

House Committee on Energy and Technology  
May 1, 2020

Comments of Comcast on S.301

Good morning. My name is James White, Senior Director Regulatory Affairs for Comcast. Thank you for the opportunity to appear before you today. Comcast participated in the E-911 Board's development of the Proposed Rules on Outage Reporting - Rule 19P-081 - and we appeared before LCAR which has objected to two sections in the E-911 Board's proposed rules. I will offer comments on one of those sections, §3.4.1, and how language in the Senate Finance Committee's bill, S.301, will fix a serious problem in the underlying statute that is carried forward into §3.4.1 and allow implementation of the rule by stakeholders.

The statutory problem is in §25 of Act 79. In the first sentence, §25 directs the E-911 Board to adopt a rule establishing protocols for the Board to be apprised of **system outages** by providers of wireless service, providers of fixed, non-line powered voice service and electric companies for the purpose of allowing the E911 Board to assess 911 service availability during those outages. The focus on "system outages" is important because a voice provider's network is the "system" that is under its control. Conversely, anything outside the voice provider's network is outside its control, including malfunctioning customer premise equipment or customer behavior inside the home, such as unplugging a device. Either one of these conditions could result in a consumer's inability to call 911, but the inability is not due to a limitation of the provider's system.

Section 25 of Act 79 defines an "outage" as including "any loss of E-911 calling capacity, whether caused by lack of function of **the telecommunications subscriber's backup-power equipment, lack of function within a telecommunications provider's system**, or an outage in the electric power system. The problem with §25 is that the definition of "outage," which has been carried forward in §3.4.1 of the proposed rule, does not account for a service provider's inability to control elements outside of its system (i.e., its network). More specifically, a voice service provider *does not* control a telecommunications subscriber's back-up power equipment.

Comcast and non-line powered voice service providers cannot and do not continuously monitor the modem located outside its network at every customer's premise. As a result, Comcast cannot know when a "subscriber's backup-power equipment", if it exists, is not functioning, or whether a customer simply has unplugged a modem. In addition, the term "backup power equipment" is ambiguous and presumably includes customer owned devices such as backup batteries, electrical generators or uninterruptible power supplies. These are all external power sources over which a voice service provider has no control and in any event are not part of the service provider's system or network. This makes compliance with the reporting obligations impossible.

Comcast and other telecommunications providers raised this concern about the E-911 Board's proposed rule and the underlying statute to LCAR and to the Senate Finance Committee. In response, the Senate Finance committee voted 7-0-0 to approve S.301 with amendments. The bill is currently on the Senate Action Calendar. As approved by the Committee, S.301 amends Sec.

25 of Act 79 of 2019 to remove from the definition of outage the confounding phrase “lack of function of the telecommunications subscriber’s backup-power equipment.” The bill also adds, “[f]or purposes of this section, a network failure includes the failure of backup power equipment that is owned and controlled solely by the telecommunications provider.” This language helps by clarifying that providers would be required to report **network** outages and not outages of equipment in the customer home that they do not control. This would be consistent with the E-911 Board’s longstanding requirements for reporting of “network” outages by regulated, wireline service providers.

LCAR objected to the inclusion of “subscribers’ backup-power equipment” in the definition of an outage as arbitrary and contrary to the E-911 Board’s expressed intent. LCAR noted the E-911 Board itself, in its Response to Public Comments, had stated that “rule is not intended to require OC’s [Originating Carriers] to monitor customer premise equipment or elements outside its network or operational control”.

As I indicated, the underlying statute is problematic. The language about backup power equipment is unclear and arbitrary. Section 3 of S.301 fixes the problem by clarifying that a network failure includes “**the failure of backup power equipment that is owned and controlled solely by the telecommunications provider**”. This language matches the E-911 Board’s stated intent that rule is not intended to require originating carriers to monitor customer premise equipment or elements outside its network or operational control. This language is within service providers’ capabilities to implement, and importantly, was approved on a vote of 7-0-0 by the Senate Finance Committee, the Committee of original jurisdiction, and therefore reflects the intent of the lawmakers that originally proposed §25 of Act 79 of 2019.