

Administrative Procedures – Final Proposed Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

Roger Marcoux (signature), on 1/31/2020 (date)

Printed Name and Title:
Roger Marcoux, Chairman
Enhanced 911 Board

RECEIVED BY: _____

RECEIVED
JAN 31 2020

BY:

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

19P-081

3. ADOPTING AGENCY:

Vermont Enhanced 911 Board

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Barbara Neal

Agency: Vermont Enhanced 911 Board

Mailing Address: 100 State St, 4th Floor, Montpelier, VT
05602-6501

Telephone: 802 828 - 4911 Fax: 802 828 - 4109

E-Mail: barbara.neal@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://e911.vermont.gov/>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Soni Johnson

Agency: Vermont Enhanced 911 Board

Mailing Address: 100 State St, 4th Floor, Montpelier, VT
05620-6501

Telephone: 802 828 - 4911 Fax: 802 828 - 4109

E-Mail: soni.johnson@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

Vt. Act 79, § 25 (2019) and 30 V.S.A. § 7053

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

Vt. Act 79, § 25 (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 E-911 Board to assess 911 service availability during such outages. Additionally, 30 V.S.A § 7053 authorizes the 911 Board to adopt such rules as are necessary to carry out the Board's responsibilities.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

This rule establishes outage reporting protocols for originating carriers providing voice service in Vermont and for electric power companies operating in Vermont in order to enable the Enhanced 911 Board to assess 911 service availability during such outages.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

This rule is established to meet the requirements of Vt. Act 79, § 25 (2019) and also incorporates outage

Final Proposed Coversheet

reporting requirements for regulated telephone service providers.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

This rule is established to meet the requirements of Vt. Act 79, § 25 (2019). The information collected through the protocols established in this rule is necessary for the 911 Board to assess the impact of the various types of service outages on the ability of Vermonters to reach 911.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Originating carriers that provide voice services to subscribers and electric power companies.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

Implementation of the reporting requirements in this rule is expected to have a negligible economic impact on electric power companies and wireline telephone service providers. National VoIP service providers indicated a significant amount of work would be involved to implement mechanisms to meet the reporting thresholds in the rule, but did not provide a specific economic impact. An industry organization representing national wireless carriers indicated the economic impact would be significant and would require substantial network and information technology changes, however specific costs were not provided.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 1/10/2020

Time: 01:00 PM

Street Address: Capitol Plaza Hotel, 100 State St,
Montpelier, VT

Zip Code: 05620-6501

Final Proposed Coversheet

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

1/17/2020

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Vermont 911 Outage Reporting Requirements

Vermont 911 Requirements

Outage Reporting Requirements

Administrative Procedures – Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. **TITLE OF RULE FILING:**

Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

2. **ADOPTING AGENCY:**

Vermont Enhanced 911 Board

3. **TYPE OF FILING** (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. **LAST ADOPTED** (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

N/A



State of Vermont
Agency of Administration
109 State Street
Montpelier, VT 05609-0201
www.aa.vermont.gov

[phone] 802-828-3322
[fax] 802-828-3320

Office of the Secretary

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: November 13, 2019, Pavilion Building, 5th floor conference room, 109 State Street, Montpelier, VT 05609

Members Present: Steve Knudson (serving as chair), Dirk Anderson, Shayla Livingston, John Kessler, Matt Langham, and Jennifer Mojo (via phone)

Members Absent: Brad Ferland, Diane Bothfeld, Ashley Berliner and Clare O'Shaughnessy

Minutes By: Melissa Mazza-Paquette

- 2:03 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the October 14, 2019 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-6 to follow.
 1. Rule 3.700, Pole Attachments, Public Utility Commission, page 2
 1. Business Name Registration Rules, Office of the Secretary of State, page 3
 2. Central Filing System Rules, Office of the Secretary of State, page 4
 3. Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies, Vermont Enhanced 911 Board, page 5
 4. Ambulatory Surgical Center Licensing Rule, Department of Health, page 6
- Next scheduled meeting is December 9, 2019 at 2:00 p.m.
- 3:12 p.m. meeting adjourned.



Proposed Rule: Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies, Vermont Enhanced 911 Board
Presented by Barbara Neal (via phone)

Motion made to accept the rule by Matt Langham, seconded by Shayla Livingston, and passed unanimously with the following recommendations:

1. Proposed Rule Coversheet, page 2, #4: Include a secondary contact person.
2. Proposed Rule Coversheet, page 3, #12 and Economic Impact Analysis, page 1, #3: Reword to clarify “little, if any”. If it can’t be measurable, use a term such as “negligible”.
3. Text Definitions: Include Voice Over Internet Protocol (VOIP) if appropriate.
4. Text 4.1.1: Remove second bullet only showing).
5. Text 4.1.2: Consider changing ‘restoral’ to ‘restoration’ for consistency.
6. Text 5.1 and 5.2: Consider rewording to allow flexibility to change without an arbitrary cut-off date or specified format by the department.

Administrative Procedures – Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

2. ADOPTING AGENCY:

Vermont Enhanced 911 Board

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Originating carriers that provide voice service in Vermont and electric power companies operating in Vermont are impacted by this rule.

Implementation of the reporting requirements in this rule is expected to have little, if any, economic impact on electric power companies and wireline

Economic Impact Analysis

telephone service providers. National VoIP service providers have indicated a significant amount of work will be involved to implement mechanisms to meet the reporting thresholds in the rule, but did not provide a specific economic impact. An industry organization representing national wireless carriers indicated the economic impact would be significant and would require substantial network and information technology changes, however specific costs were not provided.

The national carriers are currently required to meet outage reporting requirements established by the FCC, however the proposed rule establishes significantly lower thresholds for the number of impacted customers, thus resulting in necessary changes to the carriers' reporting processes.

The thresholds outlined in the proposed rule are more appropriate for the rural nature of the state, will best meet the 911 Board's understanding of the legislative intent of Act 79, and will provide the data necessary to properly assess the impact of service provider outages on access to 911.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

This rule is not expected to have any impact on schools.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

N/A

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

To the extent that electric power companies and certain telephone service providers are considered a small

Economic Impact Analysis

business, the rule is expected to have minimal economic impact.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

This rule is not expected to have a significant economic impact on small business.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

Act 79 requires this rule to establish outage reporting requirements for originating carriers providing voice service in Vermont and for electric power companies operating in Vermont so that the Enhanced 911 Board is able to assess 911 service availability during such outages. In order to make this assessment, the Board requires specific and granular outage information from all types of service providers. Absent a rule with such thresholds, only limited information would be available from VoIP and wireless carriers, and no information would be required from electric companies.

9. SUFFICIENCY: *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

Economic impact information was requested from multiple stakeholders including wireless, VoIP, and wireline telephone service providers in Vermont, as well as electric companies operating in Vermont.

Administrative Procedures – Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

2. ADOPTING AGENCY:

Vermont Enhanced 911 Board

3. **GREENHOUSE GAS:** *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
This rule is not expected to impact the emission of greenhouse gases.

4. **WATER:** *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
This rule is not expected to impact water or water quality.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
This rule is not expected to impact Vermont's land.

Environmental Impact Analysis

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
This rule is not expected to impact recreation in Vermont.
7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
This rule is not expected to have climate impacts.
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
This rule is not expected to have any impacts on Vermont's environment.
9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*
This rule is related to service provider outage reporting and is not expected to have any negative environmental impacts.

Administrative Procedures – Public Input

Instructions:

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

2. ADOPTING AGENCY:

Vermont Enhanced 911 Board

3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

Public involvement in the development of this rule includes stakeholder input during rule development, a scheduled public hearing, and an opportunity for public comment following the public hearing.

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

See question 5 for a list of stakeholders. A public hearing is scheduled for January 10, 2020 and public comments will be accepted through January 17, 2020.

5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

The Enhanced 911 Board sought input from multiple stakeholders during the development of the proposed language was being developed including:

Legislators involved in the development of Section 25 of Act 79

Vermont Public Utility Commission (through participation in two ongoing commission workshops)

Public Input

Vermont Department of Public Service

Electric Companies operating in Vermont

Regulated telephone service providers in Vermont

State and national VoIP service providers

Wireless service providers



163 Acorn Lane
Colchester, Vermont 05446

Robert Dostis
Vice President, Stakeholder Relations

Phone: 802-655-8412
robert.dostis@greenmountainpower.com

January 2, 2020

Legislative Committee on
Administrative Rules
115 State Street
Montpelier, VT 05633

Re: Rule Governing Outage Reporting Requirements for Originating Carriers
and Electric Power Companies

Dear Committee:

Please accept this letter on behalf of Green Mountain Power (“GMP”) with respect to the proposed Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies.

GMP appreciates efforts to identify gaps in 911 service – the safety of Vermonters is of number one importance to GMP, and to the extent that providing outage information is helpful, we are happy to provide that information. We have a couple suggestions to ensure that implementation of the Rule is efficient and useful.

First, the proposed Rule calls for reporting the addresses of outages. GMP suggests modifying the Rule to require identification of a street or section of a road, rather than each specific customer address, in order to protect customer privacy while providing enough detail to accomplish the purpose of the Rule.

Second, GMP suggests that the Rule include a provision for waiver or modification of the reporting requirements by the 911 Board in the future, if appropriate. For example, if the 911 Board determines that the reports submitted are not beneficial to the purpose of the Rule, or that less frequent reporting would be helpful, discretion to address those scenarios within the Rule itself could prove useful. For the same reason, GMP suggests that the 911 Board report annually with regard to how the information being provided in the outage reporting is being used and how it has proved helpful, and that consideration be given to adding a sunset provision in the Rule, where these reporting requirements would expire if legislative or administrative action is not taken. This approach could prove efficient for utilities and the 911 Board, should experience demonstrate that the required outage reporting does not prove useful in accomplishing the purpose of the Rule.

Thank you for your consideration, and please let me know if I can provide you with additional information.

Sincerely,

Robert Dostis

Robert Dostis
Vice President of Stakeholder Relations
cc: Barbara Neal, Executive Director, Vermont Enhanced 911 Board

Comments to Vermont Enhanced E-911 Board on Proposed Outage Reporting Rule

I appreciate the opportunity to comment on the proposed “Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies” required in Act 79. It is helpful to build accountability within the information structure surrounding E-911 service outages. My comments are aimed to improve Vermont E-911.

Context:

As I write, our area served by VTel, without mobile access, is in a major January snowstorm. Up until the major error promulgated by VTel for fiber optics, telephone service was rarely a concern for us. Today, with heavy snow, access to E-911 is of course a concern. Less than a month ago, I had occasion to call E-911 in a life-threatening situation. The response from our volunteer ambulance service was prompt. I traveled from RRMC to DHMC via helicopter and did well. Today, I am concerned that those who need E-911 have access to it.

Overall:

I commend those involved for requiring and gathering ongoing information to define the length of time as well as circumstances surrounding E-911 outages. For this action to be more than just another data collection mechanism, there needs to be a well-defined process for moving throughout Vermont toward 100% access 24/7 to E-911—whether this be through old or new technology or elements cobbled together. Vermonters should not be at the mercy of those who make decisions outside of their well-being and particularly regarding services that are taxpayer funded.

Thus, Sections 4.0 and 5.0 of the Proposed Outage Reporting Rule must also call for Originating Carriers and Electric Power Companies to work with the E-911 Board to devise and install solutions to reduce outages and their impacts on Vermonters.

Respectfully submitted,
Cecile G. Betit Ph. D.
47 Weston Road
East Wallingford, VT 05742
802 259 2472

January 16, 2020

Comments to Vermont Enhanced E-911 Board
on Proposed Outage Reporting Rule

Thank you for the opportunity to comment on the proposed Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies called for by Act 79, Sec. 25. I commend you for proposing a Rule that will provide valuable information about E-911 service outages, and I offer these corrections and substantive comments to improve it. A Rule that is well and clearly stated will be more effective.

A) Editing corrections:

1. In 3.3.2: period at the end
2. In 3.3.3: verb is "present", not "presents"
3. In 4.1: First sentence should read "...prevents 25 or more subscribers from completing calls to, or communicating with, 911." (add the underlined words)
4. In 4.1.1: 3rd item in list, insert word so reads "subscriber physical locations"
5. In 4.1.1: 5th item, insert word so reads "time service outage began"
6. In 8.1: capitalize these words: county, superior, court (twice).

B) Substantive comments:

1. In 3.3.2: "normally served geographic area" is imprecise; state more definitively.
2. In 3.3.3: "Any known failure or failures" is very vague. Clarify failure(s) of what.
3. In 4.1.1: 8th item: Does this example describe a condition that may exist? Is it the best example? Why not say "Subscribers cannot complete a call to, or communicate with, 911, because their backup-power battery has expired" – which actually occurs?
4. In 4.1.2: 5th item: Isn't this an invasion of privacy if not authorized by the subscriber?
5. In 4.3: This section is extremely weak. What is meant by the term "future like outages"? More significant, such a provision should not be limited to requiring OC's to "work cooperatively" (whatever that means) regarding "assessment of the outage and its impact on access to 911". It should also require OC's to work with the Board to identify and implement measures to minimize and mitigate loss of 911 connectivity.
6. In 6.0: Both subsections of this Section 6 are unnecessary and should be dropped. The subject is covered by 1 V.S.A. Sec. 315-320. Inviting utilities to "mark information they believe to be exempt" eviscerates the public benefit of outage reporting by depriving the public of information about loss of 911 service that is essential to determining and undertaking measures to minimize such loss. There are avenues for utilities to contest disclosure of information that they can demonstrate is subject to exemption under the Public Records Act. The Board should not propose a Rule that undermines the legislation requiring the Rule. If anything, the Rule should state "The information required to be reported to the Board in Sections 4.0 and 5.0 of this Rule shall not be considered subject to the exemptions of 1 V.S.A. Sec. 315-320."

Submitted January 16, 2020
by Jonathan Gibson
2202 Keiffer Road
Shrewsbury, VT 05738

I am writing to comment on the outage reporting requirements.

I live in VTel's fiber optic service territory. I have reviewed the rule as drafted and find it is deficient in requiring reporting for telephone systems that have fiber optic cable with back-up batteries installed in each individual residence. The rule should address the specific circumstance of failure to have phone service to access 911 when the battery dies.

Thank you for considering these comments.

Annette Smith
789 Baker Brook Road
Danby, Vermont 05739
(802) 446-2094



**Before the
VERMONT ENHANCED 911 BOARD**

COMMENTS OF CTIA REGARDING PROPOSED 911 OUTAGE RULES

CTIA¹ respectfully submits its comments in response to the Vermont Enhanced 911 Board’s (“Board’s”) Proposed Rules, which were filed with the Secretary of State on December 2, 2019.

I. INTRODUCTION AND SUMMARY

CTIA appreciates the continued work by the Board to meet the Legislature’s mandate for collecting information on 911 outages while working with stakeholders to improve the Board’s Proposed Rules on outage reporting. In particular, CTIA and its members appreciate the changes made to the Proposed Rules to address some of the issues raised by stakeholders during the informal feedback process the Board held prior to formal hearing and comments. CTIA and its members recognize the importance wireless consumers place on their devices and networks in emergency situations, including their reliance on their wireless devices to reach emergency services. This is a

¹ CTIA – The Wireless Association (“CTIA”) (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless carriers, device manufacturers, and suppliers as well as app and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.



key reason why the wireless industry is strongly committed to minimizing network downtime and focuses on restoring service quickly when outages do occur.

That said, CTIA still has a number of concerns with the Proposed Rules, especially as they relate to wireless communications and the excess burden created by the breadth of the Proposed Rules. In particular, it remains unclear why the Board has chosen to establish a unique reporting regime apart from the Federal Communications Commission's ("FCC's"), which has proven effective nationwide and would meet the requirements of Act 79. The FCC's current Network Outage Reporting System ("NORS") was initially established in 2004, and since that time it has been improved on by Democratic- and Republican-led FCCs. For the Board to assume that NORS reports are inadequate for Vermont is to ignore that NORS reports *have* proven adequate for Vermont for the past 16 years. The Board should recognize that while it is seeking outage reports for the first time, NORS reports have long proven more than adequate for reporting Vermont outages.

Accordingly, CTIA continues to support the Board's adoption of a rule that would allow carriers to provide the Board, subject to necessary confidentiality safeguards, copies of their reports filed under NORS. CTIA assures the Board that these reports will be sufficient to meet the Board's needs regarding timely outage reporting.



II. **THERE IS NO APPARENT REASON FOR THE BOARD TO DEVIATE FROM THE EXISTING, EFFECTIVE FCC OUTAGE REPORTING REGIME**

Act 79 mandates that the Board “obtain or be apprised of, in a timely manner, system outages applicable to wireless service providers . . . for the purpose of enabling the E-911 Board to assess 911 service availability during such outages.”² As CTIA noted during the informal feedback process on the Proposed Rules, providing the Board with wireless carriers’ NORS reports will satisfy the Board’s duties under Act 79.³

The FCC imposes a robust outage reporting regime on wireless providers. Outages of wireless network switching centers lasting more than 30 minutes are reportable to the FCC within two hours of discovery, regardless of the customer impact.⁴ In the case of cell sites, outages lasting more than 30 minutes are subject to the same two-hour from discovery reporting period once they affect “900,000 user minutes” – *i.e.*, the number of potentially affected users multiplied by the duration of the outage.⁵

Because wireless numbers are not tied to a specific household or geographic area, the number of users potentially affected by an outage is necessarily a fluid, variable figure. To address this challenge, the FCC estimates affected users via a proxy number

² Act 79, Sec. 25, 2019 Leg. (Vt. 2019).

³ *See generally* 47 C.F.R Part 4.

⁴ *See* 47 C.F.R. §4.9(e).

⁵ *Id.*



based on the total number of users on a provider's network and its total number of macro (or "coverage") cell sites.⁶

For example:

- If Wireless Carrier X has 100 million users on its network nationwide and 100,000 macro cell sites, it would allocate 1,000 potential users to every site for purposes of NORS reporting, regardless of the site's location or how many actual customers it generally serves.
- Thus, if Carrier X experiences an outage affecting 10 sites, that outage would be considered to potentially affect 10,000 users for NORS reporting purposes, even if the actual number of customers being served at that time by those sites is far less. Accordingly, Carrier X would be required to report the outage once it lasts 90 minutes: 10,000 users multiplied by 90 minutes meets the 900,000 user minutes threshold.

To the extent the Board is concerned that the NORS regime would not adequately serve rural areas in Vermont, those concerns are misplaced. Because the NORS system averages affected users on a provider's network, cell sites in rural areas of Vermont are assumed to have the same population served as sites in urban areas such as Burlington and Montpelier—or, for that matter, as in Boston. This means that, if anything, the NORS system *over*-accounts for rural areas when reporting is required, treating them as if they had the same amount of wireless traffic as sites in congested urban areas. For this reason, the FCC has determined that 30 minutes duration *and* 900,000 user minutes is an appropriate threshold for outage reporting nationwide – and to date has found that its

⁶ See 47 C.F.R. §4.7(e)(2).



current NORS requirements meet the needs of rural areas.⁷ In recent years, CTIA members have filed several FCC reports of outages affecting Vermont specifically, including some affecting just one or a few cell sites. For instance, from July 31, 2014 through July 31, 2019, the facilities-based carriers doing business in Vermont (AT&T, Sprint, T-Mobile, U.S. Cellular, and Verizon) reported 39 national/regional outages that affected E-911 service in Vermont, and 12 Vermont-specific outages. This demonstrates that a NORS-based approach to informing of the Board of outages that impact 911 service will meet Vermont's needs.

Given the facts stated above, there does not seem to be any reason why the NORS regime would not meet the Board's need to comply with Act 79. Nor has the Board yet explained why the current NORS regime in place in Vermont is ineffective, or cited to any deficiency the Proposed Rules are intended to solve.

⁷ See, e.g., FCC 04-188 at para 56 ("In sum, our proposed 900,000 user-minute threshold could result in the reporting of *more* outages in rural areas . . . In this regard, we do not agree . . . that it is necessary to lower the reporting threshold to 150,000 user-minutes in order to capture rural outage data . . . In other words, use of the common metric will result in a more accurate and realistic assessment of outages on a national basis.") (emphasis added). For areas with low site density, the FCC has proposed a threshold of one-third of sites in a rural county, but such a standard has not yet been adopted. See FCC 16-63 at para 186.



III. AMONG OTHER SIGNIFICANT ISSUES, THE PROPOSED RULES ARE INEFFICIENT AND WOULD HAVE A SIGNIFICANT ECONOMIC IMPACT ON VERMONT’S WIRELESS CARRIERS THAT COULD RESULT IN INCREASED COSTS TO CUSTOMERS AND DECREASED INVESTMENT IN VERMONT

Apart from the inherent inefficiency in “reinventing the wheel” for a system that already works, the Proposed Rules would create a number of other issues.

As noted by CTIA and acknowledged by the Board, the Proposed Rules would have a significant economic impact on Vermont’s wireless providers, which could result in increased costs to consumers.⁸ To comply with the Proposed Rules, service providers would have to undertake substantial network and information technology changes, on short notice (a July 1st deadline), in a single state out of their national service territory. Further, the massive gap between the FCC’s 30 minutes and 900,000 user minutes reporting threshold and the “any site, 30 minutes” reporting threshold contemplated by the Proposed Rules means compliance with the Proposed Rules would place an unnecessary economic burden on providers, with limited actual benefit to customers or to Board data-gathering efforts. Creating a Vermont-specific outage reporting standard also runs the risk of creating a “patchwork quilt” of state-by-state reporting obligations on top of the comprehensive federal reporting obligations already imposed by the FCC, which

⁸ See Proposed Rules, Cover Sheet, Page 4.



could significantly complicate outage reporting efforts, potentially increasing consumer costs and discouraging investment.

Perhaps most significantly, the Proposed Rules would divert wireless providers' time and personnel resources away from service restoration efforts, not only in Vermont but in other states, given that national providers uniformly coordinate their network monitoring and recovery efforts at a national or wide multi-state level. At a minimum, though, unique reporting obligations in Vermont could discourage investment that could otherwise be used to provide greater and more robust wireless coverage throughout the state. Utilizing the FCC's reporting thresholds and reporting format likely would have no such effect.

As CTIA noted during the informal feedback process, network outages, and the precise scope and location of an outage, may take some time to discover, and when discovered, resources are marshalled towards restoring service. While CTIA appreciates the Board's inclusion of "as soon as reasonably possible" language in Proposed Rules section 4.2 (governing reporting of outages and restoration), the accompanying language calling for notifications within two hours of an occurrence sets a standard that may be impossible to meet and would impose yet more customized IT and system changes that will affect the implementation costs. Instead, the standard should be within two hours of *discovering* an outage – the FCC standard.



Additionally, despite the protections added in Section 6 during the informal feedback process, the Proposed Rules do not go far enough with regard to confidentiality of the information provided. NORS reports (and the reports contemplated by the Proposed Rules) provide meaningful information about an outage, including: its time and duration; the affected services; known blocked calls; the affected geographic area, including the city or county (if known); a description of the incident and its cause; and contact information. Because this information could be helpful to terrorists or other bad actors seeking to create or exacerbate service disruptions, the U.S. Department of Homeland Security (“DHS”), communications carriers, state public utility commissions and the FCC all agree these reports must remain confidential.⁹ In addition, the wireless market is highly competitive, and disclosure of outage information would provide competitors with valuable data concerning the health of the service provider’s network that the competitor could use in its marketing and network investment decisions.

Despite the inherently sensitive nature of outage reporting, Section 6 of the Proposed Rules puts the responsibility on carriers to designate their reports confidential under the Vermont Public Records Act, which does not specifically articulate an

⁹ *See, e.g.*, Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 31 FCC Rcd 5817 (May 26, 2016) at paras. 84-85.



exemption for outage reports.¹⁰ Instead, the Board’s rules should explicitly provide that any outage reports submitted to it are confidential and exempt from public disclosure.¹¹

Finally, as noted above, the Proposed Rules would require compliance by July 1st, 2020. As noted above, this is a very brief timeline in light of the significant changes carriers would need to make to their reporting regimes, and may not be possible to comply with from a technical and logistical perspective. Yet carriers currently, and will continue to, comply with NORS obligations nationwide, and could begin delivering NORS reports to the Board immediately upon passage of a rule.

The concerns listed here illustrate the significant issues that the Board would face in deviating from the FCC’s existing reporting regime – which, as noted in the previous section, would meet the Board’s and Vermont’s needs. The Board should therefore not implement a separate outage reporting regime, such as that found in the Proposed Rules.

IV. CONCLUSION

The FCC’s existing outage reporting regime for wireless carriers has proven effective, even in rural states, and the Proposed Rules would not improve upon it. Rather, they would impose a host of new issues, both for wireless carriers and the Board. CTIA

¹⁰ See Proposed Rules, at Section 6.2: “All report submitters shall mark information they believe to be exempt from public disclosure and provide for each the subsection of 1 V.S.A. §§ 315-320 upon which they rely.”

¹¹ See 1 V.S.A. §317 (c)(1) (which exempts from disclosure “records which by law are designated confidential or by a similar term”), *see also* 3 V.S.A. §845 (a) (“Rules shall be valid and binding on persons they affect and shall have the force of law unless amended or revised or unless a court of competent jurisdiction determines otherwise.”)



urges the Board to amend the Proposed Rules to instead require carriers, subject to appropriate confidentiality protections, to submit to the Board copies of their NORS reports when filed with the FCC for outages in Vermont.¹²

Respectfully submitted,

/s/ Benjamin Aron
Benjamin Aron

January 17, 2020

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¹² While CTIA assures the Board that these reports would be sufficient to meet the Board's needs regarding timely outage reporting, if the Board has any further concerns, it could assess the efficacy of the rules at a later date to address any outstanding issues.

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January 17, 2020

VIA E-MAIL ONLY: barbara.neal@vermont.gov

Barbara Neal, Executive Director
Vermont Enhanced 911 Board
100 State Street, 4th Floor
Montpelier, Vermont 05602

E-911 Outage Notification Rule

Dear Ms. Neal:

Enclosed please find Comments offered by Comcast, along with three attachments, for filing in the above-captioned matter.

Thank you.

Sincerely,


Gerald R. Tarrant

GRT/dp

Enclosures

VERMONT ENHANCED 911 BOARD

Rule Governing Outage Reporting)
Requirements for Originating Carriers)
and Electric Power Companies)

COMCAST COMMENTS
January 17, 2020

Comcast agrees that the ability of Vermont citizens to call E-911 is important for public safety, and very much appreciates the opportunity to offer comments on the Vermont Enhanced 911 Board's ("E-911 Board" or "Board") proposed rule on Outage Reporting Requirements for Originating Carriers and Electric Power Companies.

Introduction

Section 25 of Act 79 directed the E-911 Board to adopt a rule "establishing protocols for the E-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 E-911 Board to assess 911 service availability during such outages." (Emphasis added.) For purposes of §25, an outage includes "lack of function of the telecommunications subscriber's backup-power equipment." Section 25 directs the Board to file a final proposed rule with the Secretary of State and the Legislative Committee on Administrative Rules on or before February 1, 2020.¹

¹ The E-911 Board circulated two drafts of the proposed rule to stakeholders, the first dated July 31, 2019, and the second dated September 17, 2019. A public hearing was held on January 10, 2020. Comcast attaches hereto its written comments on both drafts, dated August 16, 2019 and October 8, 2019, and its prepared comments delivered at the public hearing on January 10, 2020.

Discussion

For the reasons discussed below and as set forth in its comments (*supra* note 1), Comcast respectfully submits that there are substantial flaws in the enabling statute. The first sentence of §25 addresses “system outages” and, thus, aligns with the Federal Communication Commission’s (“FCC’s”) rules that define an outage in terms of the communications provider’s network.² However, the second sentence of §25 (and §3.3.1 of the Board’s proposed rules) unreasonably defines “outage” to include “*lack of function of the telecommunications subscriber’s backup-power equipment[.]*” Simply put, voice service providers do not have visibility into an subscriber’s backup power equipment and, thus, have no way to know when a failure of such equipment could interrupt voice service. This term should be deleted from the definition of “outage” in the proposed rule.³ As recommended by Comcast previously in its stakeholder comments, the Board’s rules should be limited to the reporting of *network* outages per the first sentence of the statute.

The proposed rules (at §4.1) direct facilities-based voice service originating carriers to report “outages” that limit or prevent 25 or more subscribers from completing calls to 911. Historically, any outage affecting 25 or more customers of a regulated voice provider would be due to a failure of the provider’s network because the network was line powered. Comcast, however, is generally not aware when small numbers of geographically-dispersed customers may lose power to their modem (or backup power). At any given time, any number of customers in diverse locations may unplug or reboot the voice modem, flip a wall switch, shut off the power

² 47 C.F.R. §4.5 defines “outage” as “a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider’s *network*.” (Emphasis added.)

³ To the extent necessary to implement the rules addressing system outages, the Legislature should amend the statute and delete the phrase “the lack of function of the telecommunications subscriber’s backup-power equipment.” The Legislature should also determine whether line-powered and over-the-top voice services should be included in the proposed rules.

for the electrician or engage in other behavior in the home that disrupts the power to their modem causing an inability to use the service. For example, the voice modems of 25 subscribers in 25 different Vermont towns could be offline at the same time due to customer or third-party behavior, not due to Comcast's network. Under these circumstances, it is not possible for a voice service provider like Comcast to report on these so-called "outages" as proposed in §4.1.1 because Comcast does not have visibility into such third-party behavior.

Accordingly, Comcast recommends that the E-911 Board adopt outage reporting rules based on the FCC rules, which, importantly, provide actionable intelligence useful for mitigating the impact of 911 outages. The FCC rules require that voice providers report on 911 network outages lasting thirty minutes or greater and impacting 900,000 plus user minutes.⁴ Under this proposal, notification to the E-911 Board would occur concurrently with the required notification to the FCC and the public safety answering point.

Comcast notes additional concerns arising from the E-911 Board's proposed rules. First, the Board's proposed rules are problematic as they mandate different reporting timeframes vis-à-vis voice providers and electric companies.⁵ This makes no sense. Indeed, because the availability of electric power dictates whether a home with a cordless phone will be able to call 911, including on traditional line-powered networks, timely reporting of electric outages is just as relevant, perhaps even more relevant than the reporting of telecommunications network outages.

Second, any reporting data should be deemed confidential to protect information on system vulnerabilities as the F.C.C. requires.⁶ The E-911 Board should follow the FCC's lead

⁴ 47 CFR Part 4 CFR §4.5 *et seq.*

⁵ *Cf.* § 4.1 and § 5.1.

⁶ See 47 C.F.R. §4.2 and 47 C.F.R. §0.461.

and revise §§6.1 and 6.2 of the proposed rules to indicate that all outage reports are confidential, and available only through FOIA requests of which the originating carrier would receive notice.

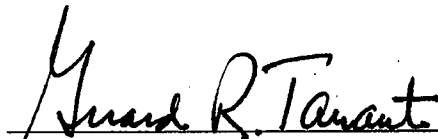
Also, the requirement to provide outage reports to the 911 System Provider must be eliminated as the 911 System Provider has no ability to address or correct an outage on an originating carrier's networks, and the requirement is not contained in §25 of the underlying statute.

In conclusion, Comcast appreciates the E-911 Board's consideration of these comments, and respectfully requests that the E-911 Board modify the proposed rule on outage reporting as discussed above and reflected in the attached redline.

Dated at Montpelier, Vermont, this 17th day of January, 2020.

COMCAST

BY:



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VERMONT ENHANCED 911 BOARD
DRAFT Outage Reporting Requirements 7/31/2019

COMCAST COMMENTS
August 16, 2019

Comcast appreciates the opportunity to offer preliminary comments on the Vermont Enhanced 911 Board's ("E911 Board") DRAFT Outage Reporting Requirements for Originating Carriers and Electric Power Companies dated July 31, 2019 ("7/31/2019 DRAFT Rules") that was circulated to stakeholders by email on that date. Comcast's understanding is that there will be another opportunity for stakeholder comment. Comcast also reserves the right to participate fully in the E911 Board's formal rulemaking process.

Initially, Comcast notes that 7/31/2019 DRAFT Rules improperly classify fixed voice services provided over facilities based networks that are not line powered as "telecommunications" services. Rather, they are Interconnected Voice over Internet Protocol ("Interconnected VoIP") services regulated by the Federal Communications Commission ("FCC")¹. Comcast's Xfinity Voice service used by residential subscribers and Comcast Business Voice used by business subscribers are Interconnected VoIP services.

Second, the proposed threshold of requiring providers of voice service to report on the loss of 9-1-1 calling capability by 25 or more subscribers regardless of duration, and regardless of the cause is impracticable, and will result in the perpetual reporting of unactionable information. Interconnected VoIP service is provided through a modem (equipment plugged in at the customer premises). Throughout the day, a small percentage of customers' modems temporarily go offline due to any number of customer-initiated activities², weather-related or other types of spot power outages, or software upgrades to the equipment. These routine events are not "outages", and voice providers should not be required to report on these types of situations. The 7/31/2019 DRAFT Rules recognize this by requiring electric power companies to report only monthly.

For voice providers with a large number of subscribers, thousands of modems are reset and/or are offline for brief periods throughout the day. Under the proposed rules, requiring reporting for *any* outage, without regard to duration, impacting 25 subscribers or more, would result in those providers perpetually reporting, twenty-four hours a day, seven days a week – once for the outage and then again on restoration³. Overreporting of this nature would not provide actionable information to the E911 Board. Furthermore, we don't believe reporting each time 25 or more individual modems are offline will benefit Public Safety or the E911 Board.

¹ 47 U.S.C. § 153(24); *Charter Advanced Servs. v. Lange*, 903 F.3d 715, 719 (8th Cir. 2018) ("the touchstone of the information services inquiry is whether [interconnected VoIP service] acts on the consumer's information—here a phone call—in such a way as to 'transform' that information").

² A voice modem may not be powered for many other reasons attributable to the customer: an electrician is working at the house and has turned off the power; there is a loss of electric power and the customer's generator does not kick in; the customer has elected not to purchase a backup battery.

³ Paradoxically, §4.5.1 would require the provider to notify the subscriber of an outage of his own making.

Comcast recommends that the E911 Board consider reporting rules based on the FCC's criteria, which provide actionable intelligence useful for mitigating the impact of 9-1-1 outages. The FCC rules require that voice providers report on 9-1-1 network impacting outages lasting thirty minutes or greater and impacting 900,000 plus user minutes. Notification to the E911 Board could occur concurrent with the required notification to the FCC and PSAP. Voice providers could also report the list of phone numbers of any caller that attempted to reach 9-1-1 during the outage, where the call was not delivered to the PSAP with ANI and ALI.

Comcast also recommends that voice providers only report to the E911 Board when 9-1-1 calling is impacted and not when voice service is hard down, meaning there is no dial tone in the home. When a user has no dial tone, there is awareness that 9-1-1 calling will not work, and customers should use alternative means to reach 9-1-1. We believe that by requiring reporting of power outages from electric companies, the E911 Board will receive sufficient information regarding the number of times a customer may be without dial tone in the home.

Comcast also has a concern with §4.5 which would require that the provider of voice service to allow subscribers to "register" with the provider to notify them via email or text if there is an outage. However, the message cannot refer to a 9-1-1 outage or suggest an outage of the 9-1-1 system itself. A registration system would be complex, expensive and unlikely to provide customers with helpful information. In situations of a prolonged power outage, subscribers already understand that their voice and Internet services will not function until the power is restored unless they have backup power⁴. Also, Xfinity Voice service and Xfinity Internet service are both provided by the same modem, and most subscribers rely on WiFi when at home or at work. If a subscriber cannot use Xfinity Voice service because the modem is not functioning, the subscriber also will not receive emails on their PCs or via Wi-Fi. In addition, providers must focus their resources on restoring services as quickly as possible. Finally, rules on the process of reporting outages should be specific and clear and not subject to change outside a formal process⁵.

Comcast appreciates the E911 Board's desire to create awareness around outage situations and would like to partner with the E911 Board to develop reasonable outage reporting thresholds that can be implemented and will provide actionable intelligence to public safety.

⁴ Comcast offers backup batteries, and the Vermont Public Utilities Commission has an ongoing docket on backup batteries with a second workshop scheduled for August 20, 2019. Docket 19-0705-PET.

⁵ For example, the E911 Board's current reporting rules contained in a memo dated November 30, 2016, could be contained in the rule itself.

VERMONT ENHANCED 911 BOARD
DRAFT Outage Reporting Requirements 9/17/2019

COMCAST COMMENTS
October 8, 2019

Comcast appreciates the opportunity to offer comments on the Vermont Enhanced 911 Board's ("E911 Board") DRAFT Outage Reporting Requirements for Originating Carriers and Electric Power Companies dated September 17, 2019 ("September 2019 Draft Rules"). Comcast agrees that the ability of Vermont citizens to call E911 is important for public safety. It is also important that any rules the Board adopt recognize the bounds of service providers' networks and systems and concentrate on reporting obligations that will result in actionable information that will improve public safety.

Section 25 of Act 79 (H513) directs the E911 Board to adopt a rule covering "**system outages**" applicable to wireless providers, providers of fixed non-line powered service, and electric companies. The focus on "system outages" is important as the system – which is the "network" for voice providers – is the aspect of 911 calling directly under the control of the service provider. This focus aligns with the FCC's rules that define an outage in terms of the communications provider's network¹. Similarly, the E911 Board policy for outage reporting by regulated telecommunications providers similarly limits reporting to "**network**" failures².

The statute and proposed rules, however, go further and include the "lack of function of the telecommunications subscriber's backup-power equipment" within the definition of an outage which is troublesome. While the term "backup power equipment" isn't defined, which leads to a degree of ambiguity in and of itself, it presumably includes any number of customer purchased devices. These devices include backup-batteries, electrical generators, uninterruptible power supplies, or even a TESLA Powerwall. These are all external power sources over which a voice service provider has no control and, in any event, is not part of the service provider's "system" or "network". Accordingly, a voice provider has limited insight into the subscriber's backup-power equipment and how it may be working.

With this in mind, Comcast proposes that the definition of an Originating Carrier ("OC") Outage in §3.3.1 of the proposed rules reflect solely outages on the voice providers' networks or "systems" and delete the text "lack of function of the subscriber's backup-power equipment during a power outage." Comcast also suggests that the terms network elements, services and transport

¹ 47 C.F.R. §4.5 defines an Outage as "a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network".

² E-911 Board Memo to All telecommunication companies operating in Vermont on "Revised policy on notification of outages affecting access to 9-1-1 (November 30, 2016).

facilities be deleted. Those terms are not defined, nor are they in the statute and thereby introduce uncertainty. Comcast strongly supports the including of “known” outages in §3.3.1 as it grounds the obligations to information the service provider reasonably has at a given moment.

Comcast proposes the following language for §3.3.1

3.3.1 Originating Carrier Outage: Any known degradation or loss of ~~network elements, systems, services and/or transport facilities~~ that prevent the OC's subscriber from being able to complete a call to, or communicate with, 911. An outage includes, ~~but is not limited to,~~ a failure or degradation in the performance of an OC's network. ~~or lack of function of subscribers' backup power equipment during a power outage.~~

While the addition of the 30 minute duration threshold is a significant improvement, Comcast is concerned with the 25 subscriber count reporting threshold in §4.1. This low threshold is especially troubling if customer backup power is retained as part of the definition of an outage. Comcast generally is not aware when small numbers of geographically disbursed customers may lose power to their modem (or back up power). At any given time any number of customers in diverse locations may unplug, reboot or otherwise disrupt the power to their voice modem causing an inability to use the service. For example, the voice modems of 25 subscribers in 25 different Vermont towns could be offline at the same time due to customer or third party behavior, not due to Comcast's network. Unless there is a failure or degradation of service on *Comcast's voice network*, Comcast is not generally aware of a loss of power particularly at the subscriber premises. By contrast, any outage affecting 25 or more customers of a regulated voice provider would be due to a failure of the provider's network because the network was line powered.

For these reasons, Comcast remains concerned that the 25 subscriber threshold remains impracticable and would not result in the reporting of actionable information³. Indeed, the electric power companies are only required to report monthly⁴ thus recognizing the lack of actionability of reporting such information.

Comcast continues to recommend that the E911 Board consider reporting rules based on the FCC's criteria, which provide actionable intelligence useful for mitigating the impact of 9-1-1

³ Comcast observes that different companies have different outage reporting systems and protocols. As a national voice service provider, Comcast's reporting systems are built around the federal standards. The E911 Board indicates that some non-line powered service providers are already reporting outages on a voluntary basis at the 25 subscriber level. However, it is important for the E911 Board to understand the circumstances of those providers and what is actually being reported, and whether the reported information is actionable before assuming the same threshold is appropriate for all.

⁴ See §5.1 of the September 2019 Draft Rules. Comcast notes that the FCC's rules now require interconnected VoIP providers to offer 24-hour backup batteries, 47 C.F.R. §12.5(b). The E911 Board has been attending the Vermont PUC workshops in Docket 19-0705-PET during which Comcast has detailed its compliance with the FCC's rules.

outages⁵. Notification to the E911 Board could occur simultaneously with the required notification to the FCC and PSAP. When a voice service provider becomes aware of an outage on its system, it can notify PSAPs and address the situation. Reporting on lack of 911 calling capability not due to a system failure could cause confusion and is not actionable in any event. Service provider reports to PSAPs under the FCC rules include verified information about the effect on consumers and the PSAP of an issue on Comcast's network. If PSAPs receive reports under a protocol that differs from the FCC's PSAP outage reporting requirements, they could receive multiple, and potentially conflicting, reports about the same network event. The Vermont specific reports would be unlikely to include actionable information because Comcast does not have vision into in-home behavior of its customers. Comcast only has vision into its own *system*.

With respect to §4.1.1, which outlines a facility based service provider's outage notification requirements, Comcast recommends replacing the description of the "subscriber's experience" with a description of the "limitation of 911 calling capability." A description of the "subscribers' experience" is subjective and requires information from the subscriber's viewpoint.

Also, with respect to §4.1.1, Comcast recommends the E911 Board remove the requirement to include Affected NPA-NXX(s) in the outage notification or make it optional if the Originating Carrier provides the Approximate Subscriber Locations. Today, Comcast has 109 unique NPA-NXX TN blocks in the state of VT. Comcast also supports ported telephone numbers from other carriers. That means in a large-scale outage event, carriers like Comcast will likely be required to identify and report a high number of affected NPA-NXX's. Providing this detail will be burdensome, increasing the time it takes to generate the information and deliver the report to the E911 Board. Alternatively, in a large scale event, providing the Approximate Subscriber Location should be useful to authorities in the execution of their response plans.

Comcast supports the goal of developing reasonable system outage reporting thresholds that can be implemented and urges the E911 Board to focus on reporting that will provide actionable intelligence to public safety. Comcast reserves the right to participate fully in the E911 Board's formal rulemaking process.

⁵ The FCC rules require that voice providers report on 9-1-1 network impacting outages lasting 30 minutes or greater and impacting 900,000 plus user minutes. 47 C.F.R. §4.9.

VERMONT ENHANCED 911 BOARD
Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power
Companies

Public Hearing – January 10, 2020

COMCAST COMMENTS

Good afternoon. My name is James White, Senior Director Regulatory Affairs for Comcast. Comcast agrees that the ability of Vermont citizens to call E911 is important for public safety and appreciates the opportunity to offer comments on the Vermont Enhanced 911 Board's proposed rule on Outage Reporting Requirements for Originating Carriers and Electric Power Companies.

Section 25 of Act 79 directed the E911 Board to adopt a rule covering “**system outages**” applicable to wireless providers, providers of fixed non-line powered service, and electric companies. The focus on “system outages” is important as the system – which is the “network” for voice providers – is the aspect of 911 calling directly under the control of the service provider. This focus aligns with the FCC's rules that define an outage in terms of the communications provider's network¹.

The statute and consequently the Board's proposed rules, however, are seriously flawed in that they go further and include the “lack of function of the telecommunications subscriber's backup-power equipment” within the definition of an outage which is troublesome. While the term “backup power equipment” isn't defined, which leads to a degree of ambiguity in and of itself, it presumably includes any number of customer-purchased devices. These devices include backup-batteries, electrical generators, uninterruptible power supplies, or even a TESLA Powerwall. These are all external power sources over which a voice service provider, like Comcast, has no control and, in any event, are not part of the service provider's “system” or “network”. The meaning of this part of the statute, and thus the proposed rules, is vague and uncertain, rendering them incapable of reasonable interpretation and implementation with any certainty. As recommended by Comcast previously in its stakeholder comments, the Board's rules should be limited to the reporting of network outages per the first sentence of the statute.

Comcast offers a few other brief observations. The Public Utilities Commission has reported to the legislature on provider compliance with the FCC's backup battery requirements and recommended against augmented rules in Vermont². To the extent the goal of the rules is the

¹ 47 C.F.R. §4.5 defines an Outage as “a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network”.

² REPORT TO THE VERMONT LEGISLATURE: Provider Compliance with 911 Backup-Power Obligations of 47 C.F.R. § 12.5 and Best Practices for Minimizing Disruptions to 911 Services During Power Outages, December 13, 2019.

collection of comprehensive information, Comcast notes regulated voice services³ and over-the-top voice services are not covered by the statute or regulations. Finally, because the availability of electric service affects the availability of voice services, electric service providers should have to report outages on the same timeline as voice service providers.

Comcast will address some of the other details of the Board's proposed rule in forthcoming comments.

Thank you.

³ Instead, outage reporting by regulated companies is covered by the E-911 Board Memo to All telecommunication companies operating in Vermont on "Revised policy on notification of outages affecting access to 9-1-1 (November 30, 2016).

Dear Ms. Neal,

I am writing to submit comments re rules for power outage reporting to go the VT Enhanced 911 Board.

I live in Shrewsbury, 8 miles from Rutland, 1 1/2 miles from state highway VT Route 103. I experience frequent power outages. I have a cell phone, but we do not have service in this section of town. The power has been out for as many as five consecutive days, though usually not more than one or two days. Fiberoptics were installed in 2015, along with a battery that now lasts about 3 hours. After the battery is dead I have no telephone recourse. I live alone and am 70 years old. If I somehow find the money I can get a Tesla battery that lasts 24 hours.

What do I do after 24 hours? In an emergency, an outage reporting system that works is a moot point. The TELEPHONE SERVICE I HAD WITH COPPER WIRES WAS AN ENTIRELY SATISFACTORY OUTAGE REPORTING SYSTEM. ALL I HAD TO DO WAS PICK UP THE PHONE AND CALL THE OUTAGE REPORTING NUMBER.

The system has REGRESSED 100 years.

What are you all going to do when a number of deaths are attributable to this fiasco?

Thank you.

Sincerely,

Ann Vanneman

850 Mitchell Road

Shrewsbury, VT 05738

Land line phone: 802-492-3116

VERMONT ENHANCED 911 BOARD

Rule Governing Outage Reporting)
Requirements for Originating Carriers)
and Electric Power Companies)

COMMENTS OF CHARTER

Charter Fiberlink VT-CCO, LLC (“Charter”), respectfully submits the following comments in response to the Board’s proposed rules.

At the outset, Charter notes that Comcast has submitted comments raising several areas of concern with the proposed rules. Charter agrees with Comcast’s comments. In addition to the issues raised by Comcast, Charter wishes to emphasize the following points.

Outage-Reporting Threshold. The Board proposes a rule that would establish a threshold for outage reporting that is far lower, and therefore far more burdensome, than the threshold established by the FCC.¹ In deciding on a 900,000-user-minutes standard, the FCC specifically contemplated the needs of rural communities.² Despite objections from rural states advocating for a much lower user-minute threshold, the FCC determined that a lower threshold was not necessary to adequately protect the interests of rural areas.³

¹ 47 CFR § 4.9. The FCC rules apply to outages “of at least 30 minutes” that “potentially affect[] at least 900,000 user minutes of telephony service.”

² See *In the Matter of New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rule Making, FCC 04-188, 19 FCC Rcd. 16830, at ¶¶ 52-56 (August 19, 2004).

³ *Id.* at ¶ 56 (considering, but ultimately rejecting, Kansas’s suggestion of a 150,000-user-minute standard).

There has been no formal inquiry, however, to establish what unique harms Vermonters face that are not adequately addressed by the federal standard. Similarly, there has been no finding that the threshold proposed by the Board would effectively address any such harms, or that it would do so without also creating a deluge of meaningless data that would not only overwhelm authorities, but would fail to provide Vermonters with any actionable information, particularly without corresponding electric utility information. Without a record, without an articulation of state needs, and without any findings of need, harm or benefit, the Board's proposed outage reporting threshold is plainly arbitrary.⁴ Because the proposed standard would create significant problems for the state and carriers alike without delivering articulable public safety or other customer benefits, Charter respectfully requests that the Board abstain from adopting an unsustainable reporting threshold.

Confidentiality. The Federal Communications Commission has stated that telecommunications outage reports contain "sensitive data, which requires confidential treatment" because the data "could be used by hostile parties to attack those [telecommunications] networks, which are part of our Nation's critical information infrastructure."⁵ Therefore, the FCC treats federal outage reports as presumptively confidential. The sensitive nature of outage data is recognized at the state level as well where state outage reports are generally deemed confidential.⁶

⁴ The Vermont Administrative Procedure Act requires that administrative rules not be arbitrary. See Vt. St. T. 3 §§ 801(b)(13), 841, 842. See also *Beyers v. Water Resources Bd.*, 180 Vt. 605 (2006) (administrative decisionmaker must articulate satisfactory explanation for its action including a rational connection between the facts found and the choice made).

⁵ *In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rule Making, FCC 04-188, 19 FCC Rcd. 16830 (August 19, 2004).

⁶ See, e.g., *Virginia*, 20 VAC 5-425-45, and *California*, 2019 Cal. Legis. Serv. Ch. 412 (S.B. 670)(WEST).

In the rules proposed by the Board, however, outage-reporting submissions would not be treated as presumptively confidential. The Board should revise the proposed rule so that the Vermont rule is consistent with the federal standard regarding confidentiality.⁷

Backup-Power Outage. The Board's proposed rules would define an "outage" to include any interruption to a user's backup-power source. Previously Charter submitted a letter to the Board raising concerns about a definition of outage that would include such interruptions. Charter wishes to reiterate those concerns here, and so it has included a copy of its earlier letter with these comments.

In summation, Charter shares the Board's concerns with respect to maintaining a reliable and efficient E-911 system for the State of Vermont. Charter appreciates the opportunity to submit these comments for the Board's consideration.

Respectfully Submitted,

Charter Fiberlink VT-CCO, LLC

By: /s/ Nancy S. Malmquist

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⁷ The Vermont Public Records Act provides for records to be designated confidential "by law." 1 V.S.A. § 317(c)(9).



October 1, 2019

Barbara Neal
Executive Director
Vermont Enhanced 911 Board
100 State St., 4th Floor
Montpelier, VT 05620-6501

Dear Ms. Neal and Board,

Thank you for the opportunity to respond to your September 23, 2019 inquiry requesting comments on the revised version of the draft outage reporting requirements rules and related economic impact assessment. Charter understands the importance of service availability and 9-1-1 access for its consumers and therefore deploys robust networks and has significant operations committed to maintaining the availability of its networks. Charter is also sensitive to the need of those with public safety duties to be able to meaningfully respond to emergency situations and have situational awareness during communications outages.

Charter is appreciative and supports many of the most recent changes to the draft rules, including the modifications to the definition of an Originating Carrier and Voice Service, the addition of flexibility with respect to the timing and data provided with the notification and restoration of service report, as well as the elimination of the requirement that carriers provide a means for alternative outage notifications. These revisions all provide for a consistent and achievable process.

However, Charter remains concerned that the definition of an outage includes an outage affecting a subscribers' backup-power equipment. As an initial matter, a backup battery powers a customer's multimedia terminal adaptor ("MTA"). Both of these pieces of equipment are Customer Premises Equipment ("CPE") and reside outside the scope of Charter's network, which ends 12 inches beyond the point of entry into the customer's premises. See *Investigation into regulation of Voice over Internet Protocol ("VoIP") services*, Order entered February 7, 2018, 2018 WL 835315 at *27-28 (Vt. P.S.B.), 343 P.U.R.4th 79 (citing 47 C.F.R. § 76.5). Therefore, the proposed rule would require Charter to monitor equipment that is not located on Charter's network and for which Charter has no operational control.

Further, Charter does not believe that the proposal will provide public safety entities with significant actionable information beyond knowledge of general power outage impacts. To the extent that a significant power outage occurs, Charter believes that the situational awareness of the public safety entities would be better informed by the Electric Company providing more real time outage updates as they will have the data on locations impacted, timing and causes.



Finally, Charter appreciates the opportunity to look at the impact that the proposed outage reporting threshold or alternatives have on the operations of its business but is not in a position to provide detailed data by October 1st. In general, Charter continues to be supportive of rules that are consistent with the national guidelines. Recognizing that the Board is looking at a lower and different threshold, Charter believes that any alternative threshold should be one that minimizes operational 'one-offs' and can most readily be implemented with limited operational complexities.

Charter looks forward to further participation in this matter with the Board to identify a reasonable outage reporting threshold that will provide actionable situational awareness for public safety.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Chowaniec". The signature is stylized and cursive.

Michael A. Chowaniec
Vice President, State Government Affairs
Charter Communications

Comments regarding the proposed Rule Governing Outage Reports

Below are a few areas of concern to me in the *proposed outage report requirements* for telecom and electric utilities. I appreciate your efforts to clarify and bring the outdated document current with today's issues and technology.

I strongly believe that as little as one household without service should require reporting at some point. Please reconsider and implement a time limit at which point the OC would be required to report. Perhaps it's okay for it to be three days or a week as they work to address the issue, but not for multiple weeks as I'm aware of happening to an elderly couple in southern Vermont - a case of which I've both spoken of and written about in my various pieces of testimony. We have many back roads here in Vermont where folks can easily be forgotten if there's no accountability.

As a citizen with limited understanding of the telecom systems, I appreciate your definition section at the beginning and urge you to add to that section a definition of CMRS.

I am not clear on whether the issue of fiber optic telephone systems and backup batteries which will discharge in cases of long power outages is being sufficiently addressed. It appears the only way you will be notified of our inability to get a dial tone during long power outages is through power company reports on the 15th of each month (or quarterly if deemed appropriate) That language and possible change of timing feel too vague and I recommend eliminating Section 5.1.1.

Is Section 4.1 intended to cover battery failure during power outages?

All facilities based fixed voice service OC's providing voice service in the State of Vermont shall report any known outage lasting more than 30 minutes,

> Please make it clear that it IS intended to cover power outage failures and resulting discharged batteries.

Again, this is not to shame or blame anyone - this is purely to try and avoid loss of life and obtain the most complete information so that all can better serve the public by seeing where holes in our systems exist - this should help improve the functionality of both our utilities and public services as a whole.

I also encourage the elimination of the language in section 6 which is already covered by Vermont Statute - 1 VSA Sec. 315-320. I would never have learned that we were not in the E 911 outage records during major power outages if this information wasn't available upon request. Transparency is the hallmark of good government and something we should be striving for, not building more barriers to public information and participation.

Thank you for your consideration.
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Response to Public Comments

Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

1/31/2020

A public hearing was held on January 10, 2020, in Montpelier, regarding the proposed *Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies*. During both the public comment period and the hearing, the Vermont Enhanced 911 Board (the “Board”) received and reviewed written public comments submitted between December 2, 2019 and January 17, 2020.

The following is a summary of comments received and the Board’s response to each comment. The comments are generally arranged in the order in which they were received. Comments of a similar nature may have been consolidated and responded to accordingly.

- 1. Comment:** Green Mountain Power (GMP) commented the rule should be modified to require identification of street or section of a road, rather than specific customer address in order to protect customer privacy while providing enough detail to accomplish purpose of the rule.

Response: Agreed. Section 4.1.2 and section 5.2 have been revised to address this comment.

- 2. Comment:** GMP commented the rule should include a provision for waiver or modification of the reporting requirements in the future.

Response: The Board previously added language to the proposed rule to allow for the possibility of quarterly reporting (see section 5.1.1). The Board does not agree that additional language regarding waivers or modification of requirements is necessary. Should the Board determine that a modification of requirements is needed, appropriate action will be taken to amend the rule.

- 3. Comment:** GMP commented the Board should report annually with regard to how the information is being used, how it has proved helpful and that consideration should be given to adding a sunset provision to the rule where reporting requirements would expire if legislative or administrative action is not taken.

Response: The Board expects to compile reports using this information on a regular basis. As with the suggestions related to waivers and modification of reporting requirements, if the Board determines there is a need to change or end any requirements, appropriate action will be taken to amend the rule.
- 4. Comment:** Sections 4.0 and 5.0 must call for “originating carriers and electric power companies to work with the E911 Board to devise and install solutions to reduce outages and their impacts on Vermonters.”

Response: The purpose of this rule, as defined in section 25 of Act 79, is to enable the Board to assess 911 service availability during certain types of outages. Requirements to “devise and install solutions” are outside the scope of the rule.
- 5. Comment:** One commenter provided several grammatical and/or editing recommendations.

Response: Agreed to most and corrections made in sections 3, 4 and 8. The comment regarding section 4.1.1 is not agreed to as term “outage” is already defined in section 3.
- 6. Comment:** In section 3.3.2, “normally served geographic area” is imprecise; state more definitively.

Response: The phrase “normally served geographic area” was used intentionally to accommodate the various types of technology covered by the rule, i.e., wireline, wireless, and VoIP service. In some cases, these technologies cover multiple towns or communities.
- 7. Comment:** In section 3.3.3, “any known failure or failures” is very vague. Clarify failure(s) of what.

Response: The relevant section states that “any known failure or failures” refers to an event that prevents the electric power company from distributing electricity to residential and/or business customers.
- 8. Comment:** In section 4.1.1: 8th item: Does this example describe a condition that may exist? Is it the best example? Why not say “Subscribers cannot complete a call to, or communicate with, 911, because their backup-power battery has expired” – which actually occurs?

Response: Yes, the example provided is an actual condition that can exist. The Board's intent is to provide an example only, not a complete list of possible conditions.
- 9. Comment:** In section 4.1.2: 5th item: Isn't this an invasion of privacy if not authorized by the subscriber?

Response: If a caller attempted to reach 911, but was unable to do so for any reason, the Board, or the Public Safety Answering Points (PSAPs) acting on behalf of the Board, must take all necessary steps to ensure their safety. When a telephone number is available, the Board's staff (or a PSAP) attempts to contact that caller for that purpose.

- 10. Comment:** In section 4.3: What is meant by the term “future like outages”? The section should not be limited to requiring OC’s to “work cooperatively” regarding “assessment of the outage and its impact on access to 911”. It should also require OC’s to work with the Board to identify and implement measures to minimize and mitigate loss of 911 connectivity.
Response: Section 4.3 has been reworded to add clarity, however requirements to implement specific measures are outside the scope of this rule.
- 11. Comment:** Both subsections of section 6 are unnecessary and should be dropped. The Board should not propose a Rule that undermines the legislation requiring the Rule. The Rule should state “The information required to be reported to the Board in Sections 4.0 and 5.0 of this Rule shall not be considered subject to the exemptions of 1 V.S.A. Sec. 315-320.”
Response: The Board expects that some, but not all, information contained in the required reports may be exempt from disclosure under the Vermont Public Records Law (for example, proprietary or system security related information). As noted in section 6.1, information contained in the reports that is properly exempt from public disclosure under Vermont Public Records Law will be maintained confidentially by the Board.
- 12. Comment:** The rule is deficient in requiring reporting for telephone systems that have fiber optic cable with backup batteries installed at each individual residence. The rule should address the specific circumstance of failure to have phone service to access 911 when the battery dies.
Response: We refer the commenter to section 3 (“Definitions”) which defines an originating carrier outage and includes this language: "An outage includes, but is not limited to, a failure or degradation in the performance of an OC’s network or lack of function of subscribers’ backup-power equipment during a power outage."
- 13. Comment:** CTIA – The Wireless Association (CTIA) provided information related to the FCC’s Network Outage Reporting System (NORS) and the thresholds that trigger those reports. CTIA recommends the Board adopt a rule that would “allow carriers to provide the Board, subject to the necessary confidentiality safeguards, copies of their reports filed under NORS”. Comcast and Charter also submitted comments in support of the Board adopting a rule that aligns with the FCC’s reporting thresholds.
Response: The thresholds defined in the rule will best meet the Board's understanding of the legislative intent of section 25 of Act 79 and will provide the data necessary to properly assess the impact of service provider outages on access to 911 in Vermont.
- 14. Comment:** CTIA commented that implementation of the rules will have a significant economic impact on Vermont’s wireless providers which could result in increased costs to customers and decreased investment in Vermont.
Response: The Board requested detailed economic impact information from all stakeholders as described on page 4 of the rule coversheet. The Board did not receive specific information from any wireless carrier regarding economic impact and therefore is unable to respond to this concern.

- 15. Comment:** CTIA commented that service providers will have to undertake substantial network and IT changes on short notice (July 1 deadline), in a single state out of national territory. It may not be possible to comply in this brief timeline.
- Response:** The Board acknowledges there may be technical and operational impacts for some originating carriers as they implement the requirements of this rule. Section 7.1 has been revised to remove the July 1, 2020 effective date and establish a new effective date as follows: "Mandatory outage reporting will begin as soon as originating carriers and electric power companies are technically capable of providing the information but no later than six months after adoption of the final rule."
- 16. Comment:** CTIA commented that creating a Vermont-specific outage reporting standard runs the risk of creating a "patchwork quilt" of state-by-state reporting obligations on top of those already imposed by the FCC.
- Response:** The Board understands the desire of national carriers to avoid a patchwork of reporting requirements. However, the Board has determined that the thresholds defined in the proposed rule will best meet the Board's understanding of the legislative intent of section 25 of Act 79 and will provide the data necessary to properly assess the impact of service provider outages on access to 911 in Vermont.
- 17. Comment:** CTIA commented the proposed rules may divert wireless providers' time and personnel resources away from service restoration efforts.
- Response:** The Board agrees that restoration of service must be a priority. Section 4.2 addresses this concern where it specifies the reports must be submitted within two hours of an outage or "or as soon as reasonably possible."
- 18. Comment:** CTIA commented the standard should be within "two hours of discovering" an outage, rather than within two hours of "each occurrence" to avoid a standard that could be "impossible to meet and would impose yet more customized IT and system changes that will affect the implementation costs."
- Response:** Agreed. Sections 4.1 and 4.2 have been revised to indicate notification is required "within two hours of discovery of each occurrence."
- 19. Comment:** CTIA commented the proposed rule should explicitly provide that any outage reports submitted to the Board are confidential and exempt from public disclosure.
- Response:** The Board expects that some, but not all, information contained in the required reports may be exempt from disclosure under the Vermont Public Records Law (for example, proprietary or system security related information). As noted in section 6.1, information contained in the reports that is properly exempt from public disclosure under Vermont Public Records Law will be maintained confidentially by the Board.
- 20. Comment:** Comcast commented on several concerns with the enabling legislation related to this rule, section 25 of Act 79. The definition of an outage to include "lack of function of the telecommunications subscriber's backup-power equipment" should be deleted from the from the legislation and from the Board's proposed rule.
- Response:** The Board must adhere to the requirements of section 25 of Act 79. The definition of an outage in section 3 of the rule specifies that an outage is any "...known degradation..." that prevents a subscriber from being able to complete calls to, or communicate with, 911. The rule is not intended to require OCs to monitor customer premise equipment or elements outside its network or operational control.

- 21. Comment:** Comcast commented it is generally unaware when small numbers of geographically dispersed customers lose power to their modem or backup-power. Comcast can not comply with requirements of 4.1.1 because it does not have visibility into third-party behavior such as modem reboots or customers' intentional disconnection of power.
Response: Sections 3 and 4 of the rule contain language that is intended to eliminate concerns that third-party behaviors such as those described in the comment would result in a reportable event. The rule is not intended to require OCs to monitor customer premise equipment or elements outside its network or operational control.
- 22. Comment:** Comcast commented the Board's proposed rule is problematic as it mandates different reporting timeframes for voice providers and electric companies.
Response: There is not necessarily a direct correlation between a power outage and the inability of a caller to reach 911. An originating carrier outage, however, can directly impact the ability of a customer to reach 911 using that service. The Board feels it is appropriate to obtain monthly information from power companies for comparison and analysis after the fact.
- 23. Comment:** Comcast commented that all outage reports should be confidential and available only through FOIA requests of which the originating carrier would receive notice.
Response: The Board expects that some, but not all, information contained in the required reports may be exempt from disclosure under the Vermont Public Records Law (for example, proprietary or system security related information). As noted in section 6.1, information contained in the reports that is properly exempt from public disclosure under Vermont Public Records Law will be maintained confidentially by the Board. It is the Board's practice to notify carriers when a public records request is received related to their outage reports.
- 24. Comment:** Comcast commented that the requirement to provide outage reports to the 911 system provider must be eliminated as the 911 system provider has no ability to address or correct an outage in an originating carrier network, and the requirement is not contained in section 25 of Act 79.
Response: The state's 911 system provider acts as an agent of the 911 Board. The Board has determined this information is needed by the system provider for situational awareness purposes.
- 25. Comment:** One commenter stated several concerns related to power outages, lack of cell service in her area, inadequate battery backup power, the removal of "copper wire" based service, and her concerns about potential negative impacts to consumers due to these issues.
Response: The Board acknowledges the commenter's concerns; however, this input does not specifically address the content of this rule.
- 26. Comment:** Charter commented that it agrees with comments submitted by Comcast.
Response: See comments 13 and 20-24 for the Board responses related to Comcast comments.

27. Comment: Charter commented that there has been no formal inquiry to establish why the needs of Vermonters are not adequately addressed through the FCC's outage reporting thresholds and notes there are no findings to support the proposed threshold will address any inadequacies in the FCC thresholds.

Response: The thresholds defined in this rule will best meet the Board's understanding of the legislative intent of section 25 of Act 79 and will provide the data necessary to properly assess the impact of service provider outages on access to 911 in Vermont.

28. Comment: Charter commented the proposed rule will create a "deluge of meaningless data" that may overwhelm authorities and fail to provide Vermonters with any actionable information. Without a record, articulation of state needs, findings of need, harm or benefit the outage reporting threshold is "plainly arbitrary".

Response: Section 25 of Act 79 requires the Board create protocols for outage reporting for the purpose of enabling the Board to assess the impact of such outages on the ability of Vermonters to access 911. The thresholds defined in this rule will best meet the Board's understanding of the legislative intent of section 25 of Act 79 and will provide the data necessary for the required assessment. The thresholds are not arbitrary, but rather are based, in part, on similar existing thresholds, defined in the Board's Technical and Operational Standards, for outage reporting by regulated telephone service providers in Vermont.

29. Comment: Charter commented the proposed rule should be revised to be consistent with the federal standard regarding confidentiality.

Response: The Board expects that some, but not all, information contained in the required reports may be exempt from disclosure under the Vermont Public Records Law (for example, proprietary or system security related information). As noted in section 6.1, information contained in the reports that is properly exempt from public disclosure under Vermont Public Records Law will be maintained confidentially by the Board.

30. Comment: Charter commented on its concerns related to the inclusion of interruptions to a user's backup-power source in the definition of "outage".

Response: The definition of an outage to include "lack of function of the telecommunications subscriber's backup-power equipment" is specified in section 25 of Act 79 and must be included in the rule.

31. Comment: As little as one household without service should require reporting at some point. The rule should include a time limit at which point the OC would be required to report one household without service.

Response: This rule is the not the appropriate mechanism for resolving instances of individual service interruptions or customer service-related concerns. Such situations should be resolved directly with the telephone service provider whenever possible. Additionally, the Consumer Affairs & Public Information (CAPI) Division of the Vermont Public Service Department may be able to assist in reaching an informal resolution of disputes with regulated utilities in Vermont.

32. Comment: Add a definition of "CMRS".

Response: Agreed. The definition of CMRS has been added to section 3.

33. Comment: It appears the only way the Board will be notified of the inability to get a dial tone during long power outages is through power company reports on the 15th of each month (or quarterly if deemed appropriate). That language is too vague.

Response: Section 4.1 outlines the requirements for originating carriers to notify the Board of an outage that prevents a caller from being able to complete a call to, or communicate with, 911. This would include outages impacting dial tone. The monthly reports from electric power companies are expected to allow the Board to analyze and confirm a power outage was a cause of the outage.

34. Comment: Section 5.1.1 should be eliminated.

Response: The Board will carefully evaluate the effectiveness of monthly reporting before making any change to the frequency requirement, but will retain the option to move to quarterly reporting for electric companies if appropriate.

35. Comment: Is section 4.1 intended to cover battery failure during power outages? Please make it clear that it is.

Response: The Board refers the commenter to section 3 which defines an originating carrier outage as including, but not limited to, “a failure or degradation in the performance of an OC’s network or lack of function of subscribers’ backup-power equipment during a power outage.”

36. Comment: Encourage the elimination of the language in section 6 which is already covered by Vermont Statute 1 VSA Sec. 315-320.

Response: The Board expects that some, but not all, information contained in the required reports may be exempt from disclosure under the Vermont Public Records Law (for example, proprietary or system security related information). As noted in section 6.1, information contained in the reports that is properly exempt from public disclosure under Vermont Public Records Law will be maintained confidentially by the Board.

Vermont Enhanced 911 Board

Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

1.0 Authority

This rule is adopted pursuant to Vt. Act 79, § 25 (2019) and 30 V.S.A. § 7053.

2.0 Purpose

The purpose of this rule is to establish outage reporting protocols for originating carriers providing voice service in Vermont and for electric power companies operating in Vermont in order to enable the Enhanced 911 Board (the “Board”) to assess 911 service availability during such outages.

3.0 Definitions

3.1 Commercial Mobile Radio Service (CMRS): A Federal Communications Commission (FCC) designation for any carrier or licensee whose wireless network is connected to the public switched telephone network.

3.2 Electric Power Company: A company that provides distribution of electricity to residential and/or business customers.

3.3 Originating Carrier (OC) – Also known as originating service provider, an entity that provides voice services to a subscriber.

3.4 Outages

3.4.1 Originating Carrier Outage: Any known degradation or loss of network elements, systems, services and/or transport facilities that prevent the OC's subscribers in a served geographic area within Vermont, such as a town or community, from being able to complete a call to, or communicate with, 911. An outage includes, but is not limited to, a failure or degradation in the performance of an OC's network or lack of function of subscribers' backup-power equipment during a power outage.

3.4.2 Wireless Service Outage: Any known loss of wireless service, also known as cellular service, in a normally served geographic area within Vermont, such as a town or community, which prevents the subscriber from being able to complete a call to, or communicate with, 911.

3.4.3 Electric Power Outage: Any known failure or failures that ~~prevents~~ prevent the electric power company from distributing electricity to residential and/or business customers.

3.5 System Provider - An entity that provides the systems and support necessary to enable 911 calling for one or more Public Safety Answering Points (PSAPs) in a specific geographic area.

Vermont Enhanced 911 Board

Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

3.6 Voice Service - A service that provides voice transmission services. These services are provided over a network that transmits any combination of voice, video and/or data between users. Voice service is provided by an OC that could be, but is not limited to, a facilities based fixed voice service that is line powered, a facilities based fixed voice service that is not line powered, or a Commercial Mobile Radio Service provider.

4.0 Requirements for Originating Carriers

4.1 All facilities based fixed voice service OC's providing voice service in the State of Vermont shall report any known outage lasting more than 30 minutes, that limits or prevents 25 or more subscribers from completing calls to, or communicating with, 911. The OC shall notify the 911 system provider and the Board within two hours of discovery of each occurrence, or as soon as reasonably possible.

4.1.1 The facilities based fixed voice service OC's outage notification to the ~~Board and system provider~~ 911 system provider and the Board shall include, to the extent that it is known, the following information:

- OC name
- Location of affected facility
- Approximate subscriber physical locations – at a minimum town or community name
- Approximate number of subscribers affected
- Date and time outage began
- Estimated date and time for restoration of service
- Cause
- Description of the limitation of 911 calling capability: Example - Subscribers are receiving dial-tone and can make calls to other local subscribers but cannot complete calls to 911.
- Contact Name
- Contact Phone
- 24/7 contact if different from above contact

4.1.2 A restoration of service report shall be provided to the 911 system provider and the Board within two hours of resolution of the outage or as soon as reasonably possible and shall include, to the extent it is known, the following information:

- OC name
- Location of affected facility
- ~~Approximate subscriber physical locations~~ Approximate subscriber physical locations to include identification of street or section of road, if available.

Vermont Enhanced 911 Board

Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

- Actual restoration time
- The call back number(s) of any subscribers that attempted to reach 911, but were unable to do so, due to the outage, if available.
- Any other information requested in the initial notification that was previously unavailable or unverified such as cause, or number of subscribers affected.

4.2 All Commercial Mobile Radio Service (CMRS) OC's providing voice service in the State of Vermont shall report any known wireless service outages and/or outages meeting the definition of section 3.3.1 "Originating Carrier Outage" that lasts more than 30 minutes, and limits or prevents subscribers from completing calls to, or communicating with, 911. The OC shall notify the 911 system provider and the Board within two hours of discovery of each occurrence, or as soon as reasonably possible

4.2.1 The CMRS OC's outage notification to the Board and system provider 911 system provider and the Board shall include, to the extent it is known, the following information:

- OC name
- Location of affected facility and/or geographic area
- Approximate number of subscribers affected
- Date and time outage began
- Estimated date and time for restoration of service
- Cause
- Description of the limitation of 911 calling capability: Example - Subscribers can make calls to local subscribers but cannot complete calls to 911.
- Contact Name
- Contact Phone
- 24/7 contact if different from above contact

4.2.2 A restoration of service report shall be provided to the 911 system provider and the Board within two hours of resolution of the outage or as soon as reasonably possible, and shall include, to the extent it is known, the following information:

- OC name
- Location of affected facility
- Approximate number of subscribers affected
- Actual restoration time
- the call back number(s) of any subscribers that attempted to reach 911, but were unable to do so, due to the outage, if available.

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- Any other information requested in the initial notification that was previously unavailable or unverified such as cause, or number of subscribers affected.

4.3 ~~Additional details about the cause of the outage and, if applicable, mitigating steps to avoid future like outages may be requested by the Board. All OCs shall work cooperatively with the Board to provide the level of detail needed to assist the Board in its assessment of the outage and its impact on access to 911 for the affected subscribers.~~ The Board may request additional details about the cause of the outage and any mitigating steps taken to prevent future outages of a similar nature. All OCs shall work cooperatively with the Board to provide the level of detail needed to assist the Board in its assessment of the outage and its impact on access to 911 for the affected subscribers.

5.0 Requirements for Electric Power Companies

5.1 Electric power companies shall provide a detailed monthly report on all outages affecting 25 or more customers and lasting 8 or more hours to the Board by the 15th of each month.

5.1.1 Quarterly reporting may be allowed if, in the judgment of the Board, that frequency will allow for sufficient and timely information gathering.

5.2 The monthly reports will be provided in CSV, XML, Excel or other importable dataset accepted by the Board, and will include, at a minimum:

- Date and time of outage
- Date/time of restoration of service
- Approximate number of impacted customers
- ~~Location of outage, including physical addresses, if available.~~ Location of outage and approximate subscriber physical locations including identification of street or section of road, if available.
- Cause of the outage

6.0 Confidentiality

6.1 Information that is properly exempt from public disclosure under Vermont Public Records Law shall be maintained confidentially by the Board.

6.2 All report submitters shall mark information they believe to be exempt from public disclosure and provide for each the subsection of 1 V.S.A. §§ 315-320 upon which they rely.

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7.0 Effective Date

7.1 ~~This rule will become effective on July 1, 2020.~~ Mandatory outage reporting will begin as soon as originating carriers and electric power companies are technically capable of providing the information but no later than six months after adoption of the final rule.

8.0 Enforcement

8.1 Pursuant to section 30 V.S.A. § 7061(a), the Enhanced 9-1-1 Board may file a civil action for injunctive relief in Washington ~~county~~ County ~~superior~~ Superior ~~court~~ Court to enforce this rule. The ~~court~~ Court shall award the Board its costs and reasonable attorneys' fees in the event that the Board prevails in an action under this subsection.

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1.0 Authority

This rule is adopted pursuant to Vt. Act 79, § 25 (2019) and 30 V.S.A. § 7053.

2.0 Purpose

The purpose of this rule is to establish outage reporting protocols for originating carriers providing voice service in Vermont and for electric power companies operating in Vermont in order to enable the Enhanced 911 Board (the “Board”) to assess 911 service availability during such outages.

3.0 Definitions

3.1 Commercial Mobile Radio Service (CMRS): A Federal Communications Commission (FCC) designation for any carrier or licensee whose wireless network is connected to the public switched telephone network.

3.2 Electric Power Company: A company that provides distribution of electricity to residential and/or business customers.

3.3 Originating Carrier (OC) – Also known as originating service provider, an entity that provides voice services to a subscriber.

3.4 Outages

3.4.1 Originating Carrier Outage: Any known degradation or loss of network elements, systems, services and/or transport facilities that prevent the OC's subscribers in a served geographic area within Vermont, such as a town or community, from being able to complete a call to, or communicate with, 911. An outage includes, but is not limited to, a failure or degradation in the performance of an OC's network or lack of function of subscribers' backup-power equipment during a power outage.

3.4.2 Wireless Service Outage: Any known loss of wireless service, also known as cellular service, in a normally served geographic area within Vermont, such as a town or community, which prevents the subscriber from being able to complete a call to, or communicate with, 911.

3.4.3 Electric Power Outage: Any known failure or failures that prevent the electric power company from distributing electricity to residential and/or business customers.

3.5 System Provider - An entity that provides the systems and support necessary to enable 911 calling for one or more Public Safety Answering Points (PSAPs) in a specific geographic area.

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3.6 Voice Service - A service that provides voice transmission services. These services are provided over a network that transmits any combination of voice, video and/or data between users. Voice service is provided by an OC that could be, but is not limited to, a facilities based fixed voice service that is line powered, a facilities based fixed voice service that is not line powered, or a Commercial Mobile Radio Service provider.

4.0 Requirements for Originating Carriers

4.1 All facilities based fixed voice service OC's providing voice service in the State of Vermont shall report any known outage lasting more than 30 minutes that limits or prevents 25 or more subscribers from completing calls to, or communicating with, 911. The OC shall notify the 911 system provider and the Board within two hours of discovery of each occurrence, or as soon as reasonably possible.

4.1.1 The facilities based fixed voice service OC's outage notification to the 911 system provider and the Board shall include, to the extent that it is known, the following information:

- OC name
- Location of affected facility
- Approximate subscriber physical locations – at a minimum town or community name
- Approximate number of subscribers affected
- Date and time outage began
- Estimated date and time for restoration of service
- Cause
- Description of the limitation of 911 calling capability: Example - Subscribers are receiving dial-tone and can make calls to other local subscribers but cannot complete calls to 911.
- Contact Name
- Contact Phone
- 24/7 contact if different from above contact

4.1.2 A restoration of service report shall be provided to the 911 system provider and the Board within two hours of resolution of the outage or as soon as reasonably possible and shall include, to the extent it is known, the following information:

- OC name
- Location of affected facility
- Approximate subscriber physical locations to include identification of street or section of road, if available.
- Actual restoration time

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- The call back number(s) of any subscribers that attempted to reach 911, but were unable to do so, due to the outage, if available.
- Any other information requested in the initial notification that was previously unavailable or unverified such as cause, or number of subscribers affected.

4.2 All Commercial Mobile Radio Service (CMRS) OC's providing voice service in the State of Vermont shall report any known wireless service outages and/or outages meeting the definition of section 3.3.1 "Originating Carrier Outage" that lasts more than 30 minutes, and limits or prevents subscribers from completing calls to, or communicating with, 911. The OC shall notify the 911 system provider and the Board within two hours of discovery of each occurrence, or as soon as reasonably possible

4.2.1 The CMRS OC's outage notification to the 911 system provider and the Board shall include, to the extent it is known, the following information:

- OC name
- Location of affected facility and/or geographic area
- Approximate number of subscribers affected
- Date and time outage began
- Estimated date and time for restoration of service
- Cause
- Description of the limitation of 911 calling capability: Example - Subscribers can make calls to local subscribers but cannot complete calls to 911.
- Contact Name
- Contact Phone
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4.2.2 A restoration of service report shall be provided to the 911 system provider and the Board within two hours of resolution of the outage or as soon as reasonably possible, and shall include, to the extent it is known, the following information:

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4.3 The Board may request additional details about the cause of the outage and any mitigating steps taken to prevent future outages of a similar nature. All OCs shall work cooperatively with the Board to provide the level of detail needed to assist the Board in its assessment of the outage and its impact on access to 911 for the affected subscribers.

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5.1 Electric power companies shall provide a detailed monthly report on all outages affecting 25 or more customers and lasting 8 or more hours to the Board by the 15th of each month.

5.1.1 Quarterly reporting may be allowed if, in the judgment of the Board, that frequency will allow for sufficient and timely information gathering.

5.2 The monthly reports will be provided in CSV, XML, Excel or other importable dataset accepted by the Board, and will include, at a minimum:

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- Date/time of restoration of service
- Approximate number of impacted customers
- Location of outage and approximate subscriber physical locations including identification of street or section of road, if available.
- Cause of the outage

6.0 Confidentiality

6.1 Information that is properly exempt from public disclosure under Vermont Public Records Law shall be maintained confidentially by the Board.

6.2 All report submitters shall mark information they believe to be exempt from public disclosure and provide for each the subsection of 1 V.S.A. §§ 315-320 upon which they rely.

7.0 Effective Date

7.1 Mandatory outage reporting will begin as soon as originating carriers and electric power companies are technically capable of providing the information but no later than six months after adoption of the final rule.

8.0 Enforcement

8.1 Pursuant to section 30 V.S.A. § 7061(a), the Enhanced 9-1-1 Board may file a civil action for injunctive relief in Washington County Superior Court to enforce this rule. The Court shall award the Board its costs and reasonable attorneys' fees in the event that the Board prevails in an action under this subsection.