

CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES

FINAL STATEMENT OF REASONS

CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES Proposed Amendments to Community Isolation Outage Regulations Title 19, Division 2, Chapter 1.5

UPDATE TO INITIAL STATEMENT OF REASONS

No updates have been made to the Initial Statement of Reasons (ISOR). Additionally, there is no data or technical, theoretical or empirical study, report, or similar document that is being relied upon in proposing the adoption of these regulations other than those identified in the ISOR or otherwise identified or made available for public review prior to the close of the public comment period.

CHANGES TO THE PROPOSED REGULATORY TEXT

There were no changes to the proposed regulatory text.

LOCAL MANDATE DETERMINATION

This regulatory action will not impose a mandate on local agencies or school districts, nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

CONSIDERATION AND DETERMINATION OF ALTERNATIVES

In accordance with Government Code, section 11346.9(a)(4), and in consultation with the California Public Utility Commission (CPUC), the California Governor's Office of Emergency Services (Cal OES) has considered available alternatives and determined that no reasonable alternative would be more effective in carrying out the purpose for which the regulation was proposed, or would be as cost effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Cal OES does not believe these regulations will have a significant adverse economic impact on the telecommunications companies.

Cal OES understands that the telecommunication companies have argued that the required maps come at a cost to them. However, Cal OES is not mandating the maps, the legislature did when it passed SB 341. Cal OES was only tasked with specifying the requirements of the maps, which Cal OES believes are fairly minimal.

SUMMARY AND RESPONSES TO COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD

The 45-day public comment period for the proposed regulation was open from April 1, 2022 through May 16, 2022. No public hearing was requested nor held. Cal OES received only written comments. The comment summaries below represent all relevant comments received during the public comment period.

JOINT COMMUNICATIONS PROVIDERS – Verizon, AT&T Services, Inc., T-Mobile West LLC

Comment 1: Joint Communications Providers understand Cal OES's resolve to implement the proposed amendments to the Community Isolation Outage regulations. However, Cal OES does not provide an effective date for telecommunication providers to implement the proposed requirements.

To that end, Joint Communications Providers believe the earliest reasonable effective date for the proposed amendments should be:

Reporting Threshold: no sooner than October 1, 2022, or later.

Public Outage Map: no sooner than April 1, 2023, or later.

Although Joint Communications Providers are already required to report an outage that lasts at least 30 minutes and affects at least 50 percent of a its coverage area in a single ZIP Code, reducing the reporting threshold to 25 percent would require Joint Communications Providers to conduct updated software analysis, testing, and environment setup.

Moreover, the new Outage Map requirement involves extensive software development, testing, and implementation in order to deliver a comprehensive public outage mapping solution. The complexity in developing this solution requires engagement from multiple business units, working across multiple time

zones, integration of various internal systems and tools, resources, and, most importantly, time.

Response 1: As far as the regulations related to the outage maps, the governing statute states that the regulations shall be adopted by July 1, 2022.

Government Code Section 53122(b)(1)(B) states:

“On or before July 1, 2022, the office [of Emergency Services], in consultation with the Public Utilities Commission, by regulation, shall adopt requirements for the public outage maps maintained by telecommunications service providers pursuant to subdivision (f).

Government Code Section 53122(f) states:

“Upon the adoption of regulations pursuant to subparagraph (B) of paragraph (1) of subdivision (b), each provider of telecommunications service that provides access to 911 service shall maintain on its internet website a public outage map showing that provider’s outages.”

As far as the amendment related to the reporting threshold, each provider of telecommunications should already have appropriate software to support the 25% coverage threshold. Reducing the threshold merely changes the number entered into the software from 25% to 50% to capture the new percentage of the coverage area in each zip code and does not require extensive software development.

Thus, no changes to the proposed regulation were made based on this comment.

Comment 2: Because unforeseen circumstances may arise, we request that providers be allowed to request additional time for implementation, where good cause is shown.

Response 2: Please see response to Comment 1 above. The statute governs the effective date of the regulations.

Thus, no changes to the proposed regulation were made based on this comment.

Small Local Exchange Carriers (LECs) - CALAVERAS TELEPHONE COMPANY, CAL-ORE TELEPHONE CO., DUCOR TELEPHONE COMPANY, FORESTHILL TELEPHONE CO. HAPPY VALLEY TELEPHONE COMPANY, HORNITOS TELEPHONE COMPANY, KERMAN TELEPHONE CO., PINNACLES TELEPHONE CO., THE PONDEROSA TELEPHONE CO., SIERRA TELEPHONE COMPANY, INC., THE SISKIYOU TELEPHONE COMPANY, VOLCANO TELEPHONE COMPANY, WINTERHAVEN TELEPHONE COMPANY

Comment 3: Small LECs object to Cal OES's proposal to require an update every six hours to an outage map posted on a website. There are several reasons why Cal OES should not require map updates every six hours. First, the Commission's resiliency decisions (D.20-07-011 and D.21-02-029), which require posting of outage maps to websites, only require updates to maps to occur on a daily basis. To be consistent with the Commission's decisions on point, as directed by Government Code Section 53122(b)(1)(B), Cal OES should revise its proposed regulation to specify daily updates. Second, as small businesses, the Small LECs do not have the resources to ensure that maps posted to their websites can be updated every six hours.

Cal OES appears to rationalize a map update every six hours because it already requires telecommunications providers to supply updates regarding outages directly to Cal OES every six hours. However, Cal OES should not equate the burden of sending an email notice regarding an outage every six hours with that of updating a company's website every six hours.

The initial posting of the outage is what is important and benefits of posting updates every six hours diminish, particularly during multi-day Public Safety Power Shutoff (PSPS) events or when wildfires impose catastrophic damage that will take weeks or months to repair. A daily map update will provide timely information and will not jeopardize public safety.

Response 3: The Small LECs are correct in that 19 CCR § 2480.3 (c) already requires service providers to submit updated notifications to Cal OES "at least once every 6 hours from the most recent notification until the service has been restored, and a final notification once the service has been restored." Therefore, the requirements for updating the outage maps online mirrors the timeframe of preexisting regulatory requirements for notifying Cal OES of outages. Thus, updating an online map should not be burdensome to the small LECs, as telecommunication providers are already legally required to notify Cal OES. The

updates to the outage map every six hours simply ensure they are also notifying their customers (via an online map).

While California Public Utility Commission (CPUC) decisions D.20-07-011 and D.21-02-029 state that outage maps posted online should be updated “at least daily,” there is nothing in those decisions prohibiting Cal OES for imposing more regular updates.

Cal OES disagrees that there diminishing benefits of posting outage updates every six hours, particularly during multi-day PSPS events or when wildfires impose catastrophic damage “that may weeks or months to repair.” If such outages continue for multiple days, weeks, or months, then there would be no update to the map, every six hours, because the outage is continuing for a longer period of time. It would only be updated after the outage is fixed. Thus, it is unclear why it would be burdensome for the telecommunication provider to update the online maps in those instances. Moreover, Cal OES believes that such timely outage information is critical to public safety.

Thus, no changes to the proposed regulation were made based on this comment.

Comment 4: The proposed amendment to Section 2480.3(e) also specifies that outage maps must be posted within one hour after the outage occurs. For the same reasons that Cal OES should not require map updates every six hours, Cal OES also should not require a map posting within one hour after an outage occurs. Complying with the directive under Government Code Section 53122(b)(1)(B) that Cal OES’s regulations shall be consistent with the Commission’s decisions related to outage maps, the Small LECs note that the Commission’s similar mandate for posting outage maps is that such posting occur, “. . . as soon as reasonably possible . . .” While the Small LECs will certainly try to post outage maps within an hour after they occur, the Commission’s standard is more reasonable, reflecting the uncertainties that can arise when companies are dealing with emergencies.

Response 4: Cal OES believes that one hour is a reasonable time period for the telecommunications providers to notify the public of an initial outage on their website. While such timeframe is more specific, it is not inconsistent or in conflict with the CPUC decisions. Again, this one-hour timeframe for reporting outages

to the public mirrors the timeframe in effect for reporting outages to Cal OES. It is something the telecommunication providers are already doing, and Cal OES believes is necessary for public safety. First responders and members of the public need timely data so they know when there are outages in their area, especially during a wildfire, flood, or other catastrophic disaster.

Thus, no changes to the proposed regulation were made based on this comment.

Comment 5: Given Government Code Section 53122's focus on community isolation outages and because Government Code Section 53122(f) refers back to Government Code Section 53122(b)(1)(B), it is reasonable to assume that Government Code Section 53122(f)'s reference to a "provider's outages" was intended to refer to a provider's community isolation outages. In other words, Government Code Section 53122(f) was not intended to trigger a map posting outage for every outage that a provider may experience, but only for community isolation outages. Given this reasonable statutory construction, the Small LECs recommend that Cal OES update Section 2480(e) to include specific reference to community isolation outages as the triggering event for the map posting requirement.

Response 5: The title of the chapter of these regulations is Chapter 1.5. "Community Isolation Outages" and that is what the regulations discuss. 19 CCR § 2480.1 specifically defines a "Community isolation outage" as "an outage that meets any of the reporting threshold criteria set forth in this chapter." This term is also referenced in Government Code Section 53122(c)(1) which states that a community isolation outage occurs when outage limits the customers' ability to make 911 calls or receive emergency notifications. The outage map amendments simply align with the existing outage reporting regulations related to community isolation outages and Cal OES does not believe there is ambiguity.

Thus, no changes to the proposed regulation were made based on this comment.

Comment 6: Cal OES did not address the timing under which the regulatory amendments would take effect. Any change to process takes time to implement. The Small LECs request that Cal OES specify that the requirement to post outage maps to a website shall take effect six months after

the amendment memorializing that requirement is adopted by Cal OES.

Response 6: Please see response to Comment 1 above.

No changes to the proposed regulation were made based on this comment.

CALIFORNIA CABLE & TELECOMMUNICATIONS ASSOCIATION (CCTA)

Comment 7: The proposed regulations offer two separate conflicting intervals for publishing outages on the public outage map.

First, one part of the proposal requires that a public outage map be made available upon each notification to Cal OES. Proposed new subpart(e) of Section 2480.3 provides, in part:

Each provider of telecommunications service that provides access to 911 service shall maintain on its internet website a public outage map showing that provider's outages. The **public outage map for each provider shall be available upon each notification to the office** and shall include, at a minimum, the following information ...

However, a separate provision of the proposed new regulation would require outage maps to be posted within 60 minutes of a newly discovered outage:

"This map shall be posted by the provider of telecommunications service **within 60 minutes of the discovery of a new outage** and updated at least once every 6 hours from the most recent notification until the service has been restored."

The highlighted passages are inconsistent and should be revised.

Response 7: The intervals for providing notifications to Cal OES for community isolation outages – within 60 minutes of discovery of the outage (Government Code § 53122(c)(1)) and updated every 6 hours after the outage (19 CCR § 2480.3(c)) – mirror those for updating the online map. Thus, Cal OES does not believe those provisions are inconsistent.

No changes to the proposed regulation were made based on this comment.

Comment 8: The phrase “within 60 minutes of the discovery of a new outage” is ambiguous. Because the word “discovery” is not included in the existing rule, CCTA proposes that “discovery” be replaced with “reporting” to reflect when the first outage notice is submitted: within 60 minutes of reporting of the new outage. Notably, the statute does not require the publication and updating of outage maps to be concurrent when providers submit outage notices to Cal OES.⁷ This revised language is straightforward and would provide clear guidance for implementation purposes.

Response 8: The phrase “within 60 minutes of the discovery of a new outage” is clear. Moreover, the language is pulled directly from the governing statute – Government Code Section 53122(c)(1). Cal OES believes that a telecommunication provider’s notification to Cal OES and the public via the online map should both be within 60 minutes of the discovery of the outage for purposes of public safety, not within 60 minutes of the reporting to Cal OES.

Thus, no changes to the proposed regulation were made based on this comment.

Comment 9: The proposed regulation would require providers to post impacted zip codes on their websites. While outages are reported to Cal OES on a zip code basis, it is not clear that posting zip codes, in addition to the service outage map, would be helpful to impacted customers. Further, requiring that service post zip codes publicly would effectively override Senate Bill (SB) 670, which ensures that detailed outage information provided by service providers remain confidential.

Additionally, the requirement to post zip code information complicates the already complex task of posting and updating the required service outage map. Finally, the CPUC did not require providers to post zip codes in Decision 21-02-029, and therefore, Cal OES’ proposed regulation is inconsistent with that decision.

Accordingly, CCTA respectfully recommends that Cal OES modify the proposed rule to allow, but not require, providers to post zip code information.

Response 9: Cal OES disagrees that posting zip codes on the outage map, would not be helpful to impacted customers. Most people know their zip code

and this information would help members of the public determine if the outage specifically applied to them. For example, LA County has 290 different zip codes. Thus, showing an outage in that county on a map would not be helpful to a customer who is trying to determine whether an outage impacted their specific area. Also, this is already information that the telecommunication providers are providing to Cal OES when there is an outage.

Cal OES also disagrees that posting zip codes of outages somehow violates confidentiality or would override SB 670. Cal OES further disagrees that requiring telecommunications providers to include zip codes on the map is inconsistent or in conflict with CPUC Decision 21-02-029. In the statute, Government Code Section 53122(b)(1)(B), the Legislature mandated that Cal OES, in its regulations, set forth the “level of detail to be included in the public outage maps derived from community isolation outages.” Cal OES believes that level of detail should include the zip codes where the outages are occurring, as Cal OES believes that information is necessary for public safety.

Thus, no changes to the proposed regulation were made based on this comment.

Comment 10: The proposed rules do not specify a deadline by which service providers must begin posting outage maps on their websites.

Many providers will need adequate time to develop and test their outage map systems. Indeed, some providers may require even more time, and Cal OES should permit extensions for good cause. CCTA therefore recommends the following modification to the proposed language in the event Cal OES wishes to specify an implementation deadline for providers to begin posting outage maps:

“Providers of telecommunications service must begin posting public outage maps within 120 days of the effective date of these rules. Within 100 days of the effective date of these rules, a provider may request an extension of this deadline, which the office may grant based on a showing of good cause.”

Response 10: Please see response to Comment 1 above.

No changes to the proposed regulation were made based on this comment.

THE UTILITY REFORM NETWORK (TURN)

Comment 11: The proposed amendments address two issues: 1) reducing the threshold for mobile telephony service outage reporting from an outage lasting 30 minutes and covering at least 50 percent of a carrier's coverage area in a single zip code, to an outage affecting 25 percent of customers for 30 minutes in a single zip code; and 2) specific requirements for telecommunications providers to provide public outage maps on their web sites.

TURN supports the adoption of both of these rules. There is no doubt that the implementation of Community Isolation Outage reporting regulations are important to ensure public safety. We commend Cal OES for its diligence in improving the rules based on its experience with how the existing rules function in practice.

The need for the proposed changes is carefully explained in the Initial Statement of Reasons (ISOR). TURN supports the efforts by Cal OES to refine Community Isolation Outage regulations to make them as effective as possible. We support the goal of Cal OES to ensure that first responders receive improved information about what customers, and what specific areas, are affected by a community isolation outage.

TURN believes the proposed regulations, including this modification, are reasonable and vital to ensure public safety, and should be adopted.

Response 11: Cal OES appreciates this feedback.

No changes to the proposed regulation were made based on this comment.