power is out. Now, as networks transition away from copper-based, line-powered technology, many are aware of the innovation this transition has spurred in emergency services, but many consumers remain unaware that they must take action to ensure that dial tone's availability in the event of a commercial power outage. This period of transition has the potential to create a widespread public safety issue if unaddressed.

Accordingly, we created new section 12.5 of our rules to place limited backup power obligations on providers of facilities-based fixed, residential voice services that are not line-powered (referred to in the rules as "Covered Service" providers) to ensure that such service providers meet their obligation to provide access to 911 service during a power outage, and to provide clarity for the role of consumers and their communities, should they elect not to purchase backup power. These new requirements, described in more detail below, include an obligation to offer subscribers at the point of sale the option to purchase backup power, and a disclosure obligation at the point of sale and annually thereafter, addressing issues concerning backup power and options for addressing them. The new requirements will sunset on September 1, 2025.

As noted below, certain of these rules have longer compliance deadlines for smaller Covered Service providers, defined as those with fewer than 100,000 domestic retail subscriber lines (including lines provided by entities under common control with the provider). Moreover, in order to minimize compliance burdens on such smaller providers, the FCC's Public Safety and Homeland Security Bureau and Consumer and Government Affairs Bureau have jointly developed the document attached here as Appendix A that provides non-binding guidance with respect to the required notifications to subscribers. This document is a sample backup power disclosure notice, which may be modified as appropriate consistent with the requirements of the rules.

Steps Required to Comply With the Rules

A. *Obligations of Providers of a Covered Service to Offer Backup Power.*

Providers of a Covered Service shall, at the point of sale for a Covered Service, offer subscribers the option to purchase backup power for the Covered Service as follows:

- *Eight Hours*. Covered Service providers shall offer for sale at least one option with a minimum of eight hours of standby backup power. For such providers other than smaller providers, as defined above, this requirement becomes effective on February 13, 2016; for smaller providers, on August 11, 2016.
- *Twenty-Four Hours.* All Covered Service providers, including smaller providers, must by February 13, 2019, offer for sale also at least one option that provides a minimum of twenty-four hours of standby backup power.
- At the provider's discretion, the above options may be either (i) a complete solution including battery or other power source or (ii) installation by the provider of a component that accepts or enables the use of a battery or other backup power source that the subscriber obtains separately. If the provider does not offer a complete solution, the provider shall install a compatible battery or other power source, if the subscriber makes it available at the time of installation and so requests. After service has been initiated, the provider may, but is not required to offer to sell any such options directly to subscribers.

- Backup power required. The backup power offered for purchase must include power for all provider-furnished equipment and devices installed and operated on the customer premises that must remain powered in order for the service to provide 911 access.

B. Subscriber Disclosure Obligations

Providers of a Covered Service are also required to disclose specific information about backup power during power outages. This information must be disclosed at the point of sale for the new service, and annually for all subscribers thereafter. For Covered Service providers other than smaller providers as defined above, these disclosure obligations become effective August 5, 2016. For such smaller providers, the disclosure obligations become effective February 1, 2017.

The notice shall include the following information:

- *Availability of Backup Power Sources*

The provider must make the customer aware whether their service is capable of accepting backup power and, after initiation of service, whether they can obtain backup service from the provider or from a third party. This obligation is limited to basic information allowing consumers to make informed choices about their purchase and use of backup power to maintain continuity of access to 911.

- *Service Limitations With and Without Backup Power*

The provider must notify customers about the service limitations with and without the use of a backup power source. This includes information about the impact of power outages on the use of 911 services and they type of service that will continue to work with backup power. This obligation may be satisfied by notifying customers that voice service will be unavailable during a power outage without backup power, and that this backup power will not also power services other than voice. To the extent the provider has information about other services at the subscriber premises – such as home security, medical monitoring devices, and other similar equipment – the provider should notify the subscriber that these services will not be powered by the backup source for voice service. Purchasing and Replacement Options

Providers must inform subscribers about backup power purchasing and replacement options to enable subscribers to make informed decisions regarding whether to purchase backup power and how to find backup power that is compatible with the service.

If, after the initiation of service, the provider does not sell a backup power source directly to subscribers, the provider must give subscribers enough identification information about what type of power source is compatible as well as purchasing options. This information must include, at a minimum, where to purchase the power source, the approximate cost, and the voltage and type of battery that is compatible with the service.

- *Backup Power Duration*

The provider must inform subscribers about the expected duration of the backup power source, and factors that impact duration, e.g., usage and storage conditions. The provider must explain the length of time the provider's backup power source is expected to power the service in standby mode, and to the extent possible, the expected amount of talk time. The provider must notify subscribers of the proper backup power usage and storage conditions, and how these affect the

backup power source operation during a power outage. This includes identifying how subscribers may limit and conserve backup power both before and during a power outage. Providers of covered service must advise subscribers of the proper backup power storage and charging conditions so that subscribers know, for example, whether battery power life, capacity, or run time will decline, whether the batteries must be replaced after a certain amount of time, and the proper storage temperatures.

We encourage covered providers to notify subscribers of their options to extend backup power beyond the life of the battery. For example, providers could inform subscribers that they could purchase several backup power units for use during prolonged outages, and provide directions for rotating these as required to keep the units charged. Providers can inform subscribers of any available accessories such as solar or car chargers, which may be able to recharge a depleted backup power unit. When applicable, providers should inform subscribers of the availability of deployed mobile charging stations.

- *Testing and Monitoring*

If the subscriber purchases backup power directly from the provider, the provider must inform and instruct subscribers about how to self-monitor and self-test the backup power source.

- *Warranty*

If the subscriber acquires the backup power from the provider, the provider must explain the elements of the warranty, if any, such as the warranty expiration date, and under what circumstances a replacement would be provided.

- *Disclosure Reasonably Calculated to Reach Each Subscriber*

A provider of a covered service must make the foregoing disclosures in a manner reasonably calculated to reach individual subscribers, with due consideration for subscriber preferences. Information posted on a provider's public website and/or within a subscriber portal accessed by logging through the provider's website are not sufficient to comply with these requirements. However, a provider may post the notice on their website, so long as it is in addition to the physical notice.

Recordkeeping Requirements

There are no reporting or recordkeeping requirements.

Internet Links

Report and Order
https://www.fcc.gov/document/ensuring-continuity-911-communications-report-and-order

Statement of Chairman Tom Wheeler
https://www.fcc.gov/article/fcc-15-98a2

Statement of Commissioner Mignon L. Clyburn
https://www.fcc.gov/article/fcc-15-98a3

Statement of Commissioner Jessica Rosenworcel
https://www.fcc.gov/article/fcc-15-98a4

Statement of Commissioner Ajit Pai
https://www.fcc.gov/article/fcc-15-98a5

Concurring Statement of Commissioner Michael O'Rielly
https://www.fcc.gov/article/fcc-15-98a6

APPENDIX A

Model Backup Power Disclosure Notice for Modification and Use by Covered Providers as Appropriate

Although this model is for a fictional provider [KTTel] of a covered service choosing, among other things, to furnish backup power using a battery, our rules do not require the use of any particular technical solution.

Backup Power for Home Phone Services during Power Outages

For many years, your home phone would allow you to stay connected to emergency voice services during a power outage. However, many of today's advanced home phone services require backup battery power to continue functioning during an outage. To avoid a disruption of home voice service during an outage – and to maintain the ability to connect to 911 emergency services -- we at [KTTel] offer you the option of purchasing backup power for your home phones.

What Your Battery Can – and Can't – Do for You

[KTTel's] backup batteries for telephone modems allow you to continue to use your home voice services during a power outage. Without a backup battery or alternate backup source such as a generator, customers will not be able to make any calls, including emergency calls to 911. The only way to maintain the ability to use your phone is by using some form of backup power.

Our backup battery does not provide power to any services other than voice. Home security systems, medical monitoring devices and other equipment will not run on a home phone backup battery.

Purchase and Replacement Options

If you are concerned about being able to contact 911 emergency services during a power outage, a backup battery may be a good option for you. The battery offered by [KTTel] is approximately [one pound] and is roughly the size of [a juice box].

-If the company provides the backup batteries-

You can purchase a backup battery directly through [KTTel]. If you have any questions or simply want to purchase a backup battery through us, please call [1-800-123-4567], visit our website at [http://www.kttel.com/backupbattery], or go to your local retail store. Our 8 hour backup batteries cost approximately [$35] and can be shipped directly to your house, or can be picked up in one of our many retail locations. If you do not feel comfortable installing your own battery, please call us to make an appointment, and we would be happy to assist you. However, please note that there may be a charge for this service.

-If a third party provides the backup batteries-

You can also purchase a backup battery through many of your local retailers or on-line, including from the vendor identified below. Be sure to purchase the battery model that matches the type of modem that you have. The type of modem that you have is a [KTTel Modem Style TM502G]. The type of battery that you need is a [Citren 8 Hour Backup Battery for TM5/6/7 Modems - 8.4 Volts].

[AC's Excellent Batteries]

KTTel Modem Style TM502G

Citren 8 Hour Backup Battery for TM5/6/7 Modems - 8.4 Volts

Approximate cost - $45

http://www.baumbatteries.com/backupbatteries/Citren8]

Expected Backup Power Duration

Backup batteries are expected to last at least 8 hours on standby power. The backup battery should give you [6 hours] of talk time. If you feel that is not enough time, you may extend your standby power by purchasing a 24 hour battery or additional 8 hour batteries.

Instructions for Proper Care and Use of Your Battery

Please follow the more detailed instructions included with your battery for proper use, storage and care of your battery to ensure that it will function as needed during a power outage. If you do not store your battery correctly, it may shorten its useful life. Environmental factors such as temperature can shorten your battery's useful life. We recommend that you store your battery above [41°F and below 104°F]. These batteries are [not] rechargeable. They will not last forever and should be replaced every [1 to 2 years], or when your device starts to make a loud beeping sound. That sound means that the battery is depleted, and must be replaced. See the instructions above for purchase and replacement options. You should also periodically, as described in the instructions included with your battery, remove and test your battery to verify both the operation of the backup battery and its condition.