

## **Backup Power Requirements – FCC Report & Order FCC 15-98**

**August 14, 2016**

On August 7, 2015, the FCC issued [Report & Order FCC 15-98](#) in the Matter of Ensuring Continuity of 911 Communications. A portion of the order took effect in 2016 and the remaining portion of the R&O will take effect on **February 13, 2019**. The FCC created new section 12.5 of the Code of Federal Regulations Title 47 which outlines the requirements placed on “providers of facilities-based fixed, residential voice services that are not line-powered 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.” That said, it took them 62 pages to expand on the requirements; however, the Final Rules can be found in [APPENDIX C](#).

Since 2016, the FCC has required “all providers of facilities-based, fixed, voice residential service that is not line powered, including those fixed applications of wireless service offered as a “plain old telephone service” (POTS) replacement -- to offer new subscribers the option to purchase a backup solution that provides consumers with at least 8 hours of standby power during a commercial power outage, which will enable calls to 911.” In addition, they will require on February 13, 2019 that these providers “offer ... at least one option that provides a minimum of 24 hours of 911 service.” In addition, the FCC requires “all providers of facilities-based, fixed, voice residential service that is not line-powered to notify subscribers, at the point of sale and annually thereafter until September 1, 2025, of the availability of backup power purchasing options, use conditions and effect on power source effectiveness, power source duration and service limitations, testing and monitoring, and replacement details.” The FCC clarified that this includes VoIP and wireless services that are “marketed as a replacement for line-powered telephone service and is intended primarily for use at a fixed location.” The requirements do not apply to any other service, such a broadband or IPTV, but covers all Service Provider furnished equipment (Non-CPE) required to make a 911 call.

In addition, the FCC requires “covered providers to explain at point of sale how the subscriber may extend the provision of backup power during longer, multi-day outages through devices such as solar chargers, car chargers or mobile charging stations and to direct customers to sources of such equipment.” The rules do not require backup power to be installed unless requested by the customer and the customer cannot be forced to purchase any unwanted equipment. Also, the rating for the equipment should be for “standby time, measured at rated specifications, without a duration requirement for actual talk time.”

Examples of suitable solutions “include backup batteries housed within equipment, spare batteries that may be maintained with separate chargers, uninterruptible power supplies (UPS), or a combination thereof...”. Another option is to provide a solution that uses off-the-shelf batteries, like ‘D’ Cell batteries that are commercially available and can be purchased when needed by the customer or the Service Provider could offer additional batteries for the 8-hour solution if they can be replaced by the subscriber; however, a method needs to be available to maintain a charge on the batteries during storage. “Providers could also give information on purchasing other accessories such as solar, home or car chargers that may allow exhausted batteries to be recharged and that are compatible with the provider’s equipment. Providers need not offer such accessories themselves or endorse particular third-party suppliers, but they should provide sufficient information, including technical specifications when necessary, for subscribers to obtain compatible accessories from commercial sources. Such information may be provided through welcome kits, brochures, e-mails to subscribers, or any other means reasonably calculated to reach each subscriber, as discussed below, while providing due consideration

for any preference expressed by the customer.” Just providing the information on the Company website will not be considered adequate notification.

There are several options for providing the 24-hour option. The FCC R&O states: “With respect to the 24-hour option required within three years (February 13, 2019), providers may choose to offer consumers a single 24-hour battery (or battery tray as offered by Verizon), three 8-hour batteries, or some other combination of installed and spare batteries, UPS systems or other technologies to provide 24 hours total. If the solution requires a proprietary battery or other equipment that is not widely available in retail stores, the equipment should be provided as part of the installation of service. If, however, the solution accepts commonly available equipment such as D-Cell batteries, providers need not supply such equipment themselves, as long as they notify subscribers at the point of sale that it is not included and must be supplied by the subscriber for the solution to function properly. In cases involving spare batteries that are not widely available at retail stores, the solution offered to subscribers should also include a charger or some other method of ensuring that such batteries are stored in a charged state.”

The R&O also states: “Service providers should also inform subscribers of the potential for batteries to degrade over time and either make replacement batteries available for self-installation at the subscriber’s expense or provide sufficient information for subscribers to obtain replacement batteries from third parties.”

To determine when the Service Provider must provide the customer with the required information, the FCC defines “the “point of sale” in functional terms as the transaction between a service provider (or its agent) and a subscriber in which the subscriber requests, and commits to purchasing, a covered service. This may occur by telephone, online, or in person at a retail location. The offer of backup power required under our rules must be made as part of this transaction, regardless of when equipment is actually installed at a subscriber’s home or when the subscriber is ultimately billed for such equipment.”

At least the FCC understands that this cannot be done for free. The R&O states: “A service provider can receive compensation for all aspects of implementing the rules we adopt today, including the backup power installation, and costs of equipment and labor, from the consumer that elects to have backup power installed. And we do not preclude service providers from including backup power capabilities without separate charge, if they choose to do so for competitive or other reasons.”

The FCC order requires “providers to disclose to subscribers the following information: (1) availability of backup power sources; (2) service limitations with and without backup power during a power outage; (3) purchase and replacement options; (4) expected backup power duration; (5) proper usage and storage conditions for the backup power source; (6) subscriber backup power self-testing and monitoring instructions; and (7) backup power warranty details, if any. In order to minimize the burden on smaller providers, we direct the PSHSB (FCC Public Safety and Homeland Security Bureau) to work with CGB (Consumer and Governmental Affairs Bureau) to develop such forms or other documents, prior to the implementation date of these rules for smaller providers, as herein defined, for the use of smaller providers in disclosing the required notifications to their subscribers, including subscribers with disabilities.” This document was issued on April 16, 2016 as DA 16-475, which can be found [here](#). One thing of note is a requirement to “at a minimum clearly inform subscribers about the impact of environmental factors.”

Information for Consumers is provided by the FCC [here](#). The FCC also encourages, but does not require, “all providers to engage in the type of community outreach that would be required for a consumer education plan to truly be considered comprehensive.” As a public relations effort, RLECs might want to deploy and advertise locations with emergency generators where their customers could come during times of extended outages to recharge or swap out their UPS batteries.

Additional details of what must be included in the Notice and how it may be communicated are included in the R&O. If additional information is required, or your company needs assistance in meeting these requirements, please contact David Hunt ([dhunt@mscon.com](mailto:dhunt@mscon.com)) or your Mid-State contact.

References: Quoted text is from R&O FCC 15-98