

**STATE OF IOWA
DEPARTMENT OF COMMERCE
IOWA UTILITIES BOARD**

IN RE:)	
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AMENDMENTS TO TELECOMMUNICATIONS SERVICE REGULATIONS [199 IAC 22])	Docket No. RMU-2015-0002
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ADDITIONAL COMMENTS OF THE VOICE ON THE NET COALITION

The Voice on the Net Coalition (“VON”)¹ hereby submits its additional comments pursuant to the Iowa Utilities Board’s (“Board”) January 29, 2016, Order Seeking Additional Comments (“Order”).

Discussion

The Order seeks additional comments from participants on the proposed rule revisions to 199 IAC 22.5 and 22.6 contained in the Order and attached Notice of Intended Action. VON supports AT&T’s proposed changes to the definition of “telephone utility” to include references to VoIP services. VON also suggests that the Board decline to adopt the proposed 22.6(5)(e) provision regarding the FCC’s backup power rules.

A. AT&T’s Proposed Changes to the Definition of “Telephone Utility” Should be Implemented

VON supports the changes to the definition of “telephone utility” proposed by AT&T because implementation of such changes would align with federal law and the actions taken by at least 31 other states. Under federal law, information services are exempt from state regulation.

¹ The VON Coalition works to advance regulatory policies that enable Americans to take advantage of the promise and potential of IP enabled communications. VON Coalition members are developing and delivering voice and other communications applications that may be used over the Internet. For more information, see www.von.org.

While the FCC has asserted limited jurisdiction over interconnected VoIP services, it has not classified interconnected VoIP as a telecommunications service. The FCC has imposed a number of specific obligations, including, requirements to provide Enhanced 911, assist with law enforcement access, contribute to the Federal Universal Service Fund, protect customer proprietary network information, and provide customers notice before discontinuing service.² In none of these actions, however, has the FCC granted the states authority to impose any other specific obligations on interconnected VoIP providers, other than state USF contributions where such contributions are not inconsistent with federal USF obligations and the payment of state and local fees to support the 911 network.³

At least 31 other states and the District of Columbia have already codified regulatory “safe harbors” for VoIP or IP-enabled communications.⁴ These states have recognized that there is no benefit to imposing legacy telephone regulations on VoIP, and that investment will be lost if regulatory ambiguities are allowed to remain in place. The Board should consider the actions of these states as it considers AT&T’s proposed language.

² First Report and Order and Notice of Proposed Rulemaking, WC Docket No. 04-36, FCC 05-116, (rel. Jun. 3, 2005) (“*VoIP 911 Order*”); Report and Order and Notice of Proposed Rulemaking, WC Docket No. 06-122, FCC 06-94 (rel. Jun. 27, 2006) (imposing USF requirements); Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 04-36, FCC 07-22 (rel. Apr. 2, 2007) (imposing CPNI requirements); Report and Order, WC Docket No. 04-36, FCC 09-40 (May 13, 2009) (imposing discontinuance requirements).

³ See VoIP 911 Order, *supra* note 2 ¶ 52.

⁴ Alabama, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, North Dakota, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin and Wyoming.

B. The Board Should Not Adopt 22.6(5)(e) Because the Provision is Duplicative and May Lead to Confusion

The proposed 22.6(5)(e) provision is intended to accommodate and replicate the FCC’s backup power rules, 47 C.F.R. § 12.5.⁵ However, the FCC’s backup power rules already apply in Iowa. Therefore, the existence of 22.6(5)(e) would be unnecessarily duplicative.

In addition, the proposed language of 22.6(5)(e) may lead to confusion. First, the proposed language is broader than the language of 47 C.F.R. § 12.5.⁶ The proposed language makes 47 C.F.R. § 12.5 applicable to “residential landline customers whose voice service is not provisioned as a copper-based line-powered technology.”⁷ In contrast, 47 C.F.R. § 12.5 itself limits its applicability to “any facilities-based, fixed voice service offered as residential service, including fixed applications of wireless service offered as a residential service, that is not line powered.”⁸ Thus, the FCC limits back-up power obligations to “facilities-based, fixed voice” services, while the Board’s proposed language does not. The proposed language thereby unintentionally broadens the applicability of the FCC’s rules and may lead to confusion.

Second, the last two sentences of proposed 22.6(5)(e) discuss two specific service provider requirements contained within 47 C.F.R. § 12.5, specifically: (1) disclosure at the point of sale that landline voice services, including E911 access, will not function during a power outage without on-site backup power; and (2) subscribers must be offered the option to purchase backup power for the covered services with a minimum of 8 hours reserve.⁹ As a result, when the requirements under 47 C.F.R. § 12.5 change, there will be a discrepancy between the FCC’s rules and the Iowa rule.

⁵ See 47 C.F.R. § 12.5.

⁶ *Id.*

⁷ See “Notice of Intended Action” Docket No. RMU-2015-0002, issued Jan. 29, 2016, p. 14 (“*Proposed Rules*”).

⁸ 47 C.F.R. § 12.5(a).

⁹ See Proposed Rules, *supra* note 7.

Similarly, 47 C.F.R. § 12.5 contains a sunset clause, which eliminates the requirements of the section on September 1, 2025.¹⁰ The arrival of the sunset date would also effectively eliminate the requirements under the proposed 22.6(5)(e) language. However, the continued existence of the two specific requirements in 22.6(5)(e) after the sunset date may lead to confusion as to whether the requirements are intended to stay in effect.

To avoid the duplication and potential for confusion described above, VON suggests that the Board decline to adopt the proposed 22.6(5)(e) provision.

Conclusion

For the foregoing reasons, VON supports AT&T's proposed changes to the definition of "telephone utility" to include references to VoIP services, and recommends that the Board decline to adopt 22.6(5)(e).

Respectfully submitted,

VOICE ON THE NET COALITION

/s/

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February 29, 2016

¹⁰ 47 C.F.R. § 12.5(g).