

**STATE OF VERMONT
ENHANCED 9-1-1 BOARD
Outage Notification Rule Sub-Committee
Special Meeting #6
28 October 2020**

FINAL
approved as written
approval date: 11/5/20

Location: Meeting held via Microsoft Teams due to the pandemic.

10:04 AM – Call to Order

Chair Marcoux brought the meeting to order. The following were in attendance via Microsoft Teams:

Sub-Committee Members Present

Sheriff Roger Marcoux, Chair
Chief Steven Locke, Vice-Chair
Captain Lance Burnham

Others Present

Cecile Betit
Stephen Whitaker
Charles Storrow
Dave Soutter
John Cummings
Jonathan Gibson (arrived after roll call)
Matt DeTura
Nancy Malmquist
James White

Staff Members Present

Barbara Neal, Executive Director
Soni Johnson, Board Clerk

Public Comment – Using the attendance list, the Board Clerk called on each member of the public/stakeholder for comment:

Summary of Public Comment

- Section 4.3.1 – concerning language required in the initial outage report - “to the extent known” should be added to the first sentence and removed from the second bullet.
- The Board has indicated that it notifies companies of public records requests/information release, but that language is not included in the rule.
- Wireless reporting threshold – Board staff comments (from *Outage Reporting Rule – Comments and Responses by Commenter*), concerning accurate mapping and verification of coverage areas for cell towers, are not adequate.

Note: Public comments submitted to the Board prior to the meeting have been posted to the E911 website (<https://e911.vermont.gov/statutes-and-rules/proposed-rules>) or are available from the E911 Board Office by request.

Draft Outage Notification Rule

Executive Director Neal provided an overview of written comments received from members of the public/stakeholders. This document, *Outage Reporting Rule – Comments and Responses by Commenter (dated 10/23/20)*, has been incorporated into these meeting minutes.

Sub-committee members discussed:

- Possible changes to outage definitions in sections 3.5.1 & 3.5.2.
- Jurisdiction over tower siting (PUC has jurisdiction) – Stephen Whitaker clarified his earlier comment concerning tower siting to say that including it as a requirement in the rule would give the Board some standing as the PUC carries out its responsibility.
- Reporting thresholds for VoIP providers.
- Outage reporting by zip code (wireless carriers must report when there is a loss/degradation of 50% of the coverage in a zip code, not an impact to 50% of subscribers).
- Possible confidentiality of information contained in outage notification reports not already marked “presumed non-public”. Executive Director Neal detailed all the information contained in the

initial/secondary/restoration of service reports not already marked “presumed non-public”. The sub-committee confirmed that this unmarked information should not be considered confidential.

- Possible required review of the review after one year – Board staff will monitor the effectiveness of the reporting requirements and report any necessary changes to the Board as needed.

Adjournment

Motion: There being no further business the meeting adjourned at 11:30 AM.

Respectfully submitted:

Soni Johnson
Soni Johnson, Board Clerk

11/3/20
Date

FINAL

Outage Reporting Rule - Comments and Responses By Commenter

Commenter

Cecile Betit

ID #

10/16/2020

161

Rule Section 4.0

Thresholds

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.

Board Staff Comment

Regarding the recommendation to ensure accurate mapping and verification of coverage areas for cell towers: 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 staff expects this information will be adequate for meeting the purpose of this rule. Projects to map and verify wireless coverage areas are outside the scope of the rule.

Regarding reporting within the hour - the current proposed rule requires an initial report of outage within one hour followed by a second report within two hours.

Committer	Comcast and Charter Joint Comments	ID #	
10/16/2020	<p>...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.</p> <p>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</p>	156	Rule Section 4.0 Thresholds
Board Staff Comment	<p>Acknowledge general support of current proposed rule. Concern regarding the potential for a patchwork of reporting requirements across the nation appears to have been addressed in rule as currently proposed.</p>		

Commenter**Comcast and Charter Joint Comments**

ID #

10/16/2020

As stated in previous comments, the entirety of Originating Carrier initial outage and restoration reports to the 911 Board should be presumptively confidential.

157

Rule Section 6.0

Confidentiality

Board Staff Comment

Recommend subcommittee discussion and determination regarding whether the information that has not already been marked "presumed non-public" could be regarded as confidential, proprietary, or security related.

Multiple revisions were made to this proposed rule earlier this year to address comments about confidentiality from all stakeholders. Those revisions resulted in the current proposed rule as described below:

*Removed requirement that originating service providers identify the location of the affected facility in the initial and restoration of service reports. What is critical for these reports is the location of the affected subscribers, not the affected facility. This revision is intended to address concerns from industry stakeholders that public release of the location of an affected facility could pose a threat to network security.

*Marked certain information required in the initial and restoration of service reports as "presumed non-public". All other information in the initial and restoration of service reports would be presumed to be public information. The information that is presumed public is the carrier's name, affected area of outage, a description of the limitation of 911 calling capacity, approximate number of affected subscribers, date/time of outage and expected or actual restoration of service and general cause.

*Revised the Confidentiality section to refer to the "presumed non-public" information as noted above.

*Add language that states submitters of any information the Board may request beyond the initial and restoration of service reports will have the opportunity to review and mark information they believe to be exempt from disclosure; to include a requirement they also provide a reason why the info is exempt under Vermont Public Records law.

Committer	Comcast and Charter Joint Comments	ID #	Rule Section	Confidentiality
10/16/2020	Comcast and Charter reiterate their support for the addition of a "reverse FOIA" provision of the proposed rule that would require the 911 Board to provide notice to an originating carrier prior to public release of an outage report.	158	Rule Section 6.2	Confidentiality
Board Staff Comment	<p>Consider as part of recommended subcommittee discussion and determination regarding whether the information that has not already been marked "presumed non-public" could be regarded as confidential, proprietary, or security related.</p> <p>Board staff note that the proposed rule as written only requires the Board to notify the carrier of a public records request for information obtained under section 4.5 of the rule (additional details related to the outage and any mitigation steps that have been taken)</p> <p>The rule also identifies certain "presumed non-public" information in the reports required by sections 4.3 and 4.4. That information would not be released in response to public records requests. We would not expect to provide the carriers an opportunity to redact further information from these reports.</p> <p>It has been our practice to notify carriers of the release of the outage reports and we will continue that practice.</p>			
10/16/2020	CTIA's proposal during the October 9th 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.	159	Rule Section 7.0	Other
Board Staff Comment	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.			
10/16/2020	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. Correspondingly, the phrase "to the extent known" can be removed from the third bullets in §§4.3.1 and 4.4.2.5	160	Rule Section 4.3	Other
Board Staff Comment	While we believe the rule is clear as currently drafted, we do not object to this recommendation for changes to these sections.			

Commenter

10/16/2020

CTIA

An approach that treats carrier reports as inherently confidential is wholly appropriate under the Vermont Public Records Act (“VPRA”),⁸ which, as CTIA noted in previous comments before the Board, contains explicit protections for trade secrets.⁹ 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.¹⁰ 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.¹¹ Reflecting those reasons, federal law contains an exemption from Freedom of Information Act (“FOIA”) requests for such information.¹² Furthermore, the FOIA exemption for PCII has an analogue under the VPRA, ¹³ which references FOIA as guidance for its interpretation, ¹⁴ and Vermont courts have looked to the way federal courts have interpreted FOIA for guidance in interpreting the exemptions to the VPRA.¹⁵

ID #

179

Rule Section 6

Board Staff Comment

Consider this comment during recommended subcommittee discussion and determination regarding whether the information that has not already been marked "presumed non-public" could be regarded as confidential, proprietary, or security related.

Commenter**CTIA**

ID #

10/16/2020

180 Rule Section 6

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. 16

Board Staff Comment

Consider this comment during recommended subcommittee discussion and determination regarding whether the information that has not already been marked "presumed non-public" could be regarded as confidential, proprietary, or security related.

Commenter

10/16/2020

CTIA

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 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.¹⁷ 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.

ID #

181

Rule Section 3

Definitions

Board Staff Comment

The addition of the word "significant" was discussed earlier in this rulemaking process. The definitions in sections 3.5.1 and 3.52 define an outage as "any known degradation or loss of network elements...that prevent the OC's subscriber from being able to complete a call to, or communicate with, 911. This definition is straight-forward and it is not clear what value would be added by including the word "significant".

Commenter**CTIA**

ID #

10/16/2020

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.

182

Rule Section 7

Other

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

Board Staff Comment

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.

Committer	Jonathon Gibson	ID #
10/16/2020	<p>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.</p> <p>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.</p>	166 Rule Section 3.5 Definitions
Board Staff Comment	Adding the word "such" as described in the comment would provide clarity. Recommend we accept this suggestion.	
10/16/2020	<p>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</p>	167 Rule Section 3.5 Definitions
Board Staff Comment	The 911 Board does not initiate reverse emergency notifications, however we do notify Vermont Emergency Management of carrier outages for situational awareness purposes. Our notification to VEM would inform them of the potential that certain subscribers may not receive a notice they issue.	
10/16/2020	<p>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.</p>	168 Rule Section 3.5.3 Definitions
Board Staff Comment	Board staff believe it is clear that "failure(s)" includes any external factor(s) that prevents electric power distribution.	

Commenter	Jonathon Gibson	ID #
10/16/2020	<p>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.</p>	<div data-bbox="1394 136 1474 175">169</div> <div data-bbox="1486 136 1688 175">Rule Section 4.2</div> <div data-bbox="1780 136 1919 175">Thresholds</div>
Board Staff Comment	<p>Similar comment from VPIRG. Acknowledge that Act 125 requires standards in line with CA only as it pertains to wireless service providers; however previous public comments from national VoIP services providers indicated their concern regarding the potential for a patchwork of reporting requirements across the nation so incorporated 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.</p>	
10/16/2020	<p>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</p>	<div data-bbox="1394 786 1474 824">170</div> <div data-bbox="1486 786 1688 824">Rule Section 4.3</div> <div data-bbox="1780 786 1919 824">Thresholds</div>
Board Staff Comment	<p>Agree, requirement should be maintained.</p>	

Commenter	Jonathon Gibson	ID #
10/16/2020	<p>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.</p>	<div data-bbox="1394 136 1474 175" style="border: 1px solid black; padding: 2px;">171</div> <div data-bbox="1486 136 1711 175">Rule Section 4.4.1</div> <div data-bbox="1780 136 1858 175">Other</div>
Board Staff Comment	<p>Agree that clarification would be helpful in these sections. Recommend amending as follows</p> <p>4.4.1 CMRS 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.</p> <p>Also - section 4.42, first bullet: chagne OC to CMRS provider</p>	

Commenter**Jonathon Gibson**

ID #

10/16/2020

Use of Zip Codes for outage location reporting (for wireless service providers) - 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.

172

Rule Section 4.2

Zip Codes

Board Staff Comment

Changes were made to an earlier version of this rule that added a definition of ILEC Section 3, Definitions, added new language in Section 4 related to thresholds for wireline reporting that require the ILECs to report outages that impact 25 or more of their subscribers and last for 30 minutes - a threshold that neither the RLECS nor LCAR have objected to.

This change does not impact the ZIP code reporting aspect for carriers that are not ILECs in Vermont, such as the national VoIP and wireless carriers. Act 125 requires we adopt this threshold for wireless carriers. By incorporating the California thresholds for reporting from national VoIP carriers, we are attempting to address their concerns regarding a patchwork of reporting requirements across the nation and will be obtaining outage information at a much more granular level than required by the FCC.

Additionally, wireless carriers are not required to report the number of subscribers from any given ZIP code, but rather the loss of 50% coverage in the ZIP code. The loss of 50% coverage in a zip code does not differentiate between their subscribers and or roaming subscribers but focuses on a significant loss of service in a given geographic area.

Commenter	Jonathon Gibson	ID #
10/16/2020	<p>...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.</p>	<p>173 Rule Section 4.4 Zip Codes</p>
Board Staff Comment	<p>Wireless carriers are not required to report the number of subscribers from any given ZIP code, but rather the loss of 50% coverage in the ZIP code. The loss of 50% coverage in a zip code does not differentiate between their subscribers and or roaming subscribers but focuses on a significant loss of service in a given geographic area.</p>	
10/16/2020	<p>c) 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.</p>	<p>174 Rule Section 4 Zip Codes</p>
Board Staff Comment	<p>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 staff expects this information will be adequate for meeting the purpose of this rule. Additional requirements to map and verify wireless coverage areas are outside the scope of the rule.</p>	

Committer	Jonathon Gibson	ID #
10/16/2020	<p>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.</p>	<div data-bbox="1394 136 1474 175">175</div> <div data-bbox="1486 136 1667 175">Rule Section 6</div> <div data-bbox="1780 136 1961 175">Confidentiality</div>
Board Staff Comment	<p>Consider this comment during recommended subcommittee discussion and determination regarding whether the information that has not already been marked "presumed non-public" could be regarded as confidential, proprietary, or security related.</p>	
10/16/2020	<p>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.</p>	<div data-bbox="1394 639 1474 678">176</div> <div data-bbox="1486 639 1667 678">Rule Section 7</div> <div data-bbox="1780 639 1856 678">Other</div>
Board Staff Comment	<p>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. We believe this language will be adequate for ensuring a timely implementation of the rule requirements.</p>	
10/16/2020	<p>In Sec. 3.4, follow “(OC)” with a semi-colon rather than a dash.</p>	<div data-bbox="1394 1062 1474 1101">177</div> <div data-bbox="1486 1062 1688 1101">Rule Section 3.4</div> <div data-bbox="1780 1062 2003 1101">Grammar/Format</div>
Board Staff Comment	<p>Agreed. Change will be made.</p>	

Commenter**Sally and Harrison Picard**

ID #

10/15/2020

155

Rule Section

Other

There is no cell service in most of Andover...every year since Vtel removed the copper phone lines we have been without 911 access at some point during each year...unable to contact doctor, ambulance, police, report a fire, reach a neighbor for help. Our burglar alarm is non-functional...

In Andover, power goes out frequently and for long periods of time, leaving us vulnerable... When the power is out, we have no phone and no heat.

We are senior citizens...old and vulnerable. Following recent surgery, Mr Picard was trying to recuperate at home but we were forced to leave our home due to lack of 911 service on 9/17/2020. We tried to have it restored but were told no - they (assume GMP) would not restore 911 service for hospitals, seniors or those needing oxygen. Service not restored until 9/22/2020 - six days without 911 service.

Vtel refuses to maintain a list of vulnerable citizens who need O2, are elderly with other medical issues, are wheel-chair bound or post-op to restore their service ahead of others who are not as vulnerable.

No matter how many batteries we buy, when power is out for a week there is no 911. When their (Vtel) equipment is out, batteries don't help. Their equipment failed on 9/17/2020. They need to have enough technicians hired to restore 911 service immediately.

Vtel will not guarantee service appointment schedules.

Please make them (Vtel) accountable so that all Vermont citizens have access to 911. They should be made to maintain and pay for whatever is necessary for all Vermont citizens to always have access to 911.

Placing the burden of obtaining, maintaining, and paying for batteries to operate 911 service is unacceptable.

They should pay for cell towers for 911 access when their system is down.

When their system is down, they must be held accountable for a person's death, injury, loss of property etc.

Board Staff Comment

The 911 Board staff acknowledge the multiple and serious concerns outlined in this public comment. We note that the writer also provided similar comments to the Public Service Department on case 2019-CAPI-15676/VT Telephone Company. In addition, access to 911 during power outages was a topic discussed at recent Public Utility Commission hearings (Docket 20-0141-INV). We agree that reliable access to 911 is critical for all Vermonters. (CONTINUED NEXT PAGE)

(BOARD STAFF COMMENT CONTINUED) 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

Commenter

Sally and Harrison Picard

ID #

electric companies. The recommendations provided in the submitted comments fall outside the scope of the Outage Notification Rule.

Commenter**Stephen Whitaker**

ID #

10/9/2020

... 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 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.

162

Rule Section 4.0

Thresholds

Board Staff Comment

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 staff expects this information will be adequate for meeting the purpose of this rule. Additional requirements to map and verify wireless coverage areas are outside the scope of the rule.

Commenter	Stephen Whitaker	ID #
10/9/2020	<p>... 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</p>	<p>163 Rule Section 6.0 Confidentiality</p>
Board Staff Comment	<p>Consider this comment during recommended subcommittee discussion and determination regarding whether the information that has not already been marked "presumed non-public" could be regarded as confidential, proprietary, or security related.</p> <p>Otherwise, we believe the rule as written addresses the concerns outlined in the comment. Originating service providers will be required to report outages as defined in the proposed rule and certain information contained in those reports will be available in response to public records requests, as outlined in section 6 of the rule.</p>	
10/9/2020	<p>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.</p>	<p>164 Rule Section 4.0 Thresholds</p>
Board Staff Comment	<p>Requirements related to tower siting and the role of the Public Utilities Commission are outside the scope of this rule.</p>	

Commenter	Stephen Whitaker	ID #
10/9/2020	<p>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.</p>	<div data-bbox="1394 131 1476 175">165</div> <div data-bbox="1486 131 1690 175">Rule Section 4.0</div> <div data-bbox="1780 131 1919 175">Thresholds</div>
Board Staff Comment	<p>Agree that the FCC-defined thresholds for outage reporting are not appropriate for Vermont. We believe the rule as written demonstrates that while also complying with Act 125.</p>	

Commenter	VPIRG - Vermont Public Interest Research Group	ID #		
10/17/2020	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.	150	Rule Section 4.0	Thresholds
Board Staff Comment	Acknowledge general support of rule.			
10/17/2020	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.	151	Rule Section 4.2	Thresholds
Board Staff Comment	Agree that Act 125 requires thresholds in line with the California rule only as it pertains to wireless service providers; however, previous public comments from national VoIP service providers indicated their concern regarding the potential for a patchwork of reporting requirements across the nation. Thresholds aligned with those in the California rule 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.			

Commenter

VPIRG - Vermont Public Interest Research Group

ID #

10/17/2020

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

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Rule Section 6.0

Confidentiality

Board Staff Comment

Consider this comment during recommended subcommittee discussion and determination regarding whether the information that has not already been marked "presumed non-public" could be regarded as confidential, proprietary, or security related.

Multiple revisions were made to this proposed rule earlier this year to address comments about confidentiality from all stakeholders. Those revisions resulted in the current proposed rule as described below:

- *Removed requirement that originating service providers identify the location of the affected facility in the initial and restoration of service reports. What is critical for these reports is the location of the affected subscribers, not the affected facility. This revision is intended to address concerns from industry stakeholders that public release of the location of an affected facility could pose a threat to network security.
- *Marked certain information required in the initial and restoration of service reports as "presumed non-public". All other information in the initial and restoration of service reports would be presumed to be public information. The information that is presumed public is the carrier's name, affected area of outage, a description of the limitation of 911 calling capacity, approximate number of affected subscribers, date/time of outage and expected or actual restoration of service and general cause.
- *Revised the Confidentiality section to refer to the "presumed non-public" information as noted above.
- *Add language that states submitters of any information the Board may request beyond the initial and restoration of service reports will have the opportunity to review and mark information they believe to be exempt from disclosure; to include a requirement they also provide a reason why the info is exempt under Vermont Public Records law.