

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
911 Fee Diversion)	PS Docket No. 20-291
)	
New and Emerging Technologies 911 Improvement Act of 2008)	PS Docket No. 09-14

**NOTICE OF FINAL RULES
PETITION FOR RECONSIDERATION OF**

**CITY OF AURORA 911 AUTHORITY
CITY AND COUNTY OF DENVER – DENVER 911
DELTA COUNTY 911 AUTHORITY
DOUGLAS COUNTY EMERGENCY TELEPHONE SERVICE AUTHORITY
EAGLE COUNTY EMERGENCY TELEPHONE SERVICE AUTHORITY
EL PASO TELLER COUNTY EMERGENCY TELEPHONE SERVICE
AUTHORITY
FREMONT COUNTY E911 AUTHORITY
GARFIELD COUNTY EMERGENCY COMMUNICATIONS AUTHORITY
GRAND JUNCTION REGIONAL EMERGENCY TELEPHONE AUTHORITY
GUNNISON/HINSDALE COMBINED EMERGENCY TELEPHONE SERVICE
AUTHORITY
KIT CARSON COUNTY COMMUNICATIONS CENTER
LARIMER EMERGENCY TELEPHONE AUTHORITY
MONTROSE EMERGENCY TELEPHONE SERVICE AUTHORITY
OURAY COUNTY EMERGENCY TELEPHONE SERVICE AUTHORITY
SAN MIGUEL EMERGENCY TELEPHONE SERVICE AUTHORITY
WESTERN COLORADO REGIONAL DISPATCH CENTER**

The above Colorado emergency telephone service entities hereby submit their Petition for Reconsideration to the Federal Communications Commission’s (“FCC”) Notice of Final Rulemaking (“NFRM”) concerning the Rules on 911 Fee Diversion pursuant to section 902 of the federal Consolidated Appropriations Act, 2021, Division FF, Title IX:

1. We take this opportunity to reiterate points made in our comments to the proposed Rules on 911 Fee Diversion in this proceeding regarding the protections

provided by Colorado law against the diversion of 911 fees in our state. We respectfully request the FCC consider revising the final rules to fully recognize a safe harbor for states with laws like Colorado's as complying with the final rules.

2. As stated in our comments, Colorado law ("CO 911 Statutes") prohibits 911 fee diversion at the state and local level in our State.

(a) We encourage the FCC to include a safe harbor for 911 entities that utilize funds from 911 fees in compliance with state laws substantially equivalent to ours.

(b) The legislative declaration to the CO 911 Statutes states, "The primary purpose of the charges and surcharges authorized . . . is to defray the reasonable direct and indirect costs of providing emergency telephone service. The charges authorized . . . do not raise revenue for the general expenses of government." §29-11-100.2(2)(b)(II), Colorado Revised Statutes ("C.R.S.").

(c) The CO 911 Statutes were strengthened in this regard in 2020:

(1) 911 fees must be deposited into separate funds at the state and local level, and monies in those separate funds cannot be used for purposes other than 911.

(2) 911 fees remaining in the separate funds at the end of any fiscal year remain in those funds to be used in the following fiscal year for 911 purposes.

(3) At the state level, 911 fees are largely passed through to local 911 provider entities, except for a very small percentage to cover administrative costs of the Colorado Public Utilities Commission and the Colorado Department of Revenue in collecting statewide fees and paying for statewide 911 infrastructure grants. Local 911 fees and statewide 911 fees passed through to local 911 entities can only be used for the following:

(4) Costs associated with the lease or purchase, installation, engineering, programming, maintenance, monitoring, security, planning, and oversight of equipment, facilities, hardware, software, and databases used to receive and dispatch 911 calls;

(5) Charges of basic emergency service providers (BESPs) for the provision of basic emergency service;

(6) Costs related to the provision of the emergency notification service and emergency telephone service, including costs associated with total implementation of both services by emergency service providers, including costs for

programming, emergency medical services provided by telephone, radio equipment within the PSAP, and training for PSAP personnel;

(7) Costs associated with the operation of emergency telephone service and emergency notification service, including recordkeeping, administrative, and facilities costs, whether the facilities are leased or owned;

(8) Membership fees for state or national industry organizations supporting 911; and

(9) Other costs directly related to the continued operation of the emergency telephone service and the emergency notification service.

(10) If money is available after the costs and charges enumerated above are fully paid in a given year, the money may be expended for:

a) Public safety radio equipment outside the PSAP; or

b) Personnel expenses necessarily incurred for a PSAP or the governing body in the provision of emergency telephone service.

§29-11-104(2) and (3), C.R.S.

3. The above illustrates why in Colorado 911 charges cannot be swept into the general fund of general government entities. As shown above, the funds are specifically earmarked, and Colorado statute specifies the funds must go toward 911. See §29-11-104(3), C.R.S.

4. The majority of Colorado 911 Centers are funded through a combination of local government general funds and 911 fees. 911 fees, on their own, would be insufficient to fund the total cost of 911 centers in Colorado. However, 911 fees are an essential portion of 911 Center funding. Because 911 funding allocation in Colorado has historically been a local government responsibility, local government has and should continue to retain discretion, within rational parameters, to use the 911 funds.

5. 911 entities in Colorado are commonly independent political subdivisions of the state formed by a city, county, city and county, district providing emergency services, or a combination of such governmental units. Often 911 expenditures in Colorado are made not just by PSAPs, but by these other independent entities making the provision of 911 services possible, for example, by providing the GIS information necessary for 911 service. PSAPs in Colorado do not impose 911 charges. Those charges are imposed and collected by the 911 authorities in order to provide support for such PSAP needs as 911 equipment maintenance, GIS for 911 mapping today and NG911

in the future, emergency notification service, and other functions for providing 911 service.

6. For the above reasons, the final FCC rules should allow a safe harbor for existing State legislation equivalent to Colorado's - that does not allow for sweeping 911 fees into the general fund of the State or local governments without restrictions on use.

7. As technology changes and expands, limiting 911 fee uses could restrict the ability to provide additional resources and redundancies, such as partnering with broadband, radio networks and First Net. Making these decisions must be in a local government's purview. Local governments know their needs, terrain, population, area mass and other details that the FCC does not have insight into. Colorado has specific weather, terrain, and area mass conditions that are completely different from other states. For example, there are counties in Colorado that have a larger area, but less population than most U.S. counties. This creates a greater need for funds to communicate with first responders.

8. We strongly encourage the FCC to reconsider and include the following possible additional wording to be added to final rule §9.23:

(f) Factors considered for Diversion. In determining whether an obligation or expenditure of a 911 fee or charge is for a purpose or function other than purposes or functions designated by the Commission as acceptable pursuant to § 9.23, the following factors shall be considered among other relevant factors—

(1) The nature of such noncompliance and the extent to which such noncompliance was intentional.

(2) There is no Diversion if it is shown by a preponderance of evidence that the obligation or expenditure for a purpose or function other than purposes or functions designated by the Commission as acceptable pursuant to § 9.23 was not intentional and resulted from the exercise of good faith judgment in applying these rules to particular circumstances.

9. We also strongly encourage the FCC to reconsider and include in final rule §9.24 some time limit in which the FCC will respond to petitions for additional purposes and functions.

CONCLUSION

We thank the FCC for the opportunity to further comment on these rules in this Petition for Reconsideration. As indicated in our initial comments, we believe Colorado has never been designated as a diverter of 911 fees because the CO 911 Statutes prevent

the misuse of 911 funds. We believe that the FCC's final rules can be further clarified by the revisions discussed above. For these reasons we ask that the FCC consider our Petition for Reconsideration.

Respectfully submitted,

CITY OF AURORA 911 AUTHORITY

CITY AND COUNTY OF DENVER 911

By: _____ /s

By: _____ /s

Name: Scott Newman

Name: Murphy Robinson

Title: Chief Information Officer

Executive Director - Department of
Title: Public Safety

DELTA COUNTY 911 AUTHORITY

DOUGLAS COUNTY EMERGENCY
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By: _____ /s

By: _____ /s

Name: Connie L. Johnson

Name: Timothy Gorman

Title: Communications Supervisor

Title: President

EAGLE COUNTY EMERGENCY
TELEPHONE SERVICE AUTHORITY

EL PASO TELLER COUNTY
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By: _____ /s

By: _____ /s

Name: Mark Novak

Name: Carl Simpson

Title: Chair

Title: Chief Executive Officer

FREEMONT COUNTY E911
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By: _____ /s
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KIT CARSON COUNTY
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LARIMER EMERGENCY TELEPHONE
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By: _____ /s
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OURAY COUNTY EMERGENCY
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By: _____ /s
Name: Randy Cassingham
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Name: Chris Broady

Name: Mandy L. Stollsteimer

Title: Chair

Title: Executive Director