

SUPPORTING STATEMENT

A. Justification:

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

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. The Commission's own consumer complaints portal reveals frustration over the failure of service providers to adequately inform subscribers about how to self-provision backup power in order to access 911 services in a power outage. This period of transition has the potential to create a widespread public safety issue, if unaddressed.

Accordingly, we created 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 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. To be sure, many providers of residential voice communications already offer some level of backup power to consumers. However, the vital importance of the continuity of 911 communications, and the Commission's duty to promote "safety of life and property through the use of wire and radio communication," favor action to ensure that all consumers understand the risks associated with non-line-powered 911 service, know how to protect themselves from such risks, and have a meaningful opportunity to do so.

The Commission is seeking an extension of a currently approved information collection from the Office of Management Budget (OMB) in order to obtain the full three-year approval.

This information collection requirement does not apply to individuals or households; thus, there will be no impact under the Privacy Act.

Statutory authority for this information collection is contained in sections 1, 4(i), and 251(e)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 251(e)(3); section 101 of the NET 911 Improvement Act of 2008, Pub. L. No. 110-283, 47 U.S.C. 615a-1; and section 106 of the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 47 U.S.C. 615c.

2. Indicate how, by whom and for what purpose the information is to be used.

We require 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. Each element of this information must be given to subscribers both at the point of sale and annually thereafter, as described in the rule.

The disclosure requirements are intended to equip subscribers with necessary information to purchase and maintain a source of backup power to enhance their ability to maintain access to reliable 911 service from their homes.

We permit providers to convey both the initial and annual disclosures and information described above by any means reasonably calculated to reach the individual subscriber. For example, a provider may meet this obligation through a combination of disclosures via email, an online billing statement, or other digital or electronic means for subscribers that communicate with the provider through these means. For a subscriber that does not communicate with the provider through email and/or online billing statements – such as someone who ordered service on the phone or in a physical store and receives a paper bill by regular mail – email would not be a means reasonably calculated to reach that subscriber.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

In an effort to reduce burden, the disclosure requirements permit providers to convey the information described above by any means reasonably calculated to reach the individual subscriber. Thus, the collection potentially involves the use of automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

Commission rules existing prior to this collection required limited customer notification for interconnected VoIP service providers. This requirement, however, is only for a subset of covered providers considered in this rule, and we find that the prior information disclosure requirement is too limited to fully inform consumers about backup power. Specifically, section 9.5(e)(1) of the Commission rules requires customer notifications for circumstances such as “loss of electrical power,” “under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service.” Informing consumers of the circumstances under which their E911 service is not available does not adequately inform a consumer on how to purchase, efficiently use, monitor, or replace backup power at the consumer’s premises. Thus, the information disclosure requirements existing prior to this rule, are not of sufficient scope or uniformity across all covered providers, to satisfy the Commission’s obligation to promote the safety of life and property and ensure consistent 911 services. The disclosure requirements of section 12.5 have been carefully designed to require disclosure of only that information needed by subscribers to plan in advance to extend the effectiveness of their backup power and ultimately, count on the continued availability of 911 service in harsh weather conditions or other emergencies when consumers are most vulnerable.

- 5. If the collection of information impacts small businesses or other small entities describe any methods used to minimize burden.**

The Commission considered, and eventually adopted, various options to minimize the significant economic impact of the regulations adopted in the *Report and Order* on small entities. For instance, the Commission adopted a 120-day phase-in of the requirement to provide consumers with a technical solution for 8 hours of standby backup power, which gave carriers time to

prepare and implement the process of meeting the rule. The Commission similarly adopted a 3-year phase-in of the requirement to offer a technical solution to provide consumers with 24 hours of backup power. This phase-in period afforded service providers that do not already support 24-hour backup power with adequate time to develop a 24-hour technical solution. Moreover, providers are free to charge consumers for backup power, and to develop a technical solution that suits their business needs including, under certain circumstances, meeting the requirement by directing consumers to a third-party retailer.

Additionally, the *Report and Order* gave smaller providers an additional 180 days (i.e., total of 300 days from the date of Federal Register publication) to comply with the backup power obligations adopted in the *Report and Order*. This additional time not only allowed providers time to comply with the rule, but also provided additional time for the market for backup power equipment to further develop and prevent possible shortages.

The *Report and Order* noted that, for such consumer education component of the rule, the Commission had smaller companies in mind when allowing such notification to be made “by any means reasonably calculated to reach the consumer.” This option afforded providers flexibility to reach their subscribers in a manner consistent with their business practices and based upon their individual subscriber relationships. Whenever the provider has an online relationship with the subscriber, disclosures may be made by email or by online billing statement, thus reducing the cost to small entities. To further reduce the burden on smaller providers, the *Report and Order* directed the PSHSB to work with CGB to develop such forms or other documents, prior to the implementation date of these rules for smaller providers, which they may use to communicate the required information to their subscribers, including subscribers with disabilities.

Finally, the Commission encouraged, but did not require, providers to engage in tailored outreach to community/state/local/tribal agencies and community organizations. While such action may be beneficial to small entities, the Commission understood the potential costs in requiring such action.

6. Describe the consequences to a Federal program or policy activity, if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reduce burden.

If this information is not disclosed as required, subscribers will be less able to plan in advance to extend the effectiveness of their backup power, and ultimately count on the continued availability of 911 service in harsh weather conditions or other emergencies when consumers are most vulnerable.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with the criteria listed in supporting statement.

This collection of information is consistent with the guidelines in sections 5 CFR 1320.5(d) (2) & 1320.6.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency’s notice, required by 5 CFR 1320.8(d), soliciting comments on the information prior to submission to OMB.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

On November 27, 2018 pursuant to 5 CFR Section 1320.8, an appropriate 60 Day Notice concerning the renewal of this information collection (OMB Control No. 3060-1217) was published in the Federal Register (See 83 FR 60860) with comments due on or before January 28, 2019. The Commission did not receive any comments following publication of the Notice.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift to respondents has been or will be made.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The Commission did not provide any assurance of confidentiality.

11. Provide additional justification for any questions of a sensitive nature.

This collection does not address any matters of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should: indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance.

We believe that the burden of these backup power disclosure requirements will be minimal, and thus, will be exceeded by the significant benefits we expect to result from them, such as enhanced subscriber access to 911 services. Specifically, we estimate the number of respondents to be 570, and the estimated time per respondent will vary widely by respondent because of differences in their current level of backup power provisioning. Some respondents may not need to expend any resources to comply with the third party disclosure requirement, because they are already providing the service. Others may have to build the service from the ground up. And, still others may currently be providing some, but not all of the required disclosure. Consequently, a respondent may spend zero to 70 hours per initial notification, which will mostly consist of time spent researching backup power information, and adapting existing programs to deliver the information to subscribers. Respondents are required to disclose the information to subscribers at the point of sale and annually thereafter. The estimate of the total hour burden is \$151,100 to initiate the program.

Initial Disclosure

- We estimate the in-house cost to respondents, based upon the use of a technical person costing \$80 per hour.
- Hours to initiate program:
 - 10 hours for research
 - 20 hours for software development
 - 40 hours for training
 - 70 hours total
- We estimate that only 2% of the estimated 570 covered service providers do not currently offer a backup power solution, and may need to start from the ground up. Thus, only 11

would need the full 70 hours to initiate the program.

70 hours x 11 respondents = 770 burden hours

\$80 per hour x 70 hours x 11 respondents = \$61,660

- We estimate that the remaining 98% of the estimated 570 covered service providers would need only 2 hours to adapt existing programs to make sure that the programs are in compliance with the new rules.

2 hours x 559 respondents = 1,118 burden hours

\$80 per hour x 2 hours x 559 respondents = \$89,440

Total burden hours: 770 hours +1,118 hours = 1,888 hours

Total initiation cost to the respondent: \$61,660 + \$89,440 = \$151,000

We anticipate the total cost burden for respondents to initiate the program during the first year may be approximately \$151,100. The Commission does not anticipate that there will be any burden or costs for respondents to disclose information to subscribers annually. The annual disclosure requirement will be fulfilled due to the use of information technology.

13. Provide estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.

The Commission believes that the respondents will use in-house staff rather contracting out this requirement.

- a) Total annualized capital/start-up costs: \$0
- b) Total annualized costs (O&M): \$0
- c) Total annualized cost requested: \$0

These calculations make clear that the cost of satisfying the notification requirement should be minimal for service providers, and the benefits of informing consumers of backup power solutions in order to reach 911 service from the subscriber premises during power outages, far outweighs any such minimal costs. This is in part because the vast majority of providers already furnish subscribers with some backup power information. As a result of current disclosure practices, we expect that only a small share of the providers will need to take additional steps to comply with these rules beyond modifications to existing disclosures. Similarly, providers already furnish subscribers with information upon initiation of service, and are free to include the information we require herein with the other materials, removing the need for a special cost of distribution. Also, in order to limit costs to providers, we make clear that a service provider may fulfill its disclosure obligation via any means reasonably calculated to reach the consumer, while also honoring any preference expressed by the customer. Such methods may include electronic outreach, including email notification and paperless billing statements; paper copies are not required for subscribers who access and receive information through those means. The annual notification associated with this requirement gives service providers ample time to plan. For example, they may include the appropriate notifications in normally-distributed billing statements, in a manner that does not increase the number of printed pages distributed.

There are numerous benefits associated with the disclosure requirements on how commercial power outages affects VoIP service. Millions of Americans have come to rely on their TDM voice service working during a commercial power outage to call 911. With this backdrop, educating consumers that their phones will not work in a commercial power outage absent backup power is essential, even if the consumer opts not to purchase backup power. At a minimum, an educated consumer will not have the expectation of relying on a VoIP service only to have it fail to operate when the consumer tries to make a 911 call, wasting valuable time in the

process. In this way the consumer notifications not only promote the availability of 911 service in power outages, pursuant to our statutory mandate governing IP transitions, but also promote the “safety of life and property through the use of wire and radio communication.” It assists in meeting the Commission’s statutory charge, by enabling customers to know the limitations of their service during a power outage and make alternate arrangements—either via a backup power solution or alternate means of communication—to ensure the 911 call can go through. This is consistent with our findings with respect to requiring minimum wireless location accuracy, where we found that the rules “will improve emergency response times, which, in turn, will improve patient outcomes, and save lives.” We believe, therefore, that it is reasonable to expect that the rules we adopted will save lives and result in numerous other benefits that are less quantifiable, but still advance important public interest objectives. Given that the notification requirements contained herein have minimal associated costs, we conclude that the benefits of these rules far exceed the costs.

14. Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expenses that would not have been incurred without this collection of information.

The Commission estimates there will be no annual cost to the Federal government.

15. Explain the reasons for any program changes or adjustments reported.

There are no program changes or adjustments to this information collection from the last submission to OMB.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

The FCC has no plans to publish data from this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Commission does not intend to seek approval to not display the expiration date of the information collection from OMB.

18. Explain any exceptions to the Certification Statement identified in Item 19, “Certification of Paperwork Reduction Act Submissions,” of OMB Form 83i.

There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.