



PUBLIC NOTICE

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FCC SEEKS PUBLIC COMMENT ON NINTH ANNUAL REPORT TO CONGRESS ON STATE COLLECTION AND DISTRIBUTION OF 911 AND ENHANCED 911 FEES AND CHARGES

PS Docket No. 09-14

Comment Date: March 9, 2018

Reply Comment Date: March 26, 2018

The Federal Communications Commission (Commission) today releases its Ninth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges (Report). The Commission submits the Report to Congress annually pursuant to the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act), which requires that the Commission report whether 911 fees and charges collected by the states, the District of Columbia, U.S. territories, and Indian territories (states and other reporting entities) are being used for any purpose other than to support 911 and Enhanced 911 (E911) services. By this public notice, the Commission solicits public comment on the Report and the information provided therein to the Commission by states and other reporting entities.

The Report covers the collection and distribution of 911 and Enhanced 911 fees and charges for the calendar year ending December 31, 2016, and was submitted to Congress on December 29, 2017.¹ The Report contains detailed state-by-state information on the number and type of 911 calls, the number of Public Safety Answering Points (PSAPs) and telecommunicators, expenditure of funds for Next Generation 911 (NG911) services, deployment of Emergency Services IP Networks (ESInets) and text-to-911 service, establishment of programs to support PSAP cybersecurity, and the extent of state-level oversight and auditing of collection and use of 911 fees. Forty-six states, the District of Columbia, American Samoa, and the United States Virgin Islands responded to the 2017 data request.²

- **Fee Diversion.** The Report identifies six states as diverting or transferring a portion of collected 911 fees and charges for non-911 related purposes in 2016.³ As an initial matter, we seek comment on the sufficiency and accuracy of the reported information, including additional

¹ A copy of the Report and past reports can be found on the Commission's website at <https://www.fcc.gov/general/911-fee-reports>.

² Information submitted by the states and other reporting entities can be viewed at <https://www.fcc.gov/general/9th-annual-911-fee-report-state-filings>. Missouri, Montana, New York, Oklahoma, Guam, Northern Mariana Islands, and Puerto Rico did not file reports and thus did not describe the disposition of their collected fees, if any.

³ States in this category that filed reports include Illinois, New Jersey, New Mexico, Rhode Island, and West Virginia. Although New York did not file a report this year, the Report finds that it diverted 911 fees for general purpose and other public safety-related uses.

information concerning the specific impact, if any, that such diversion has had on the provision of 911 service in those states. We also seek comment on whether there have been any other instances of fee diversion by states or local jurisdictions not identified in the Report, including counties or other jurisdictions in states that have local or hybrid fee collection programs.

Secondly, we seek comment on potential ways to dissuade states and other jurisdictions from instituting 911 fee diversion. In 2012, Congress passed the Next Generation 911 Advancement Act, Public Law 112-96 (2012 Act), which dedicated \$115 million to support future matching grants to eligible states and U.S. territories for the implementation and operation of 911, E911, and NG911 services and applications, migration to IP-enabled emergency networks, and training public safety personnel involved in the 911 emergency response chain.⁴ Section 6503 of the 2012 Act requires applicants seeking to receive grants under this program to certify that no portion of any designated 911 charges imposed by the state or other taxing jurisdiction within which the applicant is located are being obligated or expended “for any purpose other than the purposes for which such charges are designated or presented.” We seek comment on whether states and other jurisdictions have altered practices in order to avoid losing eligibility to participate in the grant program. We also seek comment on other mechanisms, including Commission action, which can create incentives for state and other jurisdictions to avoid diverting 911 fees to non-911 purposes. For example, proposals for Commission action have included barring states that divert 911 fees from imposing 911 fees on interstate calls, and prohibiting service providers from collecting and remitting 911 fees back to state or other jurisdictions that divert those fees to other uses.⁵

- **NG911 Expenditures.** Thirty-eight states and the District of Columbia reported engaging in NG911 programs in calendar year 2016. The total amount of reported NG911 expenditures from 911/E911 fees was \$205,494,105, or approximately 7.4 percent of total 911/E911 fees collected in 2016. In 2014, 2015 and 2016, NG911-related expenditures totaled approximately \$108 million, or 4.5 percent of total fees collected, \$227.5 million, or 9 percent of total 911 fees, and \$164.8 million, or 6 percent of total fees, respectively.⁶ We seek comment on whether NG911 expenditures identified over the past three years are representative of overall NG911 expenditures, indicative of a trend in expected future expenditures, and whether the identified expenditures are adequate for implementation of NG911 services and infrastructure nationwide. Thirteen states, American Samoa, and the US Virgin Islands reported not spending any money on NG911. We seek comment on the impact of this failure to prepare for impending communications sector IP technology transition, including the impact on commercial providers and on consumers and communities.
- **Oversight and Auditing.** As in previous years, the Report finds that almost every reporting jurisdiction collects 911 fees from in-state subscribers, but many states continue to lack authority to audit service providers to verify that the collected fees accurately reflect the number of in-state subscribers served by the provider. We seek comment on the impact that this lack of auditing authority has on these states and local entities and any additional barriers towards their effective oversight of fee collection.

⁴ The 2012 Act tasked the National Highway Traffic Safety Administration (NHTSA) and the National Telecommunications and Information Administration (NTIA) with administering the grant program, which will be implemented at a later date to be determined. *See* The National 911 Program, at https://www.911.gov/project_911grantprogram.html.

⁵ *See* Federal Communications Commission, Blog of Commissioner Michael O’Rielly, States Must Stop Raiding 9-1-1 Fees, Mar. 1, 2017, at <https://www.fcc.gov/news-events/blog/2017/03/01/states-must-stop-raiding-9-1-1-fees>.

⁶ *See*, respectively, 6th Annual Report to Congress at 16, 7th Annual Report to Congress at 70, and 8th Annual Report to Congress at 72.

Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System ("ECFS"). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C., 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

For additional information on this proceeding, contact Timothy May, Policy & Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-1463 or timothy.may@fcc.gov.