

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding
Emergency Disaster Relief Program

R.18-03-011
(Filed March 22, 2018)

**REPLY COMMENTS OF CELLCO PARTNERSHIP (U 3001 C) (“VERIZON”)
ON ASSIGNED COMMISSIONER’S PROPOSED DECISION**

Jesús G. Román
Verizon
15505 Sand Canyon Avenue
Irvine, CA 92618
Tel: (949) 286-7202
E-mail: jesus.g.roman@verizon.com

Jane Whang
Verizon
201 Spear St. 7th Floor
San Francisco, CA 94105
Tel: (415) 778-1022
E-mail: jane.whang@verizon.com

Attorneys for Verizon

Dated: July 6, 2020

TABLE OF CONTENTS

	<u>PAGE</u>
I. There is no Legal or Factual Basis to Require Clean Energy Transition Goals	2
II. The PD Correctly Focuses Wireless Resiliency Strategies on Tiers 2 and 3 High Fire Threat Districts	3
III. Providers Should not be Required to Share Confidential Information With Entities Beyond the Commission.....	3
IV. The PAO's and Joint Consumers' Proposals For Additional and Updated Information in the Resiliency Plans are Improper.....	5
V. Conclusion.....	5

Cellco Partnership (U 3001 C) d/b/a Verizon Wireless (“Verizon”) replies to comments filed on the Assigned Commissioner’s Proposed Decision Adopting Wireless Provider Resiliency Strategies (“PD”). As discussed below, Verizon opposes certain proposals as impractical or beyond the Commission’s authority, including: (i) clean energy transition timelines; (ii) backup power strategies for areas beyond Tiers 2 and 3 High Fire Threat Districts; (iii) disclosure of confidential information to entities beyond the Commission without the protection of law; (iv) filing of GIS data; and (v) unreasonable filing timeframes. As explained in our opening comments, the PD has a number of unsupported and onerous proposals that should not be adopted; these other proposals in certain comments would make it even worse.

The record reflects that providers have invested significant resources to create resilient networks to meet the extraordinary challenges of ever-increasing catastrophic disasters and widespread public safety power shutoff (“PSPS”) events. The PD and Public Advocates Office (“PAO”) recognize in particular that Verizon successfully used various resiliency strategies last year to keep “much of its network operational and running on backup power.”¹ Recognizing the complexity of running a communications network, the PD steers away from rigid rules in many cases and instead creates a “flexible structure” for network resiliency.²

The key areas where it does not steer away from rigid mandates must be changed, as we explained in our opening comments. For example, as AT&T explained, both the law and facts compel (i) the exemption of small cells and microcells from any backup power requirements and (ii) the deletion of rigid rules for “basic internet browsing,” clean energy, and public disclosure of outages. Moreover, consistent with the intent for flexibility, the Resiliency Plans should not be filed as prescriptive advice letter filings and instead should be informational. However, to the extent the PD focuses on flexible strategies, we believe that

¹ PD at 112, Finding of Fact paras. 25-26; PAO Opening Comments at 4.

² PD at 88.

compliance with the PD, as modified by the suggestions from our opening comments, is generally feasible.

I. There is no Legal or Factual Basis to Require Clean Energy Transition Goals

The PAO, California State Association of Counties (“CSAC”), and National Fuel Cell Research Center (“NFCRC”) continue to insist incorrectly that clean energy is currently a viable resource for backup power at macro cell sites and PAO asks the Commission to adopt timelines for adoption of clean energy as a primary backup power source.³ First, rigid clean energy requirements or targets would run afoul of jurisdictional restrictions, as fully explained by CTIA.⁴

Second, these proposals ignore the vast record evidence submitted by wireless providers that clean energy is at present neither viable nor scalable. Verizon, AT&T, and T-Mobile submitted extensive evidence by individuals who have the experience and expertise in operating and procuring power sources for communications networks, explaining that clean energy is simply not scalable at this time.⁵ This is not just a cost issue; it is a practical one. As the California Fire Chiefs Association (“CFCA”) emphasize, “while clean energy backup power solutions are ultimately necessary, widespread deployment of these solutions is not possible or practical at scale.”⁶

In contrast, PAO provides no evidence, other than citing the NFCRC’s claims that fuel cell systems are being used by communications networks.⁷ NFCRC’s comments, however, implicitly acknowledge that fuel cells are not being deployed at the required scale, asserting merely that “developers *could* work directly with the telecommunications providers to *develop* the referred to cooperative agreements to

³ CSAC Opening Comments at 4; PAO Opening Comments at 6-7; NFCRC Opening Comments at 3-4.

⁴ CTIA Opening Comments at 4-5, 9.

⁵ Verizon Reply Comments on ACR Proposal at 20-23 (summarizing the En Banc Panel discussion where panlists effectively conceded this point); see also T-Mobile Opening Comments at 6.

⁶ CFCA Opening comments at 2.

⁷ PAO Opening comments at 7.

deploy clean generation solutions that meet . . . scalability.”⁸ Verizon’s Director of Network Engineering further pointed out that fuel cells rely on hydrogen fuel (not a clean energy source), or hydrogen, which is highly flammable, and that her experience was that fuel cell vendors are not always available to refuel generators as needed during non-business hours.⁹ Although Verizon supplements its existing power sources with clean energy wherever it reasonably can (and has committed to robust goals to be carbon neutral by 2035, among other things), clean energy transition timelines are impractical.¹⁰

II. The PD Correctly Focuses Wireless Resiliency Strategies on Tiers 2 and 3 High Fire Threat Districts

The PAO and CSAC suggest that the Commission extend backup power strategies to areas beyond Tiers 2 and 3 in a later decision but fail to identify legal or factual errors in the PD’s conclusion to limit the strategies to Tiers 2 and 3.¹¹ The PD appropriately concluded, based on the significant record and consistent with the Assigned Commissioner’s Proposal (“ACR Proposal”), that “efforts and investments” should be focused on “areas that are prone to outage events and wildfires,”¹² or Tiers 2 and 3. In addition, as explained fully in CTIA’s comments, to the extent that such resiliency strategies are rigid requirements, such rules would raise jurisdictional issues and constitute legal error.¹³

III. Providers Should not be Required to Share Confidential Information With Entities Beyond the Commission

CSAC proposes that network resiliency plans and emergency operations plans and that the locations of certain “critical” cell towers be shared with local governments. In addition to raising jurisdictional issues, such a proposal raises

⁸ NFCRC Opening Comments at 4 (emphasis added).

⁹ See Attachment 2 to Verizon Opening Comments on ACR Proposal, para. 8.

¹⁰ See Verizon Opening Comments at 8-11.

¹¹ See Rule 14.3(c) of the Commission’s Rules of Practice and Procedure (comments shall focus on “factual, legal or technical errors in the proposed decision”).

¹² ACR Proposal at 2.

¹³ CTIA Opening Comments at 4-11.

considerable confidentiality and security concerns. As explained before, local governments and entities beyond the Commission are not subject to the same statutory disclosure protections as the Commission.¹⁴ While Commission staff are subject to Pub. Util. Code section 583 and General Order 66-D, other state and local agencies are not similarly bound by such restrictions. The disclosure of these plans, and the locations of cell sites could have serious impacts. As previously noted, information about network locations is highly proprietary and if disclosed to competitors, could be used for marketing and network design and to gain a competitive advantage.¹⁵ Similarly, the current proposed items in the Resiliency Plans and Emergency Operations Plans are highly proprietary and sensitive.¹⁶

More critically, disclosure of this data raises security concerns. Wireless cell sites are under increasing attack from anti-5G conspiracy theorists and anarchist groups such as “The 325 Group,” which posted detailed instructions on “How to Destroy Cell Phone Towers.”¹⁷ Because local governments are subject to Public Records Act requests, such information could be disclosed either by a county without adequately considering these risks, or pursuant a Public Records Act request or a court order. The Commission should not require the disclosure of such highly sensitive information with these entities.¹⁸

¹⁴ Verizon Comments on ACR Proposal at 34-35.

¹⁵ See *Whyte v. Schlage Lock Co.*, 101 Cal.App.4th 1443, 1456 (2002) (protecting such strategic documents where “information would be valuable if known by a competitor because it would allow the competitor to predict and counter” defendant’s “marketing strategy, plans and techniques”).

¹⁶ Information such as the locations and backup power capabilities of cell sites; number of mobile generators; grid outage response plans; investment plans; outage maps are highly confidential.

¹⁷ See <https://325.nostate.net/2020/02/13/pdf-how-to-destroy-cell-phone-towers/>;
<https://arstechnica.com/tech-policy/2020/04/how-a-5g-coronavirus-conspiracy-spread-across-europe/>

¹⁸ To the extent that local governments require information during a disaster or PSPS event, Verizon has worked with and is committed to working with them on an individual basis, to provide narrowly tailored information as reasonably needed.

IV. The PAO's and Joint Consumers' Proposals For Additional and Updated Information in the Resiliency Plans are Improper

Verizon explained that the data required in the Resiliency and Emergency Operations Plans are overly prescriptive and not relevant to resiliency. The Joint Consumers propose additional irrelevant information, such as GIS maps of network infrastructure with the Commission.¹⁹ Such a proposal improperly presumes that the Commission could review the maps to require improvements in network infrastructure locations. As explained in CTIA's and Verizon's earlier comments in this proceeding, the Commission cannot dictate how wireless providers construct their networks.²⁰ There is thus no need for such detailed and highly confidential mapping information.

PAO also recommends that the Network Resiliency plans be filed within three months and updated annually, while the Joint Consumers advocate for every quarter.²¹ These proposals fail to identify any legal or factual error in the PD and should be dismissed. Given the voluminous information currently required in the plan, it would be virtually impossible to produce such a filing within three months and such updates would be extremely time-intensive and impractical.

V. Conclusion

For the foregoing reasons, the Commission should reject the above proposals and incorporate the suggestions in our opening comments.

¹⁹ Joint Consumer Opening Comments at 6-7.

²⁰ See CTIA Opening Comments on PD; Verizon Opening Comments on ACR Proposal at 35-36.

²¹ PAO Opening Comments at 4-5; Joint Consumers Opening Comments at 11.

Respectfully submitted this 6th day of July 2020.

/s/ Jesús Román
Jesús G. Román
Jane Whang
Verizon
15505 Sand Canyon Avenue
Irvine, CA 92618
Tel: (949) 27202
E-mail: jesus.g.roman@verizon.com

Attorneys for Verizon