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Vermont Enhanced 911 Board

S.301 Amendment – the 911 Board believes the outage reporting thresholds defined in our final proposed rule (currently before LCAR) best meet the needs of Vermont. The amendment to S.301 would result in significantly higher thresholds for wireless company outage reporting by requiring the Board to incorporate the threshold criteria defined in 47 C.F.R 4.9(e) – referred to below as the “FCC thresholds”.

Background:

Section 25 of Vermont Act 79 (2019) requires the 911 Board adopt a rule establishing protocols “for the 911 Board to obtain or be apprised of, in a timely manner, system outages applicable to wireless service providers, providers of facilities-based, fixed voice service that is not line-powered and to electric companies for the purpose of enabling the 911 Board to assess 911 service availability during such outages”.

Additionally, 30 VSA 7053 authorizes the 911 Board to adopt such rules as are necessary to carry out the Board responsibilities. The proposed rule incorporates outage reporting requirements that have been in place in Vermont for over 20 years for regulated telephone service providers operating in the state.

Rule Overview:

The proposed rule requires that facilities-based fixed telephone service providers — whether line powered (like copper lines) or non-line powered (like fiber optic, Voice over Internet Protocol) - notify the 911 Board whenever:

- 25 or more of their subscribers in a normally served geographic area (town, community) are unable to complete a call to, or communicate with, 911 for 30 minutes or more.

Similarly, wireless carriers will be required to report whenever:

- there is a loss of wireless service for 30 minutes or more in a normally served geographic area, such as a town or community, which prevents a caller from being able to complete a call to, or communicate with, 911 or when an event meets the definition of “originating carrier outage” as defined in the rule.

The proposed rule requires electric companies to provide a monthly report on any outage that impacts 25 or more customers and lasts 8 hours or more.

Stakeholder and Public Input:

In developing this rule, the 911 Board sought input from:

- Legislators involved in the development of Section 25 of Act 79
- The Vermont Public Utility Commission (through participation in two commission workshops)
- Vermont Department of Public Service
- Electric power companies operating in Vermont
- Telephone service providers operating in Vermont— including regulated companies within Vermont, national VoIP and wireless carriers

Prior to initiating the formal rulemaking process, several changes were made to the proposed rule based on feedback from these stakeholders.

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. A summary of those comments, and the Board's response to each is included in the LCAR submission.

The comments focused on these main issues/concerns: threshold granularity, potential for a patchwork of reporting requirements across the country, whether the threshold was arbitrary, whether actionable information would be obtained, and confidentiality.

- **Thresholds**— the national carriers have commented that the thresholds are much too granular, too difficult/expensive to implement, and have repeatedly recommended that Vermont should accept the outage reporting thresholds defined by the FCC.
 - It is the Board's opinion that the FCC thresholds for outage reporting do not meet the legislative intent of Act 79, nor do they serve the best interests of Vermont as the Board makes its required assessment of the impact of outages on Vermonters' access to 911.
 - § Accepting the FCC thresholds means the Board would not be aware of an outage impacting 1000 subscribers for at least 15 hours.
 - § 100 subscribers would need to be out of service for over 6 days before the event was “reportable” at FCC thresholds. 25 subscribers — the reporting thresholds currently in place for wireline companies — would not meet the threshold for 25 days.
 - § For wireless carriers, a wireless tower would need to be “down” for about 15 hours before we would know about it.

- **Patchwork** — comments were received and testimony was provided at Senate Finance even after the final proposed rule was delivered to LCAR that Vermont would be the only state in the nation to implement reporting thresholds other than the FCC-defined thresholds.
 - The 911 Board is aware of rulemaking that is currently underway in the State of California which will impose a similar level of granularity (100 customers/30 minutes) for outage reporting from the same national carriers.
 - § My understanding is that California has received little, if any, public comment from national carriers about these thresholds and their granularity.
 - § This leads me to conclude that if it can be done for California, it can be done for Vermont. And other states.
 - California expects to finalize their rule by the end of March, and implement the requirements by July 1 — in time for their next wildfire season.
 - § My understanding is that Georgia and Florida may be considering similar rulemaking, though the process has not yet formally begun.
- **Arbitrary** — one VoIP provider commented that the 25 subscriber threshold is arbitrary and the state has not provided any data as to what the state’s needs are and why such a low threshold would meet those needs.
 - The Board knows this threshold will meet the needs of the State because we have been collecting this data from the regulated telephone service providers for over 20 years.
 - The rule is meant to bring everyone’s reporting to a level playing field so that the Board can make an informed assessment regarding the impact of outages on Vermonters...
- **No Actionable Information:** some carriers commented this low threshold for reporting would not result in any actionable information being obtained.
 - The Board disagrees. Outage information is currently passed on to our Public Safety Answering Points (PSAPS) and emergency management personnel for situational awareness purposes. They use the information as they deem appropriate given the situation.
 - An important aspect of receiving this information has not yet been discussed at length...
 - § Outages impact not just the ability of callers to reach 911, but also dispatch agencies to which 911 calls are transferred and the ability of emergency management to provide public notifications through platforms such as the wireless emergency alert system and/or VT alert.

- Such notifications are critical during widespread emergencies and knowing when a telephone service of any type is down, alerts emergency management officials that their critical information can not be distributed to the citizens.
 - This knowledge allows them to take any necessary additional steps to inform the public.
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- **Confidentiality**— in addition to recommending Vermont adopt the FCC thresholds for outage reporting, the national carriers want all reports to be held confidentially by the Board (as they are by the FCC). Several members of the public have commented that all information provided by the carriers should be available to the public.
 - The Board expects that some, but not all, information submitted by carriers may be confidential.
 - The rule requires the carriers identify that confidential material along with the portion of Vermont Public Records Law upon which they rely upon for the exemption.

Questions/Concerns?