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STATE OF VERMONT

Legislative Committee on Administrative Rules (LCAR)

April 7, 2020

Barbara Neal, Executive Director
Vermont Enhanced 911 Board
State of Vermont
100 State St., 4th Floor
Montpelier, VT 05602

Dear Executive Director Neal:

This letter is to formally notify you that on Monday, April 6, 2020, the Joint Legislative Committee on Administrative Rules voted to object to the following two provisions of the Vermont Enhanced 911 Board's final proposal 19P-081 relating to Rules Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies:

- (1) Section 3.4.1's definition of an originating carrier's outage that includes a "lack of function of subscribers' backup-power equipment during a power outage"; and
- (2) Section 6.2's confidentiality provision.

The Committee voted to approve the remainder of the rule.

The basis for the Committee's objection is as follows:

(1) Section 3.4.1.

Section 3.4.1 defines an "originating carrier outage" as any "known degradation or loss of network elements, systems, services and/or transport facilities that prevent the [originating carrier's] subscribers in a served geographic area . . . from being able to complete a call to, or communicate with, 911," and defines "outage" as including a "lack of function of subscribers' backup-power equipment during a power outage." Pursuant to 3 V.S.A. § 842, the Committee objects to the inclusion of subscribers' backup-power equipment in this definition as arbitrary.

2019, Act No. 79, Sec. 25 requires this rule to address protocols for reporting "system outages," and while the act includes a lack of function in a subscriber's backup-power equipment as an "outage," not all subscriber backup-power equipment – such as back-up battery power – is within the originating carrier's operational control of the system.

While the Board stated in Response 20 of its Response to Public Comments that this provision is not intended to require originating carriers to monitor elements outside of its system's operational control, that intent does not match the language of the rule.

(2) Section 6.2.

Section 6.2 directs reports submitters to mark the information in their report that they believe to be exempt from public disclosure under the Public Records Act. Pursuant to 3 V.S.A. § 842, the Committee objects to the inclusion of subscribers' backup-power equipment in this definition as arbitrary.

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.

Under 3 V.S.A § 842(a), the Vermont Enhanced 911 Board is obliged to respond within 14 days of receipt of this notice of the Committee's objection. After receipt of a response, the Committee may reschedule the rule and determine whether to withdraw or modify its objection. You should also note that the Vermont Enhanced 911 Board may not adopt the rule until it has responded to this objection.

Sincerely,

BetsyAnn Wrask

BetsyAnn Wrask,
Committee Counsel

cc: Members, Legislative Committee on Administrative Rules
Louise Corliss, APA Clerk, Office of the Secretary of State