

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. C-5564/PI-250
Public Service Commission, on)	
its own motion, to review and)	ORDER RELEASING REVISED
consider modifications to the)	PROPOSED POLICY
Commission's service outage)	AND
reporting requirements.)	NOTICE OF HEARING
)	
)	Entered: August 20, 2024

BY THE COMMISSION:

On April 3, 2024, the Nebraska Public Service Commission ("Commission") opened the above-captioned proceeding in order to review and consider modifications to the Commission's service outage reporting requirements. In the order opening this docket ("April 3 Order"), the Commission sought comment on its current service outage reporting requirements policy.¹ The Commission further released draft revisions to the policy.

A workshop in this matter was held on May 28, 2024, in the Commission Hearing Room. Participating in the workshop, along with each of the Commissioners, were Cullen Robbins, Director of the Commission's Telecommunications and Nebraska Universal Service Fund Department ("Communications/NUSF Department"); Dave Sankey, Director of the Commission's 911 Department ("911 Department"); Sallie Dietrich, legal counsel for the Commission; Al Lubeck, on behalf of the CenturyLink entities; Paul Schudel, on behalf of the Rural Independent Companies ("RIC"); and Scott Barnett on behalf of Windstream Nebraska, Inc. ("Windstream"). Other interested persons were present in the hearing room and on the Commission's webconference service.

W O R K S H O P A N D C O M M E N T S

During the workshop, the Commission offered all parties an opportunity to comment on each of the topics described in the April 3 Order. The Communications/NUSF and 911 Departments each offered a presentation of their recommendations. Various changes to the policy were recommended by participants.

¹ The current policy is available on the Commission's website at <https://psc.nebraska.gov/sites/psc.nebraska.gov/files/doc/Service%20Outage%20Reporting%20Requirements.pdf>.

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Following the workshop, on June 14, 2024, comments in this matter were received from Cox Nebraska Telcom, LLC ("Cox"); Windstream Nebraska, Inc. ("Windstream"); and the Rural Independent Companies ("RIC").

In comments, RIC made several suggestions, including recommending the Commission consider statutory changes made by the 2024 Nebraska Legislature's LB 2024.² RIC also recommended the addition of a definition for the term "significant degradation" to mean "an end user calling party's inability to communicate with the called party or the called party's inability to communicate with the end user calling party." RIC also recommended that the policy not be amended to include reporting requirements for outages affecting "civic centers, financial institutions, or large-scale shopping centers." RIC argued that these terms unnecessarily broaden the scope of the policy and may create ambiguities.

Windstream also submitted comments in this matter. Windstream recommended that outage requirements should be streamlined as much as possible to make reporting more uniform between outages.³ Windstream also noted that references in the policy to "days" could be ambiguous, and recommended definitions based in hours instead.⁴

Cox submitted comments in this proceeding as well, primarily addressing the threshold requirement of 100 access lines. Cox noted that some small exchanges may not have 100 access lines in total, whereas densely populated areas may reach that threshold from minor routine acts.⁵ Cox suggested that minutes of use may be an appropriate standard. Alternatively, Cox suggested that the Commission adopt different requirements for small carriers than apply to large carriers.⁶ Cox also noted that section 5(d) may be unclear and should be revised.⁷

² RIC Comments at 1.

³ Windstream Comments at 1.

⁴ *Id.* at 2.

⁵ Cox Comments at 1.

⁶ *Id.* at 2.

⁷ *Id.* at 3.

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O P I N I O N A N D F I N D I N G S

The Commission appreciates the participation in comments and at the workshop by interested parties. Based upon the feedback received, the Commission finds that additional revisions to the policy should be made. A new revised draft is attached to this order as Attachment A. Specific revisions and the rationale for these proposed changes are described below.

Paragraph 1. A definition of "company" is added. Subparagraph (e) is also added to improve understanding between the companies and the Commission with regard to public communication. Additionally, some stylistic changes are made throughout the document to modernize the format and improve clarity.

Paragraph 2. This paragraph is added pursuant to the Nebraska Legislature's 2024 Legislative Bill 1031, Section 13, now codified at Neb. Rev. Stat. § 86-1031.

Paragraph 3. Pursuant to comments made at the workshop, the timeframe for reporting the outage is clarified to be based upon hours passed rather than days. The time period is shortened from five days to three days in order to improve the speed of communication. Additional requirements regarding interim reports and corrections of errors are added to improve accuracy of communication.

Paragraph 4. This section clarifies what must be included in a final written report of a service interruption. The Commission has encountered confusion due to some providers using different formats for submitted reports; therefore, this section requires that providers use forms prepared by the Commission and containing responses to all required fields. This requirement is also revised to shorten the timeframe within which a company may submit a report to five business days following restoral of service.

Additionally, information regarding impact to public safety answering points ("PSAPs") is requested in order to ensure communication regarding impact to 911 services. The language in this section was changed from "impacted" to "affected by the outage" based on comments received.⁸

⁸ Windstream Comments at 2.

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Paragraph 5. These proposed revisions make significant adjustments to the definition of "service outage." It is the understanding of the Commission that the definition currently in place has caused significant confusion regarding what is or is not required to be reported under the current policy. The Commission therefore proposes to adopt a definition that is consistent with the federal definition of "outage," found at 47 C.F.R. § 4.5(a).⁹

With regard to threshold reporting requirements, the Commission declines to remove the standard of 100 access lines. However, the Commission recognizes that some exchanges may not have one hundred access lines to report. Therefore, the Commission proposes that a service interruption should include outages which affect eighty percent or more of the access lines in any given exchange.

In comments, RIC proposed a definition of the term "significant degradation" which would effectively mean an "inability to communicate."¹⁰ The Commission declines to adopt RIC's recommended definition at this time, as the proposed definition of "outage" relies on established federal precedent. Additionally, the Commission notes that a significant degradation may not result in a full inability of users to communicate, as suggested by RIC. For example, a recurrent loud beeping or static sound might not entirely impede parties from communicating, but would certainly be an inconvenience and significant degradation of the call quality. The Commission wishes to capture degradations of the network as well as outages with this policy. Therefore, the Commission proposes to follow federal guidance with regard to the interpretation of this term.

⁹ 47 C.F.R. § 4.5(a) defines "outage" as "a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network." Pursuant to RIC's comments, this draft also adjusts this definition to apply to the terms "service interruption," "interruption," and "outage" interchangeably. See RIC Comments at 2.

¹⁰ In comments, Windstream also requested clarification of this term. Windstream comments at 2.

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Also in Paragraph 5, the Commission previously proposed requiring the reporting of any loss of service to schools, civic centers, financial institutions, and large-scale shopping centers. In discussion at the workshop and in comments, this proposed language was criticized as unclear.¹¹ The Commission generally agrees with these comments and has removed most of these items from the listed facilities requiring outage reporting. However, due to the importance of educational institutions, the Commission has left the term "schools" in the draft policy and included a definition for this term.

Paragraph 6. Based on feedback received at the workshop, the Commission adjusted this paragraph to be separately numbered. The Commission further received feedback regarding the relevant time period of planned outages. New to this draft policy is an upper limit of the scheduled outage of four hours, based upon feedback received at the workshop. This paragraph has also been revised to clarify that planned and scheduled outages of less than thirty minutes do not require advance customer notification.¹²

H E A R I N G

The changes described above and proposed in Attachment A to this order have not been adopted. The Commission finds that further feedback on these proposed changes is warranted, and therefore, a hearing in this matter should be scheduled. At hearing, the Commission seeks comments and feedback regarding the draft policy attached hereto as Attachment A. Interested parties are welcome to submit exhibits at hearing, including but not limited to redline drafts of the proposed policy.

A hearing is therefore scheduled on **Monday, September 30, 2024 at 10:00 a.m. Central Time** in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska 68508, and via WebEx, available at <https://psc.nebraska.gov/stream>. If auxiliary aids or reasonable accommodations are needed for attendance at the workshop, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven (7) days is needed when requesting an interpreter.

¹¹ See Cox Comments at 3-4; RIC Comments at 4.

¹² See Windstream Comments at 2-3.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a hearing in the above-captioned matter shall be held on **Monday, September 30, 2024 at 10:00 a.m. Central Time** in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska and via videoconference as set forth above.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 20th day of August, 2024.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Eric M. Hamler

[Signature]

Tim Schram

Kevin Stocker

[Signature]

Chair

ATTEST:

Thomas W. Golden

Executive Director

Nebraska Public Service Commission
Service Interruption and Outage Reporting Requirements

1. Each local exchange carrier certificated in Nebraska (“company”) shall report to the Public Service Commission (“Commission”), orally or in writing, any service interruptions described below in subsection (5) within one hundred twenty ~~(120)~~ minutes of the company’s discovery of such interruptions. -If the Commission is closed at the conclusion of the one hundred twenty ~~(120)~~-minute period and the interruption has not been reported, the company shall report the interruption within one hundred twenty ~~(120)~~-minutes of the Commission’s opening for business. -In its initial report the company shall provide the following information:
 - (a) The date and time of the interruption;
 - (b) The geographic area affected;
 - (c) Cause of the outage and estimated restoration time, if known;
 - (d) Estimated number of working access lines affected by the outage; and
 - (e) A listing of any public safety answering points, government officials, other agencies, or news media notified of the outage.

2. If a company is required to file reports with the Federal Communications Commission (“FCC”) regarding 911 service outages, the company shall also file copies of such reports with the Commission. The reports filed with the Commission shall follow the same timelines and provide the same information as required by the FCC.

- ~~2.3.~~ _____ If the interruption extends beyond ~~five (5) days~~ seventy-two hours, interim reports containing the information required by subsection (1) shall be submitted to the Commission in writing every five (5) day on a daily basis beginning on the third calendar day following ~~five (5) days from~~ the start of the interruption. Such interim reports must include any relevant additional information obtained since the previous report was filed, and correct any errors in previously filed reports.

4. A final written report shall be submitted to the Commission within ~~fourteen (14)~~ five business days from the date of restoration of service.
 - (a) The final written report shall be submitted using forms prepared by the Commission and containing responses to all required fields.- In the final report the company shall provide the following information:
 - i. The date and time of the interruption;
 - ii. The geographic area affected;
 - iii. Actual restoration date and time;

- iv. The name of the affected central office(s) ~~along with the switch manufacturer(s);~~
- v. The type of equipment or facility involved with the outage if the outage is not central office related, ~~including age of the equipment;~~
- vi. If the outage was a result of a cable cut, identify:
 - 1. The contractor doing the work (or general public if applicable)
 - 2. What type of lines were cut (copper or fiber)
 - 3. Were locates requested?
 - a. Were locates completed?
 - b. If so, who performed the locates
 - c. Were locates correct?
- vii. Number of working access lines affected;
- ~~vii.~~ viii. Whether service to any PSAP in Nebraska was affected by the outage, and if so, to what extent;
- ~~viii.~~ ix. The number of customer reports received related to the outage, if readily available;
- ~~ix.~~ x. Description of corrective action taken.

(b) The Final Report must include any relevant additional information obtained since the previous report was filed, and must correct any errors in previously filed reports.

~~(b)~~ (c) If the initial or interim written report contains the information required in subsection (3) and is marked as Initial or Interim and Final report, no subsequent report is required.

~~3.5.~~ 5. For the purposes of reporting under this ~~rule~~ policy, ~~at the terms “service interruption,” “interruption,” and “outage” shall refer to~~ is defined as one or more of the following:

- (a) Any significant degradation in the ability of an end user to establish and maintain a channel of communications by use of a company or its affiliate’s local exchange or long distance facilities, affecting service to one hundred or more of the company’s access lines or eighty percent of the access lines in any given exchange, whichever is smaller, for thirty minutes or longer;
- (b) Complete loss of extended area service or toll trunk groups in a central office for thirty minutes or longer;
- (c) Any loss of service relating to company operated 911 equipment or facilities that causes isolation of working lines in any exchange from 911 access for thirty minutes or longer;

(d) Any loss of service to airports, schools, military facilities, hospital facilities, public safety answering points, police stations, or fire houses, for thirty minutes or longer.

~~(a) Any service outage of a company's (LEC's) intraLATA long distance facilities for more than thirty (30) minutes.~~

~~(b) A service outage for thirty (30) minutes or longer affecting an exchange or five hundred (500) working lines in any NXX per central office excluding planned and scheduled outages under thirty (30) minutes.~~

~~(c) Complete loss of EAS or toll trunk groups in a central office for thirty (30) minutes or longer.~~

~~(d) Loss of local distribution facilities affecting service to one hundred (100) or more of the working lines in an exchange for thirty (30) minutes or longer.~~

~~(e) Any service outage of company operated 911 equipment or facilities which causes isolation of working lines in any exchange from 911 access for thirty (30) minutes or longer.~~

~~(f) The loss of service to airports, military facilities, or hospital facilities affecting public safety.~~

For purposes of reporting under this policy, the term "schools" shall include educational institutions providing education for grade levels K-12, but excluding homeschools, daycares, and independent learning sites.

6. Service interruptions do not include a loss of service which:

(a) Is planned and scheduled, occurs between midnight and 6:00 a.m. local time, and is of a duration less than thirty minutes; or

~~(a)~~ (b) When notice has been provided to affected customers and affected PSAPs at least twenty-four hours in advance of the planned and scheduled outage, and the outage does not exceed four hours.