

House Energy and Technology Testimony

5/1/2020

Barbara Neal, Executive Director

Vermont Enhanced 911 Board

Topics for Today:

1. Status of Rule 19P081 – Rule Governing Outage Notification Requirements for Originating Service Providers and Electric Power Companies
2. Status of the INdigital Next Generation 911 System Implementation

1. Status of Rule 19P081 – Rule Governing Outage Notification Requirements for Originating Service Providers and Electric Power Companies

Background and History

- **Section 25 of Act 79 (2019):**
 - Required the 911 Board adopt a rule establishing protocols for reporting “system outages applicable to wireless service providers, providers of facilities-based fixed voice service that is not line powered and to electric companies”.
 - Defined an outage as “any loss of E911 calling capacity, whether caused by lack of function of subscriber’s backup-power equipment, lack of function within a telecommunications provider’s system, or an outage in the electric power system”.
 - Required the 911 Board to submit a final proposed rule to the Legislative Committee on Rules by 2/1/2020. That submission was completed on 1/31/2020.
- **Stakeholder Input:** In the months leading up to submission of the final proposed rule, the Board received input from the following stakeholders:
 - Legislators involved in the development of Section 25 of Act 79
 - Vermont Public Utility Commission (through participation in two commission workshops)
 - Vermont Department of Public Service
 - Electric Power Companies
 - Telephone service providers operating in Vermont – including regulated companies and national VoIP and wireless carriers.

A public hearing was held on January 10, 2020 and additional comments were received from members of the public and from national VoIP and wireless providers and/or organizations that represent them. A summary of those comments and the Board’s response to each was included in the LCAR submission and is available on the Board’s website.

LCAR Hearings: At their 4/6/2020 meeting, LCAR voted to object to two sections of the proposed rule and approved the remainder of the rule.

- **LCAR Objections**

Section 3.4.1. Definition of Originating Carrier Outage

- LCAR objected to the definition of an “outage” as including “lack of a subscriber’s backup-power equipment during a power outage”.
- LCAR noted that not all subscriber backup-power equipment is under the carriers’ operational control.
- LCAR noted that the Board’s response to public comments indicate the rule is not intended to require originating carriers to monitor elements outside of its operational control, but that intent was not in the language of the rule.

Section 6.2. Confidentiality

- LCAR noted that Section 6.2 directs report submitters to mark the information in their report that they believe to be exempt from public disclosure under the Public Records Act.
- LCAR noted this section implies that carriers will be able to determine which portions of their reported information should be kept confidential, when the exemptions from the Public Records Act already apply and further confidentiality provisions regarding this reported information was not enacted in 2019, Act No. 79, Sec. 25.

Board Response to LCAR Objections:

- **Board Meeting 4/8/2020:** The Enhanced 911 Board met on 4/8/2020 to review the LCAR objections. The Board instructed the Executive Director to develop a response to the objections for review by the Board on 4/15/2020.
- **Board Meeting 4/15/2020:** A response to LCAR was developed which included changes to the relevant sections of the proposed rule. The changes were made in consultation with the Board’s legal counsel to ensure we were meeting the requirements of Act 79 while still addressing LCAR’s objections.
 - The changes were discussed at length by the Board at its 4/15/2020 meeting.
 - Significant feedback from industry stakeholders and some members of the public was received.
 - Industry stakeholders were concerned about the revisions to the rule and that they had very little time to respond and/or provide input.
 - The Board Chair instructed all participants to submit their feedback in writing for further consideration by the Board.
- **Summary of Proposed Changes:** The following is a summary of the proposed changes that generated the discussion at the 4/15 Board meeting and likely will be discussed by other commenters at HET today.
 - **Section 3.4.1. Definition of Originating Carrier Outage:** The Board’s proposed changes to the definition of an outage, removing the reference to “lack of function of subscribers’ backup-power equipment” and replacing with “lack of network connectivity to customer premise equipment”. The change also specifically stated that failure of subscribers’ backup-power equipment is not excluded from this definition.

- **Section 6.2. Confidentiality:** The intent of Section 6.2 is to facilitate prompt treatment of submissions as subject to the Vermont Public Records Law. Information that is not exempt from release under Vermont law will be released in response to public records requests. Information that is properly exempt from disclosure pursuant to Vermont law will be held confidentially by the Board.
- The Board has advised LCAR of its intent to solicit and review additional feedback related to the latest draft changes in the relevant sections of the rule.

Next Steps

- The Board will review all additional public input related to the LCAR objections and/or the Board's response to those objections.
- Following review of the requested documentation, the Board may submit revisions to LCAR to address the objections to these two sections of the rule.
- In developing the revisions, the Board may also consider impacts related to the COVID-19 situation and potential legislative action moving forward.
- The Board believes the following would be beneficial to an effective rule:
 - More clarity regarding the Act 79 requirement to include "a lack of function of subscriber's backup-power equipment" as part of the definition of an outage.
 - From the Board's perspective, the issue is less about the failure of a subscriber's backup-power equipment and more about the loss of connectivity of the subscriber to the originating carrier's network. That loss of connectivity to the carrier's network is the reason a subscriber may not be able to complete a call to 911.
 - An understanding that access to the information in reports submitted under this rule will be handled in accordance with Vermont Public Records Law. The Board believes that some information may be properly exempt from disclosure under existing law, while other information will not be exempt from disclosure.

2. Status of the INdigital Next Generation 911 System Implementation

- **Due solely to the evolving COVID-19 situation, and in consultation with INdigital and Consolidated Communications, the Board has decided to postpone implementation of the INdigital NG911 solution until October 22, 2020.**
 - All six of Vermont's Public Safety Answering Points (PSAPs) are operating under restricted access policies in order to keep those facilities, and the people in them, healthy. These policies restrict access to essential personnel only.
 - Current agreements with Consolidated allow for an extension of the contract for the existing system, with a three-month minimum extension. Consolidated will continue to support the fully hosted NG911 system at the current monthly recurring charge.

END