

# 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**

\_\_\_\_\_/s/ Roger M. Marcoux, Jr.\_\_\_\_\_, on 11/19/2020  
(signature) (date)

Printed Name and Title:  
Roger M. Marcoux, Jr., Chairman  
Vermont Enhanced 911 Board



RECEIVED BY: \_\_\_\_\_

**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

Final Proposed Coversheet

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

20P-020

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 Street, 5<sup>th</sup> Floor, Montpelier,  
VT 05620-6501

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

E-Mail: barbara.neal@vermont.go

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 Street, 5th 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?)* Yes

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

1 V.S.A 317 (c) (9) and (c) (25); 30 V.S.A. 7059 (c)

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

Outage reports will contain information related to  
network operations centers, their contact information

Final Proposed Coversheet

and telephone numbers and may include proprietary information - all of which is exempt from disclosure under the Vermont Public Records Act. Restoration of service reports may include phone numbers of individuals that attempted to reach 911 the release of which is exempt under 30 V.S.A. 7059 (c).

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 125 § 25 (2020) and 30 V.S.A. § 7053

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

Vt. Act 125 § 25 (2020) amended Vt. Act 79 § 25 (2019) to require that when one or more states with a combined population of 20,000,000 residents adopts a rule or enacts a law that applies a lower reporting threshold than is required under 47 C.F.R. Part 4, § 4.9(e)(1)(ii) as it pertains to wireless service providers, the E-911 Board shall initiate a rulemaking for outage reporting that incorporates the lowest above-referenced reporting threshold applicable to wireless service providers. California, population 39,000,000, ratified an emergency regulation in July 2020 that incorporates the lower thresholds. 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 125 § 25(2020) and also incorporates outage 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 125 § 25(2020), specifically the reporting thresholds for wireless service providers, which have been adopted in California. Since other national carriers have concerns about a "patchwork" of reporting requirements around the nation, California's thresholds were also incorporated for those carriers in Vermont. The reporting requirements for regulated telephone companies in Vermont are similar to existing procedure which has been effective for over twenty years.

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 not expected to have an economic impact on electric power companies or on wireline telephone service providers. During a previous rulemaking on this topic, national VoIP service providers indicated a significant amount of work would be required to implement mechanisms to meet the reporting thresholds in the rule, but did not provide a specific economic impact. An industry organization representing national

Final Proposed Coversheet

wireless carriers also indicated previously that the economic impact would be significant and would require substantial network and information technology changes, however specific costs were not provided. Because this newly proposed rule incorporates thresholds that are already in place in California, the economic impacts have likely lessened for these stakeholders.

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: 10/9/2020

Time: 10:00 AM

Street Address: The meeting will be held remotely via video conference bridge.

Zip Code:

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):

10/16/2020

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

Final Proposed Coversheet  
Vermont 911 Outage Reporting Requirements  
Vermont 911 Requirements  
Outage Reporting Requirements

State of Vermont  
Enhanced 9-1-1 Board  
100 State Street, Ste. #500  
Montpelier, VT 05620-6501  
E911.info@vermont.gov

[phone] 802-828-4911  
[fax] 802-828-4109  
[TTY] 802-828-5779  
[800 VT] 800-342-4911

## MEMORANDUM

**TO:** Legislative Committee on Administrative Rules

**FROM:** Barbara Neal, Executive Director

**DATE:** 11/20/2020

**RE:** Rule 20-P-020: Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies

A public hearing on this proposed rule was held on October 9, 2020. At the hearing, and during the public comment period ending on October 16, 2020, the Enhanced 911 Board (the "Board") received multiple comments from several stakeholders. A summary of those comments is included in this filing. Also included in this filing are copies of all written submissions received during the public comment period and a summary of verbal comments for which no written submission was provided.

The following changes were made to the rule as a result of public input:

- 3.0 Definitions** (and subsections): minor formatting edits were made throughout Section 3 (see annotated text for specifics)
- 3.5.1 (Definition of) Originating Carrier Outage (OCO):** Any known degradation or loss of network elements, systems, services and/or transport facilities that prevent the OC's subscribers from being able to complete a call to, or communicate with, 911, or prevents subscribers from receiving emergency notifications. An OCO includes any loss of 911 calling capacity caused by such an OC's network failure.
- 3.5.2 (Definition of) Wireless Service Outage (WSO):** Wireless Service Outage (WSO): Any known degradation or loss of network elements, systems, services and/or transport facilities that prevent the subscribers of a wireless service, also known as cellular service, from being able to complete a call to, or communicate with, 911, or prevents subscribers from receiving emergency notifications. A WSO includes any loss of 911 calling capacity caused by such a wireless service network failure
- 3.5.3 (Definition of) Electric Power Outage:** Any known failure, or failures, or circumstances that prevent the electric power company from distributing electricity to residential and/or business customers.



**4.3.1** The initial OCO notification shall include, to the extent that it is known, the following information:

- OC name
- Affected geographic area identified by ZIP code, town, county, or community name
- Brief description of the limitation of 911 calling capability, ~~to the extent known~~
- Contact Name (presumed non-public)
- Contact Phone (presumed non-public)
- 24/7 contact if different from above contact (presumed non-public)

**4.4.1** CMRS providers ~~OCs~~ shall make an initial notification as required under subsections 4.4 within one hour of discovery of the WSO; a second notification within two hours of discovery, and shall provide additional updates as they become available, or at the request of the Board.

**4.4.2** The initial WSO notification shall include, to the extent that it is known, the following information:

- ~~OC~~ CMRS provider name •
- Affected geographic area identified by ZIP code, town, county, or community name
- Brief description of the limitation of 911 calling capability, ~~to the extent known~~
- Contact Name (presumed non-public)
- Contact Phone (presumed non-public)
- 24/7 contact if different from above contact (presumed non-public)

**6.1.1** (Addition of new subsection 6.6.1): Submitters of information required by subsections 4.3.1, 4.3.2, 4.3.3, 4.4.1, 4.4.2, 4.4.3 and 4.4.4 will be notified of all public records requests for the information.



# 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.

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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*):

## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** August 10, 2020, Microsoft Teams Meeting

**Members Present:** Chair Brad Ferland, Dirk Anderson, Diane Bothfeld, Jennifer Mojo, John Kessler, Matt Langham, Steve Knudson and Clare O'Shaughnessy

**Members Absent:** Ashley Berliner

**Minutes By:** Melissa Mazza-Paquette

- 2:02 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the July 13, 2020 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-4 to follow.
  1. Regulation I-97-3, Credit for Reinsurance (Revised 2020). Department of Financial Regulation, page 2
  2. VOSHA Review Board Rules of Procedure. VOSHA Review Board, page 3
  3. Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies, Vermont Enhanced 911 Board, page 4
- Next scheduled meeting is September 14, 2020 at 2:00 p.m.
- 3:00 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

Motion made to accept the rule as presented without additional recommendations by Diane Bothfeld, seconded by Dirk Anderson, and passed unanimously.



# 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.

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### 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. In a previous rulemaking process on this topic, national VoIP service providers 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 State of California recently ratified emergency regulations with the same reporting thresholds that are proposed in this rule. This will require the national VoIP and wireless companies to make the necessary changes required to meet the thresholds in California. The threshold requirements of this rule align with California's thresholds.

The thresholds outlined in the proposed rule are appropriate for the rural nature of the state, will best meet the 911 Board's understanding of the legislative intent, 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 does not impact 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.*

### 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 little to no 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 125 requires this rule to establish outage reporting requirements for certain 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.*

During an earlier rulemaking (2019) process on this topic, 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

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### 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:

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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:

Pending ICAR Requirements

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 October 9, 2020 and public comments will be accepted through October 16, 2020.

The E-911 Board has been working with stakeholders impacted by this rule since July 2019 when a similar rulemaking was initiated. Public input was been routinely requested and considered.

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 E-911 Board sought input from multiple stakeholders during the development of the proposed language including:

Legislators involved in the development of Section 25 of Act 79

**Public Input**

Members of the Public

Several Vermont Municipalities

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

## Proposed Outage Notification Rule Public Hearing – 10/9/20

### Stephen Whitaker Comments (pulled from meeting recording)

One of the carriers used a phrase talking about a term of art, and we have to be very careful here that the financial interests and the technology investment interests do not create that into a term of art of obfuscation. This is fundamentally a public safety issue and while it almost certainly is in the interest of the carriers to obfuscate the failures and the unreliability of their networks, that should have no bearing whatsoever on this rulemaking for reporting requirements.

In fact I believe there is an opportunity here. We know that especially with regards to wireless carriers that the mapped coverage of the cell towers has been notoriously inaccurate and I believe the opportunity here is to require accurate, either independently created with the carriers paying for the cell wireless coverage surveys incrementally, or provided certified coverage be filed with the PUC and the 911 Board, because the zip code elements that were adopted or incorporated from the California rule might not work very well in such a rural area as Vermont especially if it isn't verifiable. So I call your attention to the statewide wireless surveys that were done independently by a contractor for the Center for Geographic Information back in 2010 and 2013. I'll also call to your attention, and I'll be happy to file with the Board, a recent experience with AT&T and FirstNet where the State, using its FirstNet state & local grants program, hired an independent consultant to go out and measure the claimed coverage of AT&T's FirstNet coverage and there was no coverage in places and when that was called to AT&T's attention they basically wrote 'tough, tough cookies, pound sand, we don't have to adhere to your measurements or your claims of coverage, we answer to somebody in Washington'. So I believe that we need to strengthen this rule with not only transparency of reporting but transparency of claimed coverage and verified coverage. We have to know that if certain tower or a certain sector of a certain tower goes down that a defined or clearly near-accurate, approximate impact zone is known and made aware to the local first responders because many people have forfeited their landline phones and VoIP phones are very vulnerable over fiber and hybrid coax systems are very vulnerable to power outages even as local as a telephone pole being knocked out with a cable amplifier on it. That can eliminate a large zone of people being unable to complete a call to 911. So with regards to trade secrets, if the trade if you're trading in unreliable networks then there may be a trade secret, but it's the State's obligation to expose the unreliable networks and allow the customer to make an informed choice to switch to a more reliable network. So I dispute the assertion that a trade secret is how often our network fails. That's fundamentally at odds with the concept of doing business in the public good. All of these carriers are required to be certified by the PUC as doing business for the public good and an unreliable network is not for the public good. So the claims about bad actors out in the wild and information out in the wild – we're asking, I believe what we are asking for is as soon as you know you've got an outage give us knowledge that there's an outage we need to be aware of, give us the approximate boundaries of that outage, where are the customers we need to be heightened aware of who might be on telecommunications monitored blood sugar or dialysis or might in the middle of a remote telemedicine cardiogram or something. So we need to insist on as soon as you know tell us how far approximately how big it is and as soon as you know how big it is, but don't create caveats where obfuscation and intentional minimization of the impacts are an option for the carriers. This is a regulatory function and one of the few we do have jurisdiction over. We have jurisdiction over tower siting and we need to condition that – not the 911 Board, but the PUC – and we need to condition that on reliable networks and transparent reporting. And we have jurisdiction over 911. You'll often hear some of these carriers claim that the State is preempted, but I call your attention to the 2014 order of the FCC explicitly

stated that when it comes to 911 they share jurisdiction with the States and localities that are more able to monitor and be aware of the weaknesses and failures of these 911 systems. So deferring to a national uniform standard is not in our interest at all. Our interest is getting accurate reporting as soon as possible and in compiling that reporting so it becomes a useful tool for the PUC to more effectively regulate conditions on tower permits and resilient architectures of fiber backhaul. Twenty-three Verizon towers went offline two years ago and the national monitoring center in Virginia responded in email that they weren't even aware there was a problem up here. So this idea that this is all handled most effectively at the national level is absolute bogus.

That's enough for now.

For Public Report inclusion (7 pages)  
Please reference case # 2019-CAP1-55276/VT@  
for additional correspondence Re-Vol see

Harrison & Sally Picard  
20 Coppergate  
East Granby, Ct 06026  
860-653-7465  
FAX 860-653-7465

12/20/19  
Letter attached

3187 N. Hill Rd Andover, VT 802-875-1077

### FACSIMILE TRANSMISSION FORM

THIS TRANSMISSION CONSISTS OF 7 SHEET(S)  
(including the cover sheet)

DATE: 10-15-2020 FAX# 802-828-4109

ATTENTION: Ms. Barbara Noul

COMPANY: \_\_\_\_\_

SUBJECT: Outage Notification Rule,

FROM: Sally & Harrison R Picard

CONFIDENTIALITY NOTICE This facsimile contains information which is intended only for the use of the addressee(s) named above. If you are not the intended recipient, this statement notifies you that any dissemination or copying of the facsimile, or taking of any action in reliance of the telecopied information, is strictly prohibited. If you have received this facsimile in error, please contact the above individual immediately by telephone and return the entire facsimile to us by U.S. Mail.

cc Mr. Jonathan  
Arbison

COMMENTS: Dear Barbara

Please review the attached regarding our most recent 911 outage with VTCL. Please, please do make them have them report an outage - they can report but that will not solve the problem. We need cell towers - we even offered Verizon the option to place one on our 75 acres - to no avail. This is a terrible problem - not to have 911 access for any of our emergencies.

Thank you  
Sincerely,  
Sally & Harrison Picard

Fax 802-878-4109

Memo  
to be entered into the Public  
Record

To: 911 Outage Notification Rule  
Barbara Neal, Executive Director

From: Sally

Mr Harrison Picard  
3187 N Hill Rd  
Andover, VT 05143

802-875-1077

### The Facts.

1. There is no cell service in most of Andover including Boynton Hollow where our home is located
2. Every year since VTel removed the Copper phone lines from Andover we have been without 911 access at some point during each of these years
3. This means: We cannot contact a Dr, ambulance, police, report a fire, reach a neighbor for assistance, our burglar alarm is non functional and leaves us with no personal protection or any way to obtain emergency HELP
4. In the Andover area power goes out frequently and for long periods of time leaving us vulnerable. Mary Morris at Green Mt. Power is well aware of this issue as our home is also heated with electric storage heat. When the power is out we have no phone ~~no~~ heat

5. We are senior citizens, both born 1943 - 77 years old and vulnerable

6. On 8/28/2020 Mr. Picard had surgery and attempted to recuperate at his home at 3187 N. Hill Rd Andover

7. The most recent incident in which we were forced to leave our home due to outage of 911 service was <sup>thru</sup> on Sept 17<sup>th</sup> 2020. We tried to have it restored but were told no - they would not restore 911 service in hospital, seeing those need access to original 911 service. Was not restored per Harry the Tech <sup>until</sup> Tue Sept 22, 2020 Six Days without 911 service.

8. <sup>Saturday</sup> On Friday Sept 18-19-20<sup>th</sup> we tried to get a technician to the property and they said they might work us in on Sat 24<sup>th</sup> but would not give us a specific time.

9. They tried to blame their problems on our alarm system (which checks out perfectly)

10. Since Mr. Picard was only 3 weeks post-op we felt for his health & safety we had to vacate the property immediately

11. VTel refuses to maintain a list of vulnerable citizens who need Dg, are elderly with other medical issues, are wheel chair bound & need assistance, are postop - etc to restore their 911 service ahead of other not as vulnerable citizens

12. They have given millions of dollars & yet they provide not services & demand citizens maintain a reserve of Tesla type batteries in series - No matter how many batteries they force us to purchase - when the power is out for a week - there is NO 911

13. When their equipment is 'down' - NO Batteries will help  
Their equipment failed on Sept 17 2020

14. They need to have enough technicians hired to restore



- g11. Service immediately.
15. They do not - 6 days to receive due g11. and with 2 weeks notice they could not or would not schedule a service appointment with a time to guarantee they would come - only saying "we'll try to work you in - but no guarantee it will happen. after we complained vehemently.
16. We have been working on this issue ever since VID created it
17. Please make them accountable so that all VI citizens <sup>will</sup> have access to g11 and before the headlines read Andover, VI Senior citizens found frozen in their bed. A Senior citizen <sup>was</sup> found dead in home due to inability to obtain help. A home was burned to the ground, g11 was not available to report the fire, several homes were destroyed as the fire was all consumption.

## Vtel -

1) Should be made to maintain and pay for whatever is necessary for all VI citizens to always have access to 911

2.) Placing the burden of obtaining & maintaining & paying for batteries to operate 911 services is unacceptable. We never had this problem before Vtel received millions of dollars to install a functional system.

3.) They should pay for a erect if there is no other solution - cell towers for 911 access when their system is down

(911)  
4.) When their system is down they must be held accountable for a person's death, - loss of life or injury, loss of personal property when a home burns to the ground, reparations if forestland is damaged, etc. Monetarily - these needs to be stated and agreed to by them

December 20, 2019

Harrison Picard

Sally Picard  
20 Coppergate  
East Granby, CT 06026

Judith Whitney, Clerk  
Public Utility Commission  
112 State Street  
Montpelier, VT 05626-2701

RE: Case Number: 2019-CAPI-15676/VT Telephone Company (VTEL)

Dear Sirs:

Since 1998 we have owned a home at 3187 North Hill Road, Andover, Vermont in an area known locally as Boynton Hollow. There is no cell service in Boynton Hollow.

Our home is heated by electric storage heat powered by Green Mountain Power. When we purchased the property wired telephone service was provided by VTEL and powered by the telephone company. Since VTEL replaced the wired service (over our objections) with fiber optic cable we have been without phone service for days on many occasions, leaving us without 911 service. We have added backup batteries to the VTEL system at our own expense but service still fails within 24 hours. This means that we have no access to 911 service and our security system cannot summon help in an emergency.

The weather is becoming more volatile and power outages are becoming longer and more frequent. Outages recently have extended for over a week, leaving us without telephone service for several days. As a result, we are left extremely vulnerable. We cannot summon medical assistance, report a fire, or contact the police and our alarm system is rendered inoperable. This does not sit well with our insurance company since the system monitors CO, fire, and theft. We are left completely isolated for days, even the campground designated as a warming station was without power and communication.

We have attached documentation of the many communications and complaints that we have submitted on this issue. We do not see any effort being made to the extension of cellular service as an alternative to VTEL fiber optic service. Please help us and advise how you plan to extend reliable 911 service to our home and area. No home in Vermont should be denied 911 service for any reason.

Sally B. Picard  
Harrison Picard

Cecile G. Betit Ph. D.  
PO Box 272  
East Wallingford, VT 05742  
cgbetit@vermontel.net  
October 16, 2020

Barbara M. Neal, Executive Director  
Vermont Enhanced 9-1-1 Board  
100 State Street  
Suite 500  
Montpelier, VT 05620

Re: Comments to the Enhanced 911 Board on the Outage Reporting Rule

Dear Executive Director Neal:

It is certainly a testimony to citizen voice encouraged in Vermont that I comment today to the Enhanced 911 Board on the Outage Reporting Rule. Thank you.

My comments are similar to those that I made at last week's meeting:

- As a small rural state, Vermont is very different from California and other states with large urban populations. Our outage rule must have reporting thresholds that quickly identify localized outages so as to safeguard telephone subscribers who must have reliable E-911 service.
- The Enhanced 911 Board's priority must be on public safety and promptness in providing outage information for emergency responders even as it respects the profit-making and technological interests of Vermont's telecommunication companies.
- The rule needs to include provisions to ensure accurate mapping and verification of coverage areas for cell towers and the accuracy of reporting by ZIP Codes in ways that make sense for Vermont.
- Vermont needs to reconsider its directive to the Enhanced 911 Board rule to follow California provisions for reporting thresholds for wireless outages such as number of customers affected and reporting time. Given our population, Vermont's rule for reporting landline outages should reflect its rural and community-based nature with town-by-town reporting within an hour.
- Public safety as a need must supersede ethically, any considerations of competitive interest.

Thank you.

Yours truly,

*Cecile Betit*

Cecile G. Betit Ph. D.

CC: Wallingford Selectboard,  
Rutland County Legislators  
Jonathan Gibson

Comments to Enhanced 911 Board  
on Outage Reporting Rule (Oct. 16, 2020)  
by Jonathan Gibson, Shrewsbury, VT

In Sec. 3.5.1, second sentence, and in Sec. 3.5.2, second sentence, after the words “caused by”, insert the word “such” so as to tie these sentences to the preceding definition. It is important that the Board’s rule not imply that a provider’s entire “network” must fail before reporting is required. It must be crystal clear that any degradation, failure, or loss of any element, component, etc. of a network that causes loss of 911 connectivity must be reported.

Note the definition of “outage” in the California OES regulation in Sec. 5001 (c) that says “.....result of failure or degradation in the performance of a communications provider’s network.” This wording clearly covers both conditions that would prevent 911 functions.

Note also that the CA definition includes “....to receive emergency notifications”. The Vermont rule should include receipt of 911 communication in its outage definitions in both 3.5.1 and 3.5.2 (the underlining above is added for emphasis)

In Sec. 3.5.3, after the word “failures”, insert the words “or circumstances” to cover external factors (as opposed to internal system malfunctions) which prevent an electric power company from distributing power, such as a weather event, a downed line or pole, or the like.

In Sec. 4.2, apply the same reporting threshold as is used in Sec. 4.1. Act 79 as amended, in referencing the FCC reporting threshold “as it pertains to wireless service providers” specifically says that the E-911 board “....shall incorporate the lowest above-referenced reporting threshold applicable to wireless service providers....”. It does not direct the Board to apply the standard to facilities-based fixed voice service OC’s. Nor does it limit the Board’s discretion to apply what it deems an appropriate threshold for Vermont, such as an OCO lasting at least 30 minutes and affecting at least 25 subscribers that the Board has proposed for ILEC’s.

The one-hour and two-hour time frames for initial and second outage reports (“notifications”) should be maintained in the final rule. The statute expressly directs the Board to adopt a rule “to obtain information about or be apprised of, in a timely manner, system outages...” and the one and two-hour requirement is both appropriate and necessary to ensure public safety and reliable 911 connectivity in our rural state (undelining added).

Sec. 4.4.1 (and 4.4.2 and 4.4.3) are confusing. Sec. 3 defines CMRS’s and OC’s and distinguishes between two types of outages as OCO’s and WSO’s. But 4.4.1 refers to OC’s reporting an WSO, and the following two subsections refer only to WSO’s and not OCO’s. Maybe I’m missing something, but please give this your attention and clarify as needed.

Use of Zip Codes for outage location reporting (for wireless service providers) - three general comments:

- a) Before approving a final rule, please be sure the aggregate number of a carrier’s subscribers whose loss of 911 service must be reported does not exceed what public safety requires in a rural state like Vermont. As now proposed, the rule will allow carriers to avoid reporting in cases where many people in multiple Zip Codes are affected, but the number in each Zip Code is less than 100. Throughout Vermont, towns large and small may have multiple carriers and multiple Zip Codes. A town with one Zip Code and two providers could have 95 people out for each carrier, but no report of the 190 residents without 911. To take

another example, a town with three Zip Codes could have 99 people in each Zip Code without service, but no outage report would be filed nor would emergency management personnel be informed of the outage.

- b) In point of fact, the number of residents with cellphones in a given Zip Code is not really the proper rubric for measuring wireless service or loss of service. Visitors to an area - of which Vermont has many - or people traveling through an area (including Vermonters in transit) are every bit as at risk from a loss of 911 connectivity as a resident subscriber. Can the Board include a more relevant rubric by which to measure and report the actual real-time human impact of a carrier's outage in an affected area on all wireless users in the area, even if some users are subscribers of another carrier? This would supplement the Zip Code data.
- c) I urge you to include a provision in the final rule that requires providers to provide to the Board whatever information the Board determines is necessary to calculate and verify the number of a provider's subscribers within the applicable Zip Codes and service areas. Such a provision will establish the basis for conducting surveys or other information gathering exercises that will give the Board up-to-date mapping and verification of the coverage areas of cell towers and will ensure the accuracy of wireless reporting by Zip Codes.

Sec. 6 as proposed is a testament to the Board's commitment to transparency and the public's right to know. I urge you to retain it as written and not to be distracted by carrier claims that the information required to be reported should be considered "inherently confidential". Honest to goodness, look at what information Sec. 4.4.2 and 4.4.3 require to be submitted. By what stretch of the imagination can that be considered a "trade secret" or an invitation to so-called "bad actors" intent on bringing down the telecommunications infrastructure. This rhetoric is self-serving at best or fear-mongering at worst, and must be rejected.

Sec. 7 provides for an effective date six months after adoption of the final rule, which will occur months after the rulemaking began on August 25 and substantially more than a year after initial passage of Act 79 and the Board's first rulemaking on outage reporting. Any claim that telecom providers need more time to prepare and make a "real world test" of the reporting protocol is unfounded, and 911 outage reporting should be put in place without delay.

Editorial only:

In Sec. 3.4, follow "(OC)" with a semi-colon rather than a dash.



Via Email

October 16, 2020

Barbara Neal  
Executive Director  
Vermont E-911 Board  
100 State Street  
Montpelier, VT 05620-6501

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

Dear Barbara,

By this letter, Comcast and Charter respectfully provide brief comments on the Vermont Enhanced 911 Board's ("E-911 Board") Proposed Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies.<sup>1</sup>

Comcast and Charter generally support the Proposed Rule which has evolved significantly since the E-911 Board first circulated the initial "stakeholder" draft for comment in August 2019. Comcast and Charter have actively participated in the development of the Proposed Rule and appreciate the E-911 Board's willingness to consider their comments and the Board's responsiveness to Originating Carrier concerns about the original "stakeholder" draft and the recognition that having a patchwork of reporting requirements across the country would be administratively burdensome and not in the public interest.<sup>2</sup>

As expressed by CTIA and by Comcast and Charter during the public hearing on October 9, 2020, and in prior comments to the E-911 Board, the entirety of Originating Carrier initial outage and restoration reports to the E-911 Board should be presumptively confidential.<sup>3</sup> Comcast and Charter also reiterate their support for the addition of a "reverse FOIA" provision to the Proposed Rule that would require the E-911 Board to provide notice to an Originating Carrier prior to public

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<sup>1</sup> The E-911 Board approved the Proposed Rule on July 30, 2020, and the Interagency Committee on Administrative Rules accepted the Proposed Rule without additional recommendations on August 10, 2020.

<sup>2</sup> See Comcast and Charter's joint letters dated July 17, 2020 and July 27, 2020 commenting on the E-911 Board's revisions to the draft rule following Governor Scott's signing of S. 301 on July 1, 2020. Section 4 of S. 301 amended §25 of 2019 Acts and Resolves No. 79. Importantly, S.301 removed the words in §25 that included "lack of function of a telecommunications subscriber's backup-power equipment" from the definition of an outage.

<sup>3</sup> E.g., Charter Comments to the E-911 Board, January 17, 2020; Comcast comments to the Legislative Committee on Administrative Rules dated February 18, 2020.

release of an outage report. CTIA's proposal during the October 9<sup>th</sup> public hearing for the E-911 Board to revisit the rule after one year and consider how the rule is functioning based on actual experience and whether it needs to be modified has merit and should be adopted.

Comcast and Charter also recommend one minor change regarding reported outage information. Specifically, for consistency the first sentences of §§4.3.1 and 4.4.2 should add the phrase "to the extent known" before "the following information". This will align those sections with §§4.3.2, 4.3.3, 4.4.3, and 4.4.4.<sup>4</sup> Correspondingly, the phrase "to the extent known" can be removed from the third bullets in §§4.3.1 and 4.4.2.<sup>5</sup>

Again, Comcast and Charter appreciate the E-911 Board's responsiveness and efforts in drafting the Proposed Rule. Please feel free to contact us with any questions.

Respectfully submitted,

COMCAST



James G. White, Jr.  
Senior Director Regulatory Affairs  
[james\\_white3@cable.comcast.com](mailto:james_white3@cable.comcast.com)  
617-279-5593

CHARTER



Michael A. Chowaniec  
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Charter Communications  
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<sup>4</sup> Sections 4.3.3 and 4.4.4 properly exempt call back numbers of subscribers who could not reach 911 during outages from public disclosure. Sections 4.3.1 and 4.4.2 contain the proper presumption that the contact names for originating carriers are non-public.

<sup>5</sup> As noted in their comments of July 27, 2020, Comcast and Charter feel the required reporting of information within both one and two hours of discovery is duplicative and burdensome but will not oppose both requirements.





October 16, 2020

Barbara Neal  
Executive Director  
Vermont Enhanced 9-1-1 Board ("Board")  
100 State St., 4<sup>th</sup> Floor  
Montpelier, VT 05620-6501

Dear Executive Director Neal and the Board:

CTIA<sup>1</sup> appreciates the continued work by the Board to meet the Legislature's mandate to collect information on 9-1-1 outages while working with stakeholders to improve the Board's Proposed Rules on outage reporting.<sup>2</sup>

CTIA and its members recognize the importance wireless consumers place on their devices and networks in emergency situations, including their reliance on their wireless device to reach emergency services. This is why the wireless industry is strongly committed to minimizing network downtime and focuses on restoring service quickly when outages do occur. A consistent approach to outage reporting across states promotes efficiency and helps prevent a "patchwork quilt" of state-by-state

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<sup>1</sup> CTIA – The Wireless Association ("CTIA") ([www.ctia.org](http://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.

<sup>2</sup> Vermont Enhanced 911 Board, "Proposed Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies," as approved by the Board on July 30, 2020 ("Proposed Rules"), available at [https://e911.vermont.gov/sites/nineoneone/files/doc\\_library/E911-ProposedRule\\_OutageReportingRequirementsforOriginatingCarriersandElectricPowerCompanies\\_.pdf](https://e911.vermont.gov/sites/nineoneone/files/doc_library/E911-ProposedRule_OutageReportingRequirementsforOriginatingCarriersandElectricPowerCompanies_.pdf) (last accessed Oct. 16, 2020).



reporting systems that unnecessarily divert resources away from the important work of restoring networks when they do go down.

Under legislative directive, the Board has based its Proposed Rules on the California Governor’s Office of Emergency Services (“CalOES”) Emergency Outage Reporting Regulations that went into effect on July 1st on an interim basis.<sup>3</sup> While CTIA had proposed adoption of the FCC’s outage reporting standard, it recognizes that Senate Bill 301 requires a different set of standards based, as applied, on California’s.<sup>4</sup> The Board can nevertheless promote consistency and limit inefficiencies across the states by bringing the Proposed Rules closer to those implemented by CalOES in a number of ways.

First, the Board should treat carrier outage report submissions as inherently confidential, as is the case for outage reports submitted to CalOES.<sup>5</sup> As CTIA noted in response to previous iterations of the Proposed Rules, rather than have a blanket determination that the outage notifications and their contents are confidential, the Proposed Rules presume submitted information is “public information unless otherwise noted.”<sup>6</sup> This creates conflicting imperatives for carriers. On one hand, the Proposed Rules ask for an initial notification “within one hour of discovery,”<sup>7</sup> putting carriers under significant time pressure to prepare and submit the necessary reports. On the other hand, the Board is proposing a system where each and every report will have to go through internal legal review before submission to ensure that highly

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<sup>3</sup> See California Governor’s Office of Emergency Services, Title 19. Public Safety Text of Proposed Emergency Regulations §2480.3(c) (July 1, 2020).

<sup>4</sup> See Vt. Act 125 (2020) (“When one or more states with a combined population of 20,000,000 residents adopts a rule or enacts a law that applies a lower reporting threshold than is required under 47 C.F.R. Part 4, §4.9(e)(1)(ii) as it pertains to wireless service providers, the E-911 Board shall initiate the rulemaking required under subsection (a) of this section and shall incorporate the lowest above-referenced reporting threshold applicable to wireless service providers into its proposed rule...”)

<sup>5</sup> See Cal. Gov’t Code Section 53122(e).

<sup>6</sup> See Proposed Rules at Section 6.1.

<sup>7</sup> Proposed Rules at Section 4.4.1.



sensitive information is marked confidential and is not inadvertently revealed, which will lengthen the process of getting these reports to the Board.

An approach that treats carrier reports as inherently confidential is wholly appropriate under the Vermont Public Records Act (“VPRA”),<sup>8</sup> which, as CTIA noted in previous comments before the Board, contains explicit protections for trade secrets.<sup>9</sup> CTIA also noted that the U.S. Department of Homeland Security has declared that information regarding wireless network outages is “Protected Critical Infrastructure Information” (“PCII”) that should be closely guarded from disclosure for reasons of national security.<sup>10</sup> The Federal Communications Commission (“FCC”) has mirrored these national security concerns and also indicated that there potentially are serious adverse competitive consequences that may result from the disclosure of this information.<sup>11</sup> Reflecting those reasons, federal law contains an exemption from Freedom of Information Act (“FOIA”) requests for such information.<sup>12</sup> Furthermore, the FOIA exemption for PCII has an analogue under the VPRA,<sup>13</sup> which references FOIA as guidance for its interpretation,<sup>14</sup> and Vermont courts have looked to the way federal

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<sup>8</sup> 1 V.S.A. §317 *et seq.*

<sup>9</sup> See 1 V.S.A. §317(c)(9) (defining “trade secrets” as “confidential business records or information... which a commercial concern makes efforts that are reasonable under the circumstances to keep secret, and which gives its user or owner an opportunity to obtain business advantage over competitors who do not know it or use it.”)

<sup>10</sup> See *Critical Infrastructure Sectors*, U.S. Department of Homeland Security, *available at* <https://www.dhs.gov/cisa/critical-infrastructure-sectors> (last accessed Oct. 16, 2020); *see also* Procedures for Handling Critical Infrastructure Information; Final Rule, 6 C.F.R. § 29.3 (2006); 47 C.F.R. § 4.2.

<sup>11</sup> 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.

<sup>12</sup> See 5 U.S.C. § 552(b)(7).

<sup>13</sup> Compare 5 U.S.C. § 552(b)(7) to 1 V.S.A. § 317(c)(5)(A)(vi).

<sup>14</sup> 1 V.S.A. § 317(c)(5)(C) (“it is the intent of the General Assembly that in construing subdivision (A) of this subdivision (5), the courts of this State will be guided by the construction of similar terms contained in 5 U.S.C. § 552(b)(7) (Freedom of Information Act) by the courts of the United States.”)



courts have interpreted FOIA for guidance in interpreting the exemptions to the VPRA.<sup>15</sup>

At the Board's October 9, 2020 public hearing, some public commenters expressed concern that an inherent designation of confidentiality for submitted reports would harm public safety by denying information to consumers. CTIA disagrees. Keeping the reports confidential would not in any way compromise the ability of the Board to notify affected consumers of 9-1-1 outages, which CTIA agrees is an appropriate role for the Board to play. But it is decidedly not in the public interest to make the individual reports widely available, because those reports include sensitive and proprietary information such as the addresses and locations of specific pieces of carrier network infrastructure. While that information has no value to consumers, *that* is precisely the sort of information that could be leveraged by bad actors, whether terrorists who seek to damage communications networks or carriers seeking a competitive advantage by mapping their competitors' networks, which is why such information is protected both under federal law and in the VPRA.

CTIA re-emphasizes that its proposed language would not preclude the Board from providing situational awareness of outages, which CTIA understands to be the main purpose of the Proposed Rule, nor would the presumption of confidentiality for submitted information deprive members of the public of the ability or right to contest that presumption for individual cases under the appeals provisions within the VPRA.<sup>16</sup>

The Board should also clarify in the Proposed Rules the definition of "outage" to mean a "*significant* degradation in the ability of an end user to establish and maintain a channel of communications to make 9-1-1 calls or receive emergency notifications as a result of failure or degradation in the performance of a communications provider's

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<sup>15</sup> See, e.g., *Rutland Herald v. Vt. St. Police and Office of the Atty. Gen'l*, 2012 VT 24 (Vt. Sup. Ct. 2012) at para. 68 (citing D.C. Circuit Court interpretations of the FOIA "law enforcement" exemption as "analogous" to the VPRA exemption).

<sup>16</sup> See 1 V.S.A. §§ 318(c), 319(a).



network,” adding that one word to the proposed definition. As CalOES made a point of explaining when it proposed its rules, the modifier “significant” clarifies that an outage occurs only when the degradation affects the end user to such an extent that it causes an impairment or inability to establish and maintain a channel of communication.<sup>17</sup> This important amendment, which mirrors federal standards, helps to ensure that carriers are not forced to unnecessarily report network conditions that may not prevent a consumer from completing a call to and communicate with the 9-1-1 system. Furthermore – and contrary to suggestions from some public commenters at the hearing – by clearly defining the term within its Rules, the Board will help to ensure clarity for all parties regarding what constitutes a reportable 9-1-1 outage.

Finally, the Board should adopt any outage reporting rules on a provisional basis, with a required review after a year’s time to revisit any potential issues. Because, unlike the California process, the Board’s approach has yet to be tested in the real world, it is important to revisit the rules and ensure that any issues that arise be addressed. In particular, and as noted previously to the Board, CTIA remains concerned that the one-hour threshold for filing of outage and restoration reports may not be workable in light of the information carriers are required to submit and the fact that current FCC standards for reporting allow for significantly more time to file reports.<sup>18</sup>

As noted previously, the CalOES rules were adopted on an interim basis, and carriers are continuing to operationalize them, potentially discovering issues related to those regulations. Such issues could be raised with CalOES when it begins the final rulemaking process later this year. And because Act 125 requires a Board rulemaking based on the adoption of rules in another state, it is reasonable for the Board to follow

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<sup>17</sup> See California Governor’s Office of Emergency Services, Addendum to Finding of Emergency, *available at* <https://www.caloes.ca.gov/PublicSafetyCommunicationsSite/Documents/AddendumtoFindingofEmergency.pdf> (last accessed Oct. 16, 2020) at p.1-2.

<sup>18</sup> See CTIA Letter to the Board (July 27, 2020), available at <https://api.ctia.org/wp-content/uploads/2020/07/CTIA-Comments-on-Vermont-Enhanced-911-Board-Revised-Outage-Reporting-Rules-Response-Times.pdf> (last accessed Oct. 16, 2020).



up with a review of its rules to incorporate any feedback on the other state's rules as well.

Sincerely,

\_\_\_\_\_/s/  
Benjamin Aron

Benjamin Aron  
Director, State Regulatory Affairs  
**CTIA**  
[BAron@ctia.org](mailto:BAron@ctia.org)  
(202) 736-3683



To Whom It May Concern:

I write to provide comments on behalf of the Vermont Public Interest Research Group and our members and supporters statewide regarding the Proposed Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies.

VPIRG is broadly supportive of the rule as drafted – and feels that it incorporates reporting thresholds that are generally more appropriate for Vermont than federal reporting thresholds and therefore appropriate for advancing public safety in our state.

Regarding specific changes – VPIRG would encourage the Board to consider editing section 4.2 so that the reporting thresholds for other facilities-based fixed voice service match the thresholds for ILEC voice services referenced in section 4.1. Act 125 only requires that the Board to adopt standards in line with California as it pertains to wireless service providers. As such, we believe the Board would be well advised to apply a reporting threshold for facilities-based fixed voice service that mirrors the threshold for other traditional landline communications.

We would also echo the feedback you've heard from other individual Vermonters that Section 6 – the section pertaining to confidentiality – remain as drafted. We believe the current language ensures maximum consumer transparency, while allowing for the protection of any information that is truly sensitive.

Thank you for the opportunity to comment and the Board's work on this rule.

Sincerely,

Zachary Tomanelli  
Communications and Technology Director  
Vermont Public Interest Research Group (VPIRG)  
[zach@vpirg.org](mailto:zach@vpirg.org)  
802-223-5221 ext. 21

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**Enhanced 911 Board**  
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## 11/18/2020 - Public Comment Responsiveness Summary

### Proposed Rule Governing Outage Reporting Requirements for Originating Service Providers and Electric Power Companies

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A public hearing was held on October 9, 2020 via remote video conference regarding the Proposed Rule Governing Outage Reporting Requirements for Originating Service Providers and Electric Power Companies.

During the hearing, the Enhanced 911 Board (the “Board”) received comments from several participants. Most participants also filed their comments in writing. The public comment period closed on October 16, 2020. The following is a summary of all comments received and the Board’s response to each:

1. **Comment:** In section 3.4, follow “(OC)” with a semi-colon rather than a dash.

**Response:** Agreed. Change made and document reviewed for other similar grammatical and/or formatting edits.

2. **Comment:** Referring to sections 3.5.1 and 3.5.2, an industry stakeholder recommended the Board the definition of an outage to mean a “*significant* (emphasis added) degradation in the ability of an end user to establish and maintain a channel of communications to make 9-1-1 calls or receive emergency notifications as a result of failure or degradation in the performance of a communications provider’s network...” The addition of the word significant “clarifies that an outage occurs only when the degradation affects the end user to such an extent that it causes an impairment or inability to establish and maintain a channel of communication.”

**Response:** The Board determined the definitions of an outage in sections 3.5.1 and 3.5.2 are clear and straight-forward as written. The addition of the word "significant" would create vagueness and may lend itself to different interpretations. No changes were made to the proposed rule.

3. **Comment:** A member of the public commented “...in section 3.5.1, second sentence, and in section 3.5.2, second sentence, after the words “caused by”, insert the word “such” so as to tie these sentences to the preceding definition. It is important that the Board’s rule not imply that a provider’s entire “network” must fail before reporting is required. It must be crystal clear that any degradation, failure, or loss of any element, component, etc. of a network that causes loss of 911 connectivity must be reported.”





**Response:** The Board agrees with the recommendation that adding the word "such" as described would provide clarity. The change has been incorporated in sections 3.5.1 and 3.5.2

4. **Comment:** A member of the public noted that California includes "...and to receive emergency notifications" in the definition of outage. The Vermont rule should include receipt of 911 communication in its outage definitions in both 3.5.1 and 3.5.2."

**Response:** The Board agrees with this recommendation and has incorporated the language into sections 3.5.1 and 3.5.2.

5. **Comment:** A member of the public recommended "...in section 3.5.3, after the word "failures", insert the words "or circumstances" to cover external factors (as opposed to internal system malfunctions) which prevent an electric power company from distributing power, such as a weather event, a downed line or pole, or the like."

**Response:** The Board agrees with the commenter; the word "circumstances" has been included in the definition of an electric power outage.

6. **Comment:** A member of the public noted "We have jurisdiction over tower siting and we need to condition that – not the 911 Board, but the PUC – and we need to condition that on reliable networks and transparent reporting. And we have jurisdiction over 911." (Clarification provided on 10/28/2020: including the requirement for transparent reporting in the Board's rule will give the Board standing as the PUC carries out its tower siting responsibilities).

**Response:** Requirements related to tower siting and the role of the Public Utility Commission are outside the scope of this rule.

7. **Comment:** An industry stakeholder commented they "generally support the Proposed Rule which has evolved significantly since the E-911 Board first circulated the initial "stakeholder" draft for comment in August 2019... appreciate the E-911 Board's willingness to consider their comments and the Board's responsiveness to Originating Carrier concerns about the original "stakeholder" draft and the recognition that having a patchwork of reporting requirements across the country would be administratively burdensome and not in the public interest."

**Response:** The Board acknowledges the general support of current proposed rule. It appears the current version of the rule addresses the concerns about the potential for a patchwork of reporting requirements across the nation.

8. **Comment:** Two commenters recommended changes to section 4.2 that would require non-ILEC facilities-based fixed voice providers to report outages at the same level of granularity required of the ILECs. Both commenters noted that Act 125 requires reporting thresholds that align with California thresholds for wireless service providers only.

**Response:** The Board acknowledges that Act 125 requires standards in line with California only as it pertains to wireless service providers; however previous public comments from national VoIP services providers stated their concern regarding the potential for a patchwork of reporting requirements across the nation. Incorporating a threshold similar to that of California for these service providers will address the "patchwork" concern while also ensuring that the 911 Board receives notification of outages at a much more granular level than would be required by the FCC-established thresholds.

9. **Comment:** Three commenters recommended including requirements that originating service carriers provide information to the Board that could be used to calculate and verify the number of a provider's subscribers within the applicable Zip Codes and service areas or information that could verify wireless coverage areas.

**Response:** Wireless carriers are already required to report the location of their towers to the 911 Board and provide an estimation of coverage area for each sector. The Board expects this information will be adequate for meeting the purpose of this rule. In addition, the rule requires wireless carriers report when there is a loss or degradation of 50% of the coverage in a ZIP code, not an impact to 50% of subscribers at any given time. Additional requirements to map and verify wireless coverage areas are outside the scope of the rule.

10. **Comment:** Two commenters noted the thresholds in the proposed rule are generally more appropriate for Vermont than the national thresholds defined by the FCC.

**Response:** The Board acknowledges the general support of the proposed rule language.

11. **Comment:** A member of the public commented: "Before approving a final rule, please be sure the aggregate number of a carrier's subscribers whose loss of 911 service must be reported does not exceed what public safety requires in a rural state like Vermont. As now proposed, the rule will allow carriers to avoid reporting in cases where many people in multiple Zip Codes are affected, but the number in each Zip Code is less than 100. Throughout Vermont, towns large and small may have multiple carriers and multiple Zip Codes. A town with one Zip Code and two providers could have 95 people out for each carrier, but no report of the 190 residents without 911. To take another example, a town with three Zip Codes could have 99 people in each Zip Code without service, but no outage report would be filed nor would emergency management personnel be informed of the outage."

**Response:** Act 125 requires thresholds in line with California as it pertains to wireless service providers. Previous public comments from national VoIP services providers indicated their concern about the potential for a patchwork of reporting requirements across the nation. Incorporating a threshold similar to that of California for these service providers will address that concern while also ensuring that the 911 Board receives notification of outages at a much more granular level than would be required by the FCC-established thresholds. The Board's staff will monitor the effectiveness of the outage reporting requirements and make recommendations to the Board for any changes that may be needed.

12. **Comment:** A member of the public noted "the number of residents with cellphones in a given Zip Code is not really the proper rubric for measuring wireless service or loss of service. Visitors to an area - of which Vermont has many - or people traveling through an area (including Vermonters in transit) are every bit as at risk from a loss of 911 connectivity as a resident subscriber. Can the Board include a more relevant rubric by which to measure and report the actual real-time human impact of a carrier's outage in an affected area on all wireless users in the area, even if some users are subscribers of another carrier? This would supplement the Zip Code data."

**Response:** The proposed rule does not require wireless carriers to report the number of subscribers without service in any given ZIP code, but rather requires a report when there is a loss of 50% of the coverage in a ZIP code. The loss of 50% coverage in a ZIP code does not differentiate between their subscribers and/or roaming subscribers but instead focuses on a significant loss of available service in the given geographic area.

**13. Comment:** Two commenters indicated their support for the one and two-hour notification requirements outlined in section 4.3 as “both appropriate and necessary to ensure public safety and reliable 911 connectivity in our rural state.”

**Response:** The Board agrees with these comments. The one hour and two hour requirement has been maintained in the final proposed rule.

**14. Comment:** An industry stakeholder commented “... for consistency the first sentences of §§4.3.1 and 4.4.2 should add the phrase “to the extent known” before “the following information”. This will align those sections with §§4.3.2, 4.3.3, 4.4.3, and 4.4.4. Correspondingly, the phrase “to the extent known” can be removed from the third bullets in §§4.3.1 and 4.4.2.5.

**Response:** The Board agrees and the recommended changes have been incorporated into the final proposed rule.

**15. Comment:** A member of the public commented that “...sections 4.4.1 (and 4.4.2 and 4.4.3) are confusing. Sec. 3 defines CMRS’s and OC’s and distinguishes between two types of outages as OCO’s and WSO’s. But 4.4.1 refers to OC’s reporting an WSO, and the following two subsections refer only to WSO’s and not OCO’s...please give this your attention and clarify as needed.”

**Response:** The Board agrees that clarification would be helpful in these sections. Changes have been made as follows:

4.4.1 CMRS OC’s-providers shall make an initial notification as required under subsections 4.4 within one hour of discovery of the WSO; a second notification within two hours of discovery, and shall provide additional updates as they become available, or at the request of the Board.

4.4.2 first bullet: changed “OC” to “CMRS provider”

**16. Comment:** Regarding section 6, confidentiality: industry stakeholders provided comments in support of all outage reports required by this rule being treated as “inherently” or “presumptively” confidential. Several members of the public provided comments in support of transparency, access to information by the public and the need to leave the rule as written.

**Response:** The Board discussed the information that is required in the initial, secondary and restoration of service reports (Sections 4.3.1, 4.3.2, 4.3.3, 4.4.2, 4.4.3, and 4.4.4) and determined that none of the information that is not already marked "presumed non-public" is confidential, proprietary, or system security related. The Board determined this information should be released in response to public records requests.

**17. Comment:** Industry stakeholders reiterated their support for the addition of a "reverse FOIA" provision to the proposed rule that would require the 911 Board to provide notice to an originating carrier prior to public release of an outage report.

**Response:** Language has been added to formalize the Board's practice of notifying carriers when a public records request is received for their outage reports. (See new section 6.1.1)

**18. Comment:** Industry stakeholders recommend the Board adopt any outage reporting rules on a provisional or interim basis, with a required review after a year's time to revisit any potential issues.

**Response:** The Board does not agree with the proposal to adopt the rule on an interim or provisional basis, nor for a required review after one year. Board staff will monitor the effectiveness of the reporting required by this rule and will report to the Board any changes that may be needed in the future.

**19. Comment:** A member of the public stated "Section 7 provides for an effective date six months after adoption of the final rule, which will occur months after the rulemaking began on August 25 and substantially more than a year after initial passage of Act 79 and the Board's first rulemaking on outage reporting. Any claim that telecom providers need more time to prepare and make a "real world test" of the reporting protocol is unfounded, and 911 outage reporting should be put in place without delay."

**Response:** The language in section 7 requires originating carriers and electric companies to begin reporting as soon as they are technically capable of doing so, but no later than six months after adoption of the rule. The Board believes this language will be adequate for ensuring a timely implementation of the rule requirements.

**20. Comment:** The Board received a letter from a couple in Andover that included multiple concerns about loss of their telephone service during extended power outages.

**Response:** The Board agrees that reliable access to 911 is critical for all Vermonters.

The legislatively defined purpose of this rule is to establish protocols for the Enhanced 911 Board to "obtain information about or be apprised of" system outages for the various originating service providers and for electric companies.

The recommendations provided in these public comments fall outside the scope of the Outage Notification Rule. The Executive Director has followed up with the commenters separately and ensured the Public Service Department and the telephone service provider are aware of the commenters' concerns.

END OF PUBLIC COMMENT RESPONSIVENESS SUMMARY

Vermont Enhanced 911 Board  
Final Proposed Rule Governing Outage Reporting Requirements  
for  
Originating Carriers and Electric Power Companies  
(Annotated)

**1.0 Authority**

This rule is adopted pursuant to Vt. Act 125 (2020) and 30 V.S.A. § 7053.

**2.0 Purpose**

The purpose of this rule is to establish protocols for the Enhanced 911 Board (the Board) to obtain information about or be apprised of, in a timely manner, system outages applicable to wireless service providers, to providers of facilities-based, fixed voice service that is not line-powered, and to electric companies for the purpose of enabling the Board to assess 911 service availability during such outages. This rule also updates and incorporates existing protocols for the Board to obtain information about or be apprised of, in a timely manner, system outages applicable to facilities-based, fixed voice service that is line-powered.

**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 Incumbent Local Exchange Carrier (ILEC):** A class of carriers as defined in 47 U.S.C. § 251(h) which includes, but is not limited to, Rural Local Exchange Carriers (RLECs).

**3.4 Originating Carrier (OC):**—Also known as originating service provider, an entity that provides voice services to a subscriber. An OC includes ILECs operating in Vermont.

Commented [NB1]: A dash was changed to a colon.

**3.5 Outages**

**3.5.1 Originating Carrier Outage (OCO):** Any known degradation or loss of network elements, systems, services and/or transport facilities that prevent the OC's subscribers from being able to complete a call to, or communicate with, 911, or prevents subscribers from receiving emergency notifications. An OCO includes any loss of 911 calling capacity caused by such an OC's network failure.

Commented [NB2]: Colon bolded

**3.5.2 Wireless Service Outage (WSO):** Any known degradation or loss of network elements, systems, services and/or transport facilities that prevent the subscribers of a wireless service, also known as cellular service, from

Commented [NB3]: Colon bolded

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being able to complete a call to, or communicate with, 911, or prevents subscribers from receiving emergency notifications. A WSO includes any loss of 911 calling capacity caused by such a wireless service network failure.

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

Commented [NB4]: Colon bolded

**3.6 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.

**3.7 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 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.

**3.8 ZIP code:** -The five-digit postal code established by the United States Postal Service. For purposes of this rule, a ZIP code associated only with (A) a Post Office box, or (B) a single physical address, shall be deemed part of the nearest ZIP code not meeting the descriptions of (A) or (B) of this definition for determining thresholds and reporting purposes.

**4.0 Notification Requirements for Originating Carriers**

**4.1** An ILEC providing voice service in the State of Vermont shall report to the 911 system provider and the Board any known OCO lasting at least 30 minutes that limits or prevents 25 or more subscribers in a served geographic area within Vermont, such as a town or community, from completing calls to, or communicating with, 911.

**4.2** All other facilities-based fixed voice service OC's providing voice service in the State of Vermont shall report to the 911 system provider and the Board any known OCO that lasts at least 30 minutes and limits or prevents (A) 100 or more subscribers in a single ZIP code or (B) at least 50% of subscribers in a ZIP code with fewer than 100 subscribers, from completing calls to, or communicating with, 911.

**4.3** OC's shall make an initial notification as required under subsections 4.1 or 4.2 within one hour of discovery of the OCO; a second notification within two hours of discovery, and shall provide additional updates as they become available, or at the request of the Board.

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- 4.3.1 The initial OCO notification shall include, to the extent that it is known, the following information:
- OC name
  - Affected **geographic area identified** by ZIP code, town, county, or community name
  - Brief description of the **limitation** of 911 calling capability. ~~to the extent known~~
  - Contact Name (presumed non-public)
  - Contact Phone (presumed non-public)
  - 24/7 contact if different from above contact (presumed non-public)
- 4.3.2 The second OCO notification shall further include, to the extent that it is known, the following information:
- Affected ZIP code and associated readily identifiable descriptive term that would enable validation of the ZIP code, such as the name of a town, county, community name, or similar term
  - Approximate subscriber physical locations – including town or community name
  - Approximate number of affected subscribers
  - Date and time outage began
  - Estimated date and time for restoration of service
  - General cause (for example – fiber cut, equipment failure, or similar general description)
  - Description of the limitation of 911 calling capability: (for example - subscribers are receiving dial-tone and can make calls to other local subscribers but cannot complete calls to 911).
- 4.3.3 A restoration of service report shall be provided to the 911 system provider and the Board within two hours of resolution of the outage and shall include, to the extent it is known, the following information:
- 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. (exempt from public disclosure)
  - Any other information requested in the initial and second notifications that was previously unavailable or unverified such as general cause, or number of affected subscribers.

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- 4.4 All Commercial Mobile Radio Service (CMRS) OC's providing voice service in the State of Vermont shall report to the 911 system provider and the Board any known WSO that lasts at least 30 minutes and limits or prevents the OC's subscribers in at least 50% of the OC's coverage area within a single ZIP code from completing calls to, or communicating with, 911.
- 4.4.1 ~~CMRS providers~~OC's shall make an initial notification as required under subsections 4.4 within one hour of discovery of the WSO; a second notification within two hours of discovery, and shall provide additional updates as they become available, or at the request of the Board.
- 4.4.2 The initial WSO notification shall include, to the extent that it is known, the following information:
- ~~OC~~CMRS provider name
  - Affected geographic area identified by ZIP code, town, county, or community name
  - Brief description of the limitation of 911 calling capability, ~~to the extent known~~
  - Contact Name (presumed non-public)
  - Contact Phone (presumed non-public)
  - 24/7 contact if different from above contact (presumed non-public)
- 4.4.3 The second WSO notification shall further include, to the extent that it is known, the following information:
- Affected ZIP code and associated readily identifiable descriptive term that would enable validation of the ZIP code, such as the name of a town, county, community name, or similar term
  - Approximate subscriber physical locations – including town or community name
  - Approximate number of affected subscribers
  - Date and time outage began
  - Estimated date and time for restoration of service
  - General cause (for example – fiber cut, equipment failure, or similar general description)
  - Description of the limitation of 911 calling capability: (for example - subscribers are receiving dial-tone and can make calls to other local subscribers but cannot complete calls to 911).



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

- 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. (exempt from public disclosure)
- Any other information requested in the initial and second notification that was previously unavailable or unverified such as general cause, or number of affected subscribers.

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

**5.0 Notification 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 affected customers
- Location of outage and approximate subscriber physical locations including identification of street or section of road, if available, and town or community name.
- Cause of the outage

**6.0 Confidentiality**

6.1 Information submitted as required by subsections 4.3.1, 4.3.2, 4.3.3, 4.4.1, 4.4.2, 4.4.3 and 4.4.4 is presumed to be public information unless otherwise noted in

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each section.

6.1.1 Submitters of information required by subsections 4.3.1, 4.3.2, 4.3.3, 4.4.1, 4.4.2, 4.4.3 and 4.4.4 will be notified of all public records requests for the information.

6.2 Submitters of information that may be required by Section 4.5 will be notified of all public records requests for the information and provided an opportunity to mark information they believe to be exempt from public disclosure under Vermont Public Records Law.

6.2.1 When requesting that material be considered exempt from disclosure, the submitter shall identify the specific information they request not be disclosed and provide an explanation of why the subsection of 1 V.S.A. §§ 315-320 upon which they rely applies. Such requests may be considered but are not binding on the Board in responding to public requests.

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 30 V.S.A. § 7061(a), the Enhanced 911 Board may file a civil action for injunctive relief in Washington County Superior Court to enforce this rule, and recover its costs and reasonable attorneys' fees in the event that the Board prevails in the action.

Final Proposed Rule Governing Outage Reporting Requirements  
for  
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(Clean Text)

**1.0 Authority**

This rule is adopted pursuant to Vt. Act 125 (2020) and 30 V.S.A. § 7053.

**2.0 Purpose**

The purpose of this rule is to establish protocols for the Enhanced 911 Board (the Board) to obtain information about or be apprised of, in a timely manner, system outages applicable to wireless service providers, to providers of facilities-based, fixed voice service that is not line-powered, and to electric companies for the purpose of enabling the Board to assess 911 service availability during such outages. This rule also updates and incorporates existing protocols for the Board to obtain information about or be apprised of, in a timely manner, system outages applicable to facilities-based, fixed voice service that is line-powered.

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**3.5 Outages**

**3.5.1 Originating Carrier Outage (OCO):** Any known degradation or loss of network elements, systems, services and/or transport facilities that prevent the OC's subscribers from being able to complete a call to, or communicate with, 911, or prevents subscribers from receiving emergency notifications. An OCO includes any loss of 911 calling capacity caused by such an OC's network failure.

**3.5.2 Wireless Service Outage (WSO):** Any known degradation or loss of network elements, systems, services and/or transport facilities that prevent the subscribers of a wireless service, also known as cellular service, from

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being able to complete a call to, or communicate with, 911, or prevents subscribers from receiving emergency notifications. A WSO includes any loss of 911 calling capacity caused by such a wireless service network failure.

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

**3.6 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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**3.8 ZIP code:** The five-digit postal code established by the United States Postal Service. For purposes of this rule, a ZIP code associated only with (A) a Post Office box, or (B) a single physical address, shall be deemed part of the nearest ZIP code not meeting the descriptions of (A) or (B) of this definition for determining thresholds and reporting purposes.

#### 4.0 Notification Requirements for Originating Carriers

**4.1** An ILEC providing voice service in the State of Vermont shall report to the 911 system provider and the Board any known OCO lasting at least 30 minutes that limits or prevents 25 or more subscribers in a served geographic area within Vermont, such as a town or community, from completing calls to, or communicating with, 911.

**4.2** All other facilities-based fixed voice service OC's providing voice service in the State of Vermont shall report to the 911 system provider and the Board any known OCO that lasts at least 30 minutes and limits or prevents (A) 100 or more subscribers in a single ZIP code or (B) at least 50% of subscribers in a ZIP code with fewer than 100 subscribers, from completing calls to, or communicating with, 911.

**4.3** OC's shall make an initial notification as required under subsections 4.1 or 4.2 within one hour of discovery of the OCO; a second notification within two hours of discovery, and shall provide additional updates as they become available, or at the request of the Board.

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- 4.3.1** The initial OCO notification shall include, to the extent that it is known, the following information:
- OC name
  - Affected geographic area identified by ZIP code, town, county, or community name
  - Brief description of the limitation of 911 calling capability
  - Contact Name (presumed non-public)
  - Contact Phone (presumed non-public)
  - 24/7 contact if different from above contact (presumed non-public)
- 4.3.2** The second OCO notification shall further include, to the extent that it is known, the following information:
- Affected ZIP code and associated readily identifiable descriptive term that would enable validation of the ZIP code, such as the name of a town, county, community name, or similar term
  - Approximate subscriber physical locations – including town or community name
  - Approximate number of affected subscribers
  - Date and time outage began
  - Estimated date and time for restoration of service
  - General cause (for example – fiber cut, equipment failure, or similar general description)
  - Description of the limitation of 911 calling capability: (for example - subscribers are receiving dial-tone and can make calls to other local subscribers but cannot complete calls to 911).
- 4.3.3** A restoration of service report shall be provided to the 911 system provider and the Board within two hours of resolution of the outage and shall include, to the extent it is known, the following information:
- 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. (exempt from public disclosure)
  - Any other information requested in the initial and second notifications that was previously unavailable or unverified such as general cause, or number of affected subscribers.

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### Final Proposed Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies (Clean Text)

- 4.4** All Commercial Mobile Radio Service (CMRS) OC's providing voice service in the State of Vermont shall report to the 911 system provider and the Board any known WSO that lasts at least 30 minutes and limits or prevents the OC's subscribers in at least 50% of the OC's coverage area within a single ZIP code from completing calls to, or communicating with, 911.
- 4.4.1** CMRS providers shall make an initial notification as required under subsection 4.4 within one hour of discovery of the WSO; a second notification within two hours of discovery, and shall provide additional updates as they become available, or at the request of the Board.
- 4.4.2** The initial WSO notification shall include, to the extent that it is known, the following information:
- CMRS provider name
  - Affected geographic area identified by ZIP code, town, county, or community name
  - Brief description of the limitation of 911 calling capability
  - Contact Name (presumed non-public)
  - Contact Phone (presumed non-public)
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### Final Proposed Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies (Clean Text)

**4.4.4** A restoration of service report shall be provided to the 911 system provider and the Board within two hours of resolution of the outage and shall include, to the extent it is known, the following information:

- 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. (exempt from public disclosure)
- Any other information requested in the initial and second notification that was previously unavailable or unverified such as general cause, or number of affected subscribers.

**4.5** The Board may request additional details about the cause of an OCO or WSO 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 an OCO or WSO and its impact on access to 911 for the affected subscribers.

## **5.0 Notification 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 affected customers
- Location of outage and approximate subscriber physical locations including identification of street or section of road, if available, and town or community name.
- Cause of the outage

## **6.0 Confidentiality**

**6.1** Information submitted as required by subsections 4.3.1, 4.3.2, 4.3.3, 4.4.1, 4.4.2, 4.4.3 and 4.4.4 is presumed to be public information unless otherwise noted in each section.

## Vermont Enhanced 911 Board

### Final Proposed Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies (Clean Text)

**6.1.1** Submitters of information required by subsections 4.3.1, 4.3.2, 4.3.3, 4.4.1, 4.4.2, 4.4.3 and 4.4.4 will be notified of all public records requests for the information.

**6.2** Submitters of information that may be required by Section 4.5 will be notified of all public records requests for the information and provided an opportunity to mark information they believe to be exempt from public disclosure under Vermont Public Records Law.

**6.2.1** When requesting that material be considered exempt from disclosure, the submitter shall identify the specific information they request not be disclosed and provide an explanation of why the subsection of 1 V.S.A. §§315-320 upon which they rely applies. Such requests may be considered but are not binding on the Board in responding to public requests.

#### **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 30 V.S.A. § 7061(a), the Enhanced 911 Board may file a civil action for injunctive relief in Washington County Superior Court to enforce this rule, and recover its costs and reasonable attorneys' fees in the event that the Board prevails in the action.



**No. 125. An act relating to miscellaneous telecommunications changes.**

(S.301)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS  
FACILITIES

\* \* \*

(i) Sunset of Commission authority. Effective on July 1, ~~2020~~ 2023, no new applications for certificates of public good under this section may be considered by the Commission.

\* \* \*

(q)(1) Emergency waiver. Notwithstanding any other provisions of this section, when the Governor has declared a state of emergency pursuant to 20 V.S.A. § 9 and for 180 days after the declared state of emergency ends, the Commission may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of a temporary telecommunications facility necessary for maintaining or improving access to telecommunications services. Waivers issued under this subsection shall be valid for a period not to exceed the duration of the declared emergency plus 180 days.

(2) A person seeking a waiver under this subsection shall file a petition with the Commission and shall provide copies to the Department of Public

Service and the Agency of Natural Resources. The Commission shall require that additional notice be provided to those listed in subsection (e) of this section and any affected communications union districts. Upon receipt of the petition, the Commission shall conduct an expedited preliminary hearing.

(3) An order granting a waiver may include terms, conditions, and safeguards to mitigate significant adverse impacts, including the posting of a bond or other security, as the Commission deems proper, based on the scope and duration of the requested waiver.

(4) A waiver shall be granted only when the Commission finds that:

(A) good cause exists due to an emergency situation;

(B) the waiver is necessary to maintain or provide access to wireless telecommunications services;

(C) procedures will be followed to minimize significant adverse impacts under the criteria specified in subdivision (c)(1) of this section; and

(D) taking into account any terms, conditions, and safeguards that the Commission may require, the waiver will promote the general good of the State.

(5) Upon the expiration of a waiver, if a certificate of public good has not been issued under this section, the Commission shall require the removal, relocation, or alteration of the facilities subject to the waiver, as it finds will best promote the general good of the State.

Sec. 2. REPORT ON CRITERIA

On or before February 1, 2021, the Public Utility Commission shall review the criteria used in awarding a certificate of public good under 30 V.S.A. § 248a and report to the Senate Committee on Finance and the House Committee on Energy and Technology any changes that should be made in light of the recent developments in telecommunications technology.

Sec. 3. EXTENSION OF SECTION 248a NOTICE PERIOD DURING  
COVID-19 STATE OF EMERGENCY

Notwithstanding any contrary provision of law, during the declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, when an applicant provides notice that it will be filing an application for a certificate of public good under 30 V.S.A. § 248a, a municipal legislative body or a planning commission may request, and the Public Utility Commission shall grant, a 30 day extension to the original notice period for a total 90 day notice period. This extended notice period shall be available on any notice of application for a certificate of public good pursuant to 30 V.S.A. § 248a filed during the declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, except those for de minimis modifications.

Sec. 4. 2019 Acts and Resolves No. 79, Sec. 25 is amended to read:

Sec. 25. OUTAGES AFFECTING E-911 SERVICE; REPORTING;  
RULE; E-911 BOARD

(a) The Contingent upon the event described in subsection (b) of this section, the E-911 Board shall adopt a rule establishing protocols for the E-911 Board to obtain information about or be apprised of, in a timely manner, system outages applicable to wireless service providers, to 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. An outage for purposes of this section includes any loss of E-911 calling capacity, whether caused by lack of function of the telecommunications subscriber's backup power equipment, lack of function within a telecommunications provider's system network failure, or an outage in the electric power system. The E-911 Board shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before February 1, 2020.

(b) When one or more states with a combined population of 20,000,000 residents adopts a rule or enacts a law that applies a lower reporting threshold than is required under 47 C.F.R. Part 4, § 4.9(e)(1)(ii) as it pertains to wireless service providers, the E-911 Board shall initiate the rulemaking required under subsection (a) of this section and shall incorporate the lowest above-referenced reporting threshold applicable to wireless service providers into its proposed rule, which shall be filed with the Secretary of State pursuant to 3 V.S.A. § 838 not more than 60 days after the rulemaking has commenced. Subsequent

reporting thresholds adopted or enacted outside Vermont shall not trigger a new rulemaking under this section.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: July 1, 2020

VERMONT **GENERAL ASSEMBLY**

# The Vermont Statutes Online

## Title 30 : Public Service

### Chapter 087 : Enhanced 911; Emergency Services

(Cite as: 30 V.S.A. § 7053)

#### § 7053. Board; responsibilities and powers

(a) The Board shall be the single governmental agency responsible for statewide Enhanced 911. To the extent feasible, the Board shall consult with the Agency of Human Services, the Department of Public Safety, the Department of Public Service, and local community service providers on the development of policies, system design, standards, and procedures. The Board shall develop designs, standards, and procedures and shall adopt rules on the following:

(1) The technical and operational standards for public safety answering points.

(2) The system database standards and procedures for developing and maintaining the database. The system database shall be the property of the Board.

(3) Statewide, locatable means of identifying customer location, such as addressing, geo-coding, or other methods of locating the caller.

(4) Standards and procedures to ensure system and database security.

(b)-(d) [Repealed.]

(e) The Board is authorized:

(1) to make or cause to be made studies of any aspect of the Enhanced 911 system, including service, operations, training, database development, and public awareness;

(2) to accept and use in the name of the State, subject to review and approval by the Joint Fiscal Committee, any and all donations or grants, both real and personal, from any governmental unit or public agency or from any institution, person, firm, or corporation, consistent with the rules established by the Board and the purpose or conditions of the donation or grant; and

(3) to exercise all powers and conduct such activities as are necessary in carrying out the Board's responsibilities in fulfilling the purposes of this chapter.

(f) The Board shall adopt such rules as are necessary to carry out the purposes of this chapter, including, where appropriate, imposing reasonable fines or sanctions against persons that do not adhere to applicable Board rules.

(g), (h) [Repealed.] (Added 1993, No. 197 (Adj. Sess.), § 2; amended 2011, No. 64, § 1,

eff. June 2, 2011.)



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### Deadline For Public Comment

Deadline: Oct 16, 2020

Please submit comments to the agency or primary contact person listed below, before the deadline.

### Rule Details

Rule Number:	20P020
Title:	Rule Governing Outage Reporting Requirements for Originating Carriers and Electric Power Companies.
Type:	Standard
Status:	Proposed
Agency:	Vermont Enhanced 911 Board.
Legal Authority:	Act No 125 § 25 (2020) and 30 V.S.A. § 7053
Summary:	This rule establishes outage reporting protocols for originating carriers providing voice service in Vermont and for electric power companies



**Information for Contact # 1**

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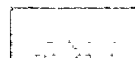
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**Keyword Information**

Keywords:

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 Outage Reporting Requirements



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	Vermont Lawyer ( <a href="mailto:hunter.press.vermont@gmail.com">hunter.press.vermont@gmail.com</a> )	Attn: Will Hunter

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**FROM:** Louise Corliss, APA Clerk

**Date of Fax:** November 24, 2020

**RE:** The "Proposed State Rules " ad copy to run on

**September 10, 2020**

**PAGES INCLUDING THIS COVER MEMO:**

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**\*NOTE\* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

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If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact Louise Corliss at 802-828-2863, or E-Mail [louise.corliss@vermont.gov](mailto:louise.corliss@vermont.gov), Thanks.

PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/> . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

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Regulation I-97-3, Credit for Reinsurance (Revised 2020).

Vermont Proposed Rule: 20P019

AGENCY: Department of Financial Regulation

CONCISE SUMMARY: The amendments proposed here update Vermont's Credit for Reinsurance Regulation to meet the requirements of the National Association of Insurance Commissioners (NAIC). (The NAIC is the U.S. insurance standard-setting organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories.) The NAIC adopted revisions to its Credit for Reinsurance Model Law and Model Regulation which created a new type of jurisdiction, called a Reciprocal Jurisdiction, and eliminated reinsurance collateral requirements and local presence requirements for well-capitalized European Union (EU) and United Kingdom (UK) reinsurers. The NAIC revisions also provide Reciprocal Jurisdiction status for accredited U.S. jurisdictions and Qualified Jurisdictions if they meet certain requirements.

FOR FURTHER INFORMATION, CONTACT: Sheila Grace, Assistant General Counsel, Department of Financial Regulation 89 Main Street, Montpelier, VT 05620 Tel: 802-828-3422 Fax: 802-828-3306 Email: [sheila.grace@vermont.gov](mailto:sheila.grace@vermont.gov) URL: <http://www.dfr.vermont.gov/proposed-rules-and-regulations>.

FOR COPIES: Karen Ducharme, Director of Company Licensing/Examinations Department of Financial Regulation 89 Main Street, Montpelier, VT 05620 Tel: 802-828-1959 Fax: 802-828-3306 Email: [karen.ducharme@vermont.gov](mailto:karen.ducharme@vermont.gov).

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

Vermont Proposed Rule: 20P020

AGENCY: Vermont Enhanced 9-1-1 Board

CONCISE SUMMARY: 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.

FOR FURTHER INFORMATION, CONTACT: Barbara Neal, Vermont Enhanced 911 Board 100 State Street, 5th Floor, Montpelier, VT 05602-6501 Tel: 802-828-4911 Fax: 802-828-4109 Email: [barbara.neal@vermont.gov](mailto:barbara.neal@vermont.gov) URL: <https://e911.vermont.gov/>.

FOR COPIES: Soni Johnson, Vermont Enhanced 911 Board 100 State Street, 4th Floor, Montpelier, VT 05602-6501 Tel: 802-828-4911 Fax: 802-828-4109 Email: [soni.johnson@vermont.gov](mailto:soni.johnson@vermont.gov).

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