



July 23, 2020

Honorable Miguel Santiago
Chair, Assembly Communications & Conveyance Committee
State Capitol, Room 6027
Sacramento, CA 95814

RE: SB 431 (McGuire & Glazer) Mobile Telephony Service, as amended July 27, 2020 - OPPOSE

Dear Chairman Santiago:

On behalf of CTIA®, the trade association for the wireless communications industry, I write to respectfully oppose SB 431 as amended. The wireless industry wholeheartedly supports the goal of the bill - to keep consumers connected during emergency events, including Public Safety Power Shutoffs (PSPS). We appreciate the efforts of the authors and committee to introduce amendments to the problematic original version of the bill, as well as to recognize some of the policies that are critical to wireless carriers. Unfortunately, the bill continues to impose a series of unnecessary and unworkable processes and mandates that will diminish, rather than enhance, wireless carriers' ability to manage their networks in the most efficient way to support consumers.

The wireless industry strongly agrees with the importance of ensuring that communications networks are resilient and that California consumers have access to 9-1-1 during emergencies and PSPS events. The wireless industry also recognizes that every stakeholder - including carriers - must constantly strive to do more to protect consumers and ensure continuity of communications capabilities.

As we have done throughout California's new normal, wireless companies will continue to work with the California Governor's Office of Emergency Services (Cal OES), the California Department of Forestry and Fire Protection (CAL FIRE), the California Public Utilities Commission (CPUC), and other interested parties to improve network resiliency.

Particularly in California, wireless carriers have made extraordinary efforts and investments to maintain critical communications services in affected areas in the face of the wildfires, floods, and other disasters of recent years. Specific actions to further public safety include constructing resilient networks with redundancy features such as overlapping coverage, backup power at virtually all critical coverage cell sites, and deployment of additional temporary wireless facilities to improve service where permanent wireless towers may have been damaged, or where networks were overburdened by people seeking refuge.

Wireless carriers also continue to take significant steps to aid disaster-affected consumers. As before in the case of wildfires, other natural disasters, PSPS events, and again in the face of the COVID-19 pandemic, wireless carriers have worked with their customers by waiving overage charges, extending payment dates, increasing the amount of data at no charge, enhancing network capacity, and continuing to work on reducing the digital divide as many schools have moved to distance learning. California wireless carriers have even gone above and beyond during emergencies to help with matters unrelated to the provision of wireless service, including providing additional support such as water, food, and smoke-protection face masks, among many other things. There is nothing more important to us than protecting and assisting the public when disaster strikes.

SB 431 as amended fails to adequately recognize that all wireless networks have different architectures and does not provide the flexibility needed to confront the myriad of different emergency and PSPS events.



The industry has submitted several sets of amendments to the authors that would advance the development of a workable and effective policy. Those amendments recognize that wireless carriers need flexibility to manage network performance and achieve coverage objectives as these are uniquely designed networks, each of which will require its own set of backup power solutions and are based on several wireless engineering fundamentals:

1. Many locations are covered by multiple sites with an overlapping network that can offload and share traffic when facilities or bandwidth are impacted, and
2. Some wireless sites are located in areas where fixed generators can be safely installed while others require more nimble solutions determined by factors such as space availability, structural integrity, and permitting considerations for backup batteries, fuel storage, and fuel delivery. Effective solutions may include combinations of fixed generators, portable generators, and backup batteries.

SB 431's attempt to recognize these factors fails by requiring an additional process at the CPUC that focuses on installation of power at each site – rather than those sites necessary for maintaining coverage during an emergency - through an unnecessary and cumbersome waiver process. In addition, it should be made clear in the legislation that small wireless facilities are exempted from a backup power mandate.

A Waiver Process is Unnecessary, Unworkable and Counter to the Policy of Maintaining Service

Just last week, on July 16th, the CPUC adopted a decision requiring plans to provide, among other things, 72 hours of service after a power outage or disaster using backup power and other resiliency tools. SB 431 is inconsistent with the CPUC's decision. Indeed, SB 431 would require the CPUC to implement rules and procedures, such as the waiver process described above, that the CPUC rejected as part of its recent decision. The proposed processes in SB 431 are duplicative, go beyond the CPUC decision and could deter new site builds for added coverage and capacity. Such duplicative activity at the CPUC would unnecessarily delay carriers' implementation of procedures to address resiliency needs, working in direct conflict with the authors' stated intent for the legislation.

Requiring Basic Internet Browsing as part of Minimum Service can Jeopardize 911 and Priority First Responder Services and May Constitute Illegal Throttling

The concept of basic internet browsing is unduly vague and raises questions about whether this means access at a particular speed. Requiring access to "basic internet browsing" at some speeds may be impossible and potentially create adverse unintended consequences. Indeed, the requirement altogether raises significant jurisdictional issues.

It is not possible for an ISP to track and limit customers' access to "basic internet browsing" only to certain sites (such as those with emergency notices): Such attempts could constitute impermissible "throttling." Wireless networks are not designed to allow access to one or two particular websites while blocking access to all others.

Further, during a widespread power outage, network capacity is often significantly diminished. Some internet browsing is possible, but at very slow speeds or in some locations not at all. Requiring a specific level of internet browsing is infeasible because during an emergency or PSPS event, there will inevitably be congestion on the network as more people attempt to make phone calls, text, or access the internet all at the same time.



Page 3 of 3
(SB 431 – McGuire/Glazer)

Wireless networks currently prioritize 9-1-1 voice calls and traffic for first responders. As a result, web browsing sufficient to access emergency notifications, for example, on electric utilities' websites may be disrupted or speeds may be affected depending on the magnitude of a disaster and other factors. Imposing such a requirement on web browsing could detract from an ISP's ability to prioritize services such as 9-1-1 and service for first responders.

SB 431 Shifts the Burden of Notifying Customers About an Electrical Outage to Wireless Carriers

In the CPUC decision, it is required that ISPs provide a general notification each year to customers in Tier 2 and Tier 3 High Fire Threat Districts in advance of fire season about potential impacts to their service that may be caused as a result of wildfire and PSPS events. In addition, upon receiving notice from an electric utility that a PSPS event will occur, wireless carriers must alert their customers in the impacted community of actual service impacts. The CPUC also stated that it is reasonable to require wireless carriers to collaborate with California electrical corporations in advance of a de-energization event or wildfire and give notice to their customers if service coverage cannot be maintained. In SB 431, the requirement is to notify customers if their service MAY be impacted. We believe that will result in over-warning and that responsibility for notifying residents should be on the utility that is actually responsible for turning off power. Furthermore, the legislation fails to recognize that state regulation of the adequacy of wireless carriers' network infrastructure and service is broadly preempted by federal law and regulation.

Finally, CTIA members recognize that they must continue to work with stakeholders to ensure coordination that will lessen the impact of PSPS and other electric outage events on wireless consumers. To that end, the wireless industry is working with the Edison Electric Institute at the national level and with PG&E and Southern California Edison in California to improve coordination among the sectors. Carriers will also continue to work voluntarily with our public safety partners to improve coordination during disasters and other events.

For the reasons stated above, CTIA respectfully opposes SB 431.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerard Keegan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gerard Keegan
Vice President
State Legislative Affairs

CC: Honorable Mike McGuire
Honorable Steve Glazer
Members of the Assembly Communications and Conveyance Committee
Edmond Cheung, Chief Consultant
Daniel Ballon, Republican Policy Consultant
Rachel Wagoner, Deputy Legislative Secretary, Office of the Governor