

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 17-1

April 10, 2017

Petition of the State 911 Department for Approval of Fiscal Year 2017 Expenditures, Fiscal Year 2018 Development Grant Amount, Fiscal Year 2018 Incentive Grant Regional Emergency Communications Center Category Amount, and Fiscal Year 2018 Incentive Grant Regional Public Safety Answering Points Serving Two Communities Amount

FINAL ORDER

APPEARANCES:

Frank Pozniak, Executive Director
Louise McCarthy, General Counsel
State 911 Department
151 Campanelli Drive, Suite A
Middleborough, MA 02346
FOR: STATE 911 DEPARTMENT
Petitioner

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I. INTRODUCTION AND PROCEDURAL HISTORY

On January 9, 2017, the State 911 Department (“911 Department”) petitioned the Department of Telecommunications and Cable (“DTC”) for approval of increases to certain budgetary items, as outlined by statutory requirements. Specifically, the 911 Department requests approval for increases to its: (1) projected Fiscal Year (“FY”) 2017 expenditures from its FY2016 final expenditures; (2) FY2018 Development Grant amount; (3) Incentive Grant Regional Public Safety Answering Points (“PSAPs”) Serving Two Communities category allocation percentage amount for FY2018; and (4) Incentive Grant Regional Emergency Communication Center (“RECC”) category allocation percentage amount for FY2018. *See* Petition of the State 911 Dep’t for Approval of FY2017 Expenditures, FY2018 Development Grant Amount, FY2018 Incentive Grant RECC Category Amount, and FY2018 Incentive Grant Regional PSAPs Serving Two Communities Amount (“Petition”) at 1, 14, 17-19 (2017). The DTC has ninety (90) days to review and issue a final decision on the Petition before these requests are deemed approved. *See* G.L. c. 6A, §§ 18B(i)(4)-(5), 18H(c).

The DTC issued its first set of Information Requests (“IRs”) to the 911 Department on January 30, 2017. First Set of Info. Requests of the Dep’t of Telecomms. & Cable to the State 911 Dep’t (Jan. 30, 2017). The 911 Department filed its responses on February 8, 2017. Responses to First Set of Info. Requests of the Dep’t of Telecomms. & Cable to the State 911 Dep’t (Feb. 8, 2017) (“IR 1-1 through IR 1-23,” respectively). On February 16, 2017, the DTC conducted public and evidentiary hearings on these matters. *See generally* Transcript of Record (“Tr.”). At the public hearing, the DTC received written public comments from CTIA—The Wireless Association (“CTIA”). Tr. at 9-10, 123; Comments of CTIA (Feb. 16, 2017) (“CTIA

Comments”). The DTC received no additional public comment nor did it receive any intervention requests. On March 2, 2017, the 911 Department responded to ten Record Requests (“RRs”) issued by the DTC at the evidentiary hearing. Responses to Record Requests of the Dep’t of Telecomms. & Cable to the State 911 Dep’t (Mar. 2, 2017) (“RR-1 through RR-10,” respectively).

In this Final Order, the DTC reviews the 911 Department’s revenue calculations for FY2015 through FY2018 and approves the 911 Department’s projected FY2017 expenditures, the FY2018 Development Grant amount, and the Incentive Grant allocation percentage amounts for FY2018 for the RECC category and for the PSAPs Serving Two Communities category based on the following analysis and findings.¹ In addition, the DTC discusses the stability of the Disability Access/Enhanced 911 Service Surcharge (“surcharge”) and the condition of the Enhanced 911 (“E911”) Fund.

II. ANALYSIS AND FINDINGS

A. Standard of Review

State law requires the 911 Department to petition the DTC for approval of certain budgetary expenditures and percentage allocations for funds disbursed from the E911 Fund. In particular, the 911 Department must petition the DTC if: (1) projected total expenditures exceed total expenditures of the previous fiscal year by 10% or more; (2) the Training Grant allocation is at or above 7.5% of the total surcharge revenues of the previous fiscal year; (3) the Support

¹ The 911 Department also requested that the DTC consider the Petition as satisfying for FY2016 the requirement under G.L. c. 6A, § 18H(b) that the 911 Department report annually to the DTC on the financial condition of the E911 Fund and on the 911 Department’s assessment of the new developments affecting the E911 system. Petition at 1 n.1. The DTC grants the 911 Department’s request and finds in this instance that the Petition satisfies the requirements of G.L. c. 6A, § 18H(b) for FY2016 and, due to the timing of this proceeding, FY2017.

Grant allocation is at or above 31.25% of the total surcharge revenues of the previous fiscal year; (4) the Wireless State Police PSAP Grant allocation is at or above 6% of the total surcharge revenues of the previous fiscal year; (5) any adjustment to the allocation percentages attributed to the four Incentive Grant categories² increases “the initial total allocation” of the Incentive Grant by 10% or more; or (6) an adjustment to the Development Grant allocation increases “the initial funding allocated to this grant” by 10% or more. G.L. c. 6A, §§ 18B(i)(1)-(5), 18H(c).

State law also requires that expenditures from the E911 Fund by the 911 Department be prudently incurred and:

[A]ssociated with: the lease, purchase, upgrade or modification of primary and regional PSAP customer premises equipment and the maintenance of such equipment; network development, operation and maintenance; database development, operation, and maintenance; training of 911 telecommunicators regarding the receipt and use of enhanced 911 service information; education of consumers regarding the operation, limitation, role and responsible use of enhanced 911 service; grants associated with enhanced 911 service as set forth in subsection (i) and any other grant approved by the [911 Department] associated with providing enhanced 911 service in the commonwealth; the recurring and nonrecurring costs of communication services providers in providing enhanced 911 service in the commonwealth to the extent required by federal or Massachusetts law or regulation or federal or Massachusetts agency decision or order; and other expenses incurred by the [911 Department] in administering and operating the enhanced 911 system in the commonwealth.

G.L. c. 6A, § 18B(f).

As such, when reviewing 911 Department petitions, the DTC must determine whether the 911 Department’s allocations and expenditures are, or will be, prudently incurred. *See Petition*

² The statute specifies allocations for each Incentive Grant category as follows: (1) for regional PSAPs serving 2 municipalities, 0.5% of the total surcharge revenues of the previous fiscal year; (2) for regional PSAPs serving 3 to 9 municipalities, 1.0% of the total surcharge revenues of the previous fiscal year; (3) for regional PSAPs serving 10 or more municipalities, 1.5% of the total surcharge revenues of the previous fiscal year; and (4) for RECCs, 2.0% of the total surcharge revenues of the previous fiscal year. G.L. c. 6A, § 18B(i)(4).

of the State 911 Dep't to Adjust the E911 Surcharge, D.T.C. 15-2, *Final Order* (June 18, 2015) ("15-2 Order") at 4-7; *Petition of the State 911 Dep't for Approval of the Fiscal Year 2011 Dev. Grant Amount, & Fiscal Year 2010 Expenditures*, D.T.C. 10-1, *Order* (Apr. 5, 2010) ("10-1 Order") at 5-6 (approving an increase in the FY2011 Development Grant allocation under G.L. c. 6A, § 18B(i)(5)); G.L. c. 6A, § 18B(f) (mandating that the 911 Department "disburse funds from the [E911] Fund for prudently-incurred expenses"). When examining whether an expense is, or will be, prudently incurred, the DTC assesses whether circumstances, at the time the decision was made, adequately justified the reasonableness of the expense. *See Petition of the Statewide Emergency Telecomms. Bd. to establish a wireline surcharge, for the period Jan. 1, 2008 to June 30, 2008, to recover prudently incurred costs associated with the provision of wireline Enhanced 911 servs., relay servs. for TDD/TTY users, commc'ns equip. distribution for people with disabilities, & amplified handsets at pay tels.*, D.T.C. 07-7, *Order* (Feb. 8, 2008) ("07-7 Order") at 7, 9, 19. The DTC will not substitute its own judgment for that of the 911 Department as to what is reasonably required to perform the 911 Department's statutory obligations, and the 911 Department has the authority to determine which categories of equipment, training, and support expenditures it will submit to the DTC for approval. *See Investigation by the Dep't of Telecomms. & Energy to establish a surcharge to recover prudently incurred costs associated with the provision of wireline enhanced 911 servs., relay servs. for TDD/TTY users, commc'ns equip. distribution for people with disabilities, & amplified handsets at pay tels.*, D.T.E. 03-63-Phase I, *Order* (July 14, 2003) at 16 (finding that while the State

Emergency Telecommunications Board (“SETB”)³ must “support the reasonableness of its proposed expenditures, the [Department of Telecommunications and Energy (“DTE”)]⁴ lacks the jurisdiction to tell the SETB what categories of expenditure it is required to propose”).

However, even though the 911 Department may make a determination that a certain expense is needed, all expenses must still be prudently incurred. *See 07-7 Order* at 8. Expenses are deemed prudent if they are necessary for the funding of the 911 Department’s provision of E911 services and programs, including disability access programs in the Commonwealth and, at the same time, maintain a stable surcharge level. *See 07-7 Order* at 9; *Petition of the Statewide Emergency Telecomms. Bd. to establish a wireline surcharge, for the period Jan. 1, 2008 to June 30, 2008, to recover prudently incurred costs associated with the provision of wireline Enhanced 911 servs., relay servs. for TDD/TTY users, commc’ns equip. distribution for people with disabilities, & amplified handsets at pay tels.*, D.T.C. 07-7, *Interim Order* (Nov. 30, 2007) at 7; *Investigation by the Dep’t of Telecomms. & Energy to establish a permanent surcharge to recover prudently incurred costs associated with the provision of wireline Enhanced 911 servs., relay servs. for TDD/TTY users, commc’ns equip. distribution for people with disabilities, & amplified handsets at pay tels.*, D.T.E. 06-4, *Order* (Dec. 1, 2006) at 27-28, 35.

Given the potentially competing interests of ensuring modern, robust E911 services and maintaining a stable surcharge, the DTC has stated that the 911 Department has the authority to determine what is necessary for the provisioning of E911 service, but that the necessity must be viewed in relation to cost. *See 10-1 Order* at 8; *07-7 Order* at 7. Accordingly, the DTC’s

³ The SETB was the predecessor agency to the 911 Department and was dissolved on February 1, 2009. *See* 2008 Mass. Acts, c. 223.

⁴ The DTE, the DTC’s predecessor agency, was dissolved on April 11, 2007. *See* 2007 Mass. Acts, c. 19.

mandate is to strive to maintain a reasonable, stable surcharge in order to protect the interests of communications service ratepayers. *See Petition of the State 911 Dep't for Approval of Fiscal Year 2012 Incentive Grant Reg'l Emergency Commc'ns Ctr. Category Amount; State 911 Dep't Emergency Med. Dispatch Grant; & Fiscal Year 2011 Expenditures*, D.T.C. 11-2, *Order* (May 27, 2011) ("*11-2 Order*") at 4-5. The DTC thus must oversee the costs of provisioning E911 services, but that oversight is limited to determining whether the 911 Department's expenses are prudently incurred. *See id.*

B. Analysis of Projected Revenues

E911 Fund revenues are generated primarily from a surcharge that is "imposed on each subscriber or end user whose communication services are capable of accessing and utilizing an [E911] system" and are the funding source for the 911 Department's expenditures. G.L. c. 6A, § 18H(a); *see also* RR-7; *Petition* at 3-4; G.L. c. 6A, § 18B(f) (describing the expenditures to be disbursed from the E911 Fund by the 911 Department); G.L. c. 10, § 35JJ (describing different possible revenue sources for the E911 Fund). The E911 Fund's projected annual surcharge revenue is derived by multiplying the average number of monthly subscribers by the surcharge to produce the projected monthly surcharge revenue.⁵ *See* RR-7; *15-2 Order* at 7. This averaged monthly revenue is then reduced by 1.0% to account for a carrier administrative fee and 2.0% to account for uncollectible revenue. *See* RR-8; *Tr.* at 110-111; *15-2 Order* at 7. The adjusted monthly revenue is then multiplied by twelve to get the annual projected surcharge revenue for each fiscal year. *See 15-2 Order* at 7. The 911 Department reports \$75,701,137 in surcharge

⁵ The 911 Department tracks subscriber count by type of service provider on a monthly basis. *See* RR-7; *15-2 Order* at 7 n.8. This subscriber count is averaged to determine the overall number of subscribers per month per carrier type. RR-7; *15-2 Order* at 7 n.8.

revenue for FY2015 and \$121,055,609 in surcharge revenue for FY2016, and it projects surcharge revenues of \$106,876,695 for FY2017 and \$104,695,538 each year for FY2018 through FY2021. *See* RR-10, Exh. C. The increase and subsequent decreases in surcharge revenues reflect surcharge adjustments made in FY2016 and FY2017.⁶ RR-10, Exh. C; Tr. at 112-113; Petition at 4. For each year, the projected total E911 Fund revenue also includes earned interest from the portion of the E911 Fund that the 911 Department invests.⁷ *See 15-2 Order* at 7-8. The DTC accepts the use of a static subscriber count to project revenues through FY2018 in this instance. However, because of technological advancements, communications markets can evolve rapidly. As a result, the DTC will not address projections beyond FY2018. As such, the DTC believes the 911 Department's method for calculating projected revenue for FY2015 through FY2018 is reasonable.⁸ *See id.* at 8.

⁶ For FY2015, the monthly surcharge was \$0.75. The DTC approved a temporary increase to the surcharge for FY2016 to \$1.25 with a reduction to \$1.00 beginning in FY2017. *See 15-2 Order* at 31-35.

⁷ The E911 Fund is managed by the State Treasurer. *See 15-2 Order* at 8 n.9; G.L. c. 29, § 23 (charging the State Treasurer with managing "all cash, funds, or investments under the control or jurisdiction of any state agency"). The Office of the State Treasurer reports the average interest rate for the Massachusetts Municipal Depository Trust each year. *See 15-2 Order* at 8 n.9.

⁸ The DTC notes that CTIA urged revision of the surcharge methodology imposed on prepaid wireless providers by the 911 Department. *See* CTIA Comments at 2-3; *see also* 560 C.M.R. § 3.00 ("Regulations Establishing an Equitable and Reasonable Method for the Remittance and Collection of a Surcharge on Prepaid Wireless Telephone Service"). CTIA argues that adoption of a point-of-sale ("POS") methodology would be a more appropriate methodology and would increase the E911 Fund's annual revenues. *See* CTIA Comments at 2 (urging the DTC to "encourage the 911 Department to adopt E911 surcharge rules that implement a [POS] methodology" or "urge the Legislature to compel the 911 Department to adopt" such a methodology) (citations omitted). This matter is outside the scope of the DTC's review in this case. The DTC determines it is not appropriate for it to dictate a collection methodology for prepaid wireless providers. Indeed, the 911 Department implemented these requirements as part of a formal rulemaking process, subject to appeal, in accordance with the Commonwealth's Administrative Procedure Act. *See generally* G.L. c. 30A.

C. Analysis of Projected Expenditures for FY2017

The 911 Department requests DTC approval of projected expenditures of \$178,907,992 for FY2017. *See* RR-10, Exh. C; Petition at 2. Since actual reported expenditures for FY2016 were \$89,976,516, the 911 Department's projected FY2017 expenditures represent an increase of greater than 10% from the previous fiscal year. *See* RR-10, Exh. C; Petition at 2. The 911 Department projects decreased expenditures for FY2018 and FY2019, at \$115,443,566 and \$94,623,414, respectively. *See* RR-10, Exh. C. As discussed above, the 911 Department is required to seek approval for projected total expenditures that exceed the total expenditures of the previous fiscal year by 10% or more, and the DTC reviews the reasonableness of such requests by inquiring into whether these expenses are, or will be, prudently incurred. *See* G.L. c. 6A, § 18H(c). The 911 Department's projected expenses for FY2017 are broken down into four major cost categories: (a) Administration; (b) Programs; (c) E911; and (d) Disability Access Programs. *See* RR-10, Exh. C; IR 1-3, Exh. A; Petition at 5-11. The largest increases to the 911 Department's expenditures involve items listed under the Programs and E911 cost categories. Notwithstanding these increases, the surcharge will remain at the same level without eliminating or reducing any other necessary expenditures. The DTC analyzes the prudence of the projected expenditures in each cost category below and determines that the 911 Department's projected FY2017 expenditures are necessary to the provision of E911 services and programs, including disability access programs, and are, or will be, prudently incurred.

1. Administration

The 911 Department's projected FY2017 administration expenses of \$7,029,756 are, or will be, prudently incurred. *See* RR-10, Exh. C; IR 1-3, Exh. A; Petition at 5. The 911 Department's administration expenses in FY2017 include salary costs, agency expenses, and capital projects. *See* RR-10, Exh. C; IR 1-3, Exh. A; Petition at 5.

The 911 Department projects FY2017 salary costs at \$5,119,943, compared to the FY2016 actual salary costs of \$4,042,451. *See* RR-10, Exh. C; IR 1-3, Exh. A; Petition at 5. The 911 Department explains that the increase in salary costs is attributable to full-time employee ("FTE") and contract positions⁹ and that the projections for salary expenses reflect contractual step increases and cost of living requirements negotiated by the National Association of Government Employees and the Commonwealth. Petition at 5. The 911 Department states that these positions are necessary to fulfill its statutory obligations. *Id.*; *see also* 2008 Mass. Acts, c. 223 ("An Act To Create A State 911 Department, Single 911 Surcharge And An Enhanced 911 Fund"). The increase in salary costs for FY2017 includes the backfill of two FTE and three contract positions, which the 911 Department deems necessary to fulfill its statutory obligations. *See* IR 1-5; Petition at 5. The DTC notes the responsibilities that the 911 Department's enabling legislation placed on the agency and finds that the projected increase in salary expenses is due to the 911 Department's fulfillment of its statutory responsibilities and contractual employment obligations arising from those responsibilities. *See 15-2 Order* at 11; 2008 Mass. Acts, c. 223. As a result, the projected FY2017

⁹ The two FTE positions are an accountant II, which became vacant due to an internal promotion, and a systems analyst, which became vacant due to a retirement. *See* IR 1-5. The employee contract positions include one TTY quality assurance position, one trainer, and one administrative attorney. *Id.*

salary expenses are necessary to the provisioning of E911 services and programs, including disability access programs, and are, or will be, prudently incurred.

The second item within the Administration category, agency expenses, is comprised of: (1) Employee Reimbursements; (2) Workers Comp; (3) Administrative Expenses; (4) Operational Supplies; (5) Utilities/Space Rental; (6) Consultant Services; (7) Operational Services; (8) Equipment Purchases; (9) Lease, Maintenance, Repair Services; (10) Building Maintenance, Repairs; and (11) IT Services, Equipment.¹⁰ *See* RR-10, Exh. C; IR 1-3, Exh. A; Petition at 5. The projected total agency expenses for FY2017 are \$1,819,813, an 8.3% increase from the 911 Department's FY2016 agency expenditures of \$1,680,238. *See* RR-10, Exh. C; IR 1-3, Exh. A. The largest driver of the projected increase in FY2017 agency expenses involves Utilities/Space Rental, which increases from \$315,112 in FY2016 to \$615,505 projected for FY2017. *See* RR-10, Exh. C; IR 1-3, Exh. A. The 911 Department states that this increase is attributed to the relocation of its offices and training facilities from Taunton to Middleborough and, further, that its new monthly lease includes services and costs previously attributed to the Operational Services and Building Maintenance and Repairs cost categories.¹¹ *See* IR 1-8(a).

The 911 Department attributes increases to Equipment Purchases to its need to replace three office copiers that were no longer sufficient to support the agency's needs, and it attributes increases to Lease, Maintenance, and Repair Services to expenses associated with repairs to its

¹⁰ These categories and permissible associated expenses derive from the Office of the Comptroller of the Commonwealth, which oversees and implements the Commonwealth's accounting system. *See* Tr. at 117-119; IR 1-8(b).

¹¹ As a result, the 911 Department projects decreased expenditures for FY2017 in these two categories, which include such services as security services, cleaning services, waste removal, building maintenance and repair, pest control, and grounds keeping services. *See* RR-10; IR 1-8; IR 1-3.

aging fleet of vehicles. *See id.* In addition, the 911 Department attributes a decrease to IT Services and Equipment to a decrease in the number of staff augmentation positions projected for FY2017, and it states that the reduction to Administrative Expenses¹² is a function of the indirect cost calculation. *Id.*; *see also* Tr. at 119 (discussing the basis for the indirect cost calculation, which is where the indirect cost rate negotiated by the Office of the State Comptroller applies to each expense category, and explaining that indirect costs increase when spending in those categories increase and also decrease when spending decreases); Office of the State Comptroller, *Expenditure Classification Handbook* (Nov. 2014), at 4-5 (providing instructions regarding Fringe and Indirect Costs); Exec. Office for Admin. & Finance, *Admin. Bulletin: Fringe Benefits, Payroll Taxes and Indirect Costs (ANF 5)*, (May 1, 2008). Finally, the 911 Department's agency expenses include Consultant Services, which provide overall support to the 911 Department on a number of projects.¹³ *See* IR 1-6. All of these agency expenses support the day-to-day functions used to operate an agency and thus are necessary to the 911 Department's provision of E911 services and programs, including disability access programs. The DTC finds that these expenses are, or will be, prudently incurred.

Capital projects, the final item within the Administration expenses category, is projected to be \$90,000 for FY2017, which is an 80.6% decrease from the FY2016 expenditures of \$464,631 for that category. *See* RR-10, Exh. C; IR 1-3, Exh. A. The 911 Department attributes FY2016 capital projects expenses to one-time costs associated with relocation of its office and

¹² In addition to indirect costs, administrative expenses include office supplies and other expenses specified by the Office of the State Comptroller. *See* Tr. at 118-119.

¹³ The 911 Department distinguishes Consultant Services listed under the administration expenses budget category from the NG Consultant Services listed under the E911 expenses category. *See* IR 1-6.

training facilities, whereas FY2017 capital projects expenses will involve the replacement of three vehicles as advised by the Operational Services Division's Office of Vehicle Management. *See* IR 1-7; Petition at 5. The 911 Department does not project any new capital project expenditures for FY2018. *See* RR-10, Exh. C; IR 1-3, Exh. A. The DTC determines that the 911 Department has submitted sufficient evidence to demonstrate that its FY2017 capital expenses are necessary to the provisioning of E911 and disability access programs, and are, or will be, prudently incurred.

2. Programs

Massachusetts law requires the 911 Department to administer several programs related to the provision of E911 services, including its training, public education, and grant programs. *See* G.L. c. 6A, § 18B(f), (i). For these three categories, the 911 Department projects FY2017 expenditures to be \$78,232,240.¹⁴ *See* RR-10, Exh. C; IR 1-3, Exh. A; Petition at 5-9. This represents a 60.6% increase in program expenses from FY2016, which totaled \$48,719,428. *See* RR-10, Exh. C; IR 1-3, Exh. A. This increase is primarily the result of higher surcharge revenues in FY2016,¹⁵ which determine allocations for most of the 911 Department's grant programs,¹⁶ as

¹⁴ Programs category expenditures previously included support for a wireless center in the Essex RECC. *See* RR-10; IR 1-3; *15-2 Order* at 12. The 911 Department shifted this expense to the Support and Incentive Grant categories beginning in FY2017. *See* IR 1-22.

¹⁵ In FY2016, the surcharge level was \$1.25, an increase from \$0.75 in FY2015.

¹⁶ The DTC notes that specific grant allocation amounts are mandated by statute, but final expenditures are dependent upon grant recipients seeking reimbursement for their relevant expenses in accordance with specific grant guidelines. *See* Tr. at 72-73, 77-81; IR 1-15, Att. G "Grant Guidelines"; G.L. c. 6A, § 18B(i) (establishing a threshold for each grant and requiring DTC approval if the projected allocation for a grant exceeds the established threshold). As a result, projected expenditures for grant allocations may regularly exceed actual expenditures for the previous fiscal year.

well as grant program deficiency and rollover payments.¹⁷ See RR-10, Exh. C; IR 1-3, Exh. A; G.L. c. 6A, § 18B(i). The DTC has reviewed each category given the 911 Department's requested increase in its overall FY2017 expenditures. See Petition at 2. As described below, the DTC determines that the 911 Department's projected program expenses for FY2017 are, or will be, prudently incurred.

a. Training

The 911 Department projects expenditures for the training program to increase from \$307,027 in FY2016 to \$500,000 in FY2017, and to remain at \$500,000 through FY2021. See RR-10, Exh. C; IR 1-3, Exh. A. Actual expenditures for this program have consistently decreased in recent years. See RR-10, Exh. C; IR 1-3, Exh. A. Although projected FY2017 expenditures reflect an increase from actual expenditures, the 911 Department is required by statute to disburse funds for prudently incurred expenses associated with the "training of 911 telecommunicators regarding the receipt and use of [E911] service information[.]" G.L. c. 6A, § 18B(f). Given the ongoing implementation of Next Generation 911 ("NG 911") in Massachusetts and the accompanying changes to the operation of E911 service, the DTC finds that these expenses are, or will be, prudently incurred for FY2017.

¹⁷ The 911 Department distinguishes deficiency payments from rollover payments. See Tr. at 74. In particular, deficiency payments are associated with Training Grants, EMD/Regulatory Compliance Grants, and Support and Incentive Grants, whereas rollover payments are associated with Development Grants. See RR-10, Exh. C. Deficiency payments for FY2017 involve payments made in FY2017 for contracts executed and completed in FY2016. See Tr. at 74; IR 1-12(a); IR 1-1. Rollover payments for FY2017 involve still-active, multi-year contracts for grants awarded in previous fiscal years. See Tr. at 74; IR 1-12(b), Att. F. As such, these deficiency and rollover payments total \$25,472,915 for FY2017 but are excluded from the calculations for FY2017 grant award percentage allocations. See RR-10, Exh. C; Tr. at 73-74; IR 1-3, Exh. A.

b. Public Education

In terms of public education, the 911 Department projects expenditures to increase from \$68,306 in FY2016 to \$125,000 in FY2017, and to remain at \$125,000 through FY2021. *See* RR-10, Exh. C; IR 1-3, Exh. A. However, the DTC notes that the largest actual annual expenditure for public education between FY2013 and FY2015 was \$51,604. *See* RR-10, Exh. C; IR 1-3, Exh. A. Although projected FY2017 expenditures reflect an increase from FY2016 actual expenditures, the 911 Department is required by statute to educate “consumers regarding the operation, limitation, role and responsible use of [E911] service.” G.L. c. 6A, § 18B(f). Given this, and the ongoing implementation of NG 911 in Massachusetts and the accompanying changes to the operation of E911 service, the DTC finds that the 911 Department’s projected public education expenses are, or will be, prudently incurred.

c. Grants

i. *Training Grant*

Turning to the 911 Department’s grant programs and beginning with the PSAP and RECC Training Grant (“Training Grant”), the 911 Department allocates \$4,630,762 for possible FY2017 Training Grant funding. *See* RR-10, Exh. C; IR 1-3, Exh. A. This projected allocation is within the allocation threshold prescribed by statute. *See* G.L. c. 6A, § 18B(i)(1). In particular, the initial allocation of the Training Grant was 5.0% of the total surcharge revenues of the previous fiscal year. *Id.* The State 911 Commission may increase that allocation, but the 911 Department must seek DTC approval only if such an increase brings the allocation to a level of 7.5% or more of the total surcharge revenues of the previous fiscal year. *Id.* In this instance, the 911 Department’s projected allocation for the Training Grant in FY2017 is 3.87% of the total surcharge revenues for

FY2016, which is less than the 7.5% that would require independent DTC approval. *See id.*; RR-10, Exh. C. Accordingly, the DTC determines that the projected Training Grant expenditures, which are required by statute and are under the level requiring DTC approval, are, or will be, prudently incurred. *See* G.L. c. 6A, § 18B(i)(1).

ii. *EMD/Regulatory Compliance Grants*

The 911 Department allocates \$1,988,715 for possible FY2017 Emergency Medical Dispatch (“EMD”)/Regulatory Compliance Grants (“EMD Grant”) funding. *See* RR-10, Exh. C; IR 1-3, Exh. A. The DTC approved the establishment of the EMD Grant with an initial allocation of 3.0% of the total surcharge revenues for the previous fiscal year. *See 11-2 Order* at 8-12. While the projected EMD Grant funding for FY2017 represents an increase from the actual FY2016 expenses, the projected expenses represent only 1.66% of the total FY2016 surcharge revenues, which is below the 3.0% threshold allocated for this grant. *See* RR-10, Exh. C; *11-2 Order* at 12. The EMD Grant is necessary for the 911 Department to meet its statutory obligations regarding EMD.¹⁸ *See 11-2 Order* at 8-12; G.L. c. 6A, § 18B(g). Accordingly, the DTC finds that the projected EMD Grant expenditures are, or will be, prudently incurred.

iii. *Support Grant*

The 911 Department allocates \$22,435,861 for possible FY2017 PSAP and RECC Support Grants (“Support Grant”) funding. *See* RR-10, Exh. C; IR 1-3, Exh. A. The projected allocation for this grant is within the allocation threshold prescribed by statute. In particular, the initial allocation of the Support Grant was 25.0% of the total surcharge revenues for the previous fiscal

¹⁸ The DTC reiterates that an appropriate funding level should ultimately be established for the EMD Grant, consistent with the 911 Department’s statutory framework. *See 15-2 Order* at 14 n.14; *11-2 Order* at 12; G.L. c. 6A, § 18B(i).

year. G.L. c. 6A, § 18B(i)(2). The State 911 Commission may increase that allocation, but the 911 Department must seek DTC approval if such an increase brings the allocation to a level of 31.25% or more of the total surcharge revenues for the previous fiscal year. *Id.* In this instance, the 911 Department's projected allocation for the Support Grant in FY2017 is 18.75% of the total surcharge revenues for FY2016, which is less than the 31.25% threshold that would require independent DTC approval. *See id.*; RR-10, Exh. C. Accordingly, the DTC determines that the projected Support Grant expenditures, which are required by statute and are under the level requiring DTC approval, are, or will be, prudently incurred. *See* G.L. c. 6A, § 18B(i)(2).

iv. *Wireless State Police PSAP Grant*

The 911 Department allocates \$5,865,327 for FY2017 Wireless State Police PSAP Grant funding. *See* RR-10, Exh. C; IR 1-3, Exh. A. The projected allocation is within the allocation threshold prescribed by statute, which is 4.0% of the total surcharge revenues for the previous fiscal year. *See* G.L. c. 6A, § 18B(i)(3). The State 911 Commission may increase that allocation, but the 911 Department must seek DTC approval if such increase brings the allocation to a level of 6.0% or more of the total surcharge revenues for the previous fiscal year. *Id.* In this instance, the 911 Department's projected allocation for the Wireless State Police PSAP Grant in FY2017 is 4.85% of the total surcharge revenues for FY2016, which is less than the 6.0% threshold that would require independent DTC approval. *See id.*; RR-10, Exh. C. Accordingly, the DTC determines that the projected Wireless State Police PSAP Grant expenditures, which are required by statute and are under the level requiring DTC approval, are, or will be, prudently incurred. *See* G.L. c. 6A, § 18B(i)(3).

v. *Incentive Grant*

The 911 Department projects FY2017 expenditures of \$9,213,660 for the Regional PSAP and RECC Incentive Grants (“Incentive Grant”), broken down as follows: \$598,290 for regional PSAPs serving two municipalities; \$1,196,579 for regional PSAPs serving three to nine municipalities; \$1,794,869 for regional PSAPs serving ten or more municipalities; and \$5,623,922 for RECCs. *See* RR-10, Exh. C; IR 1-3, Exh. A. The statute specifies a different initial allocation percentage for each category within the Incentive Grant, specifically: (i) for regional PSAPs serving two municipalities, 0.5% of the total surcharge revenues of the previous fiscal year; (ii) for regional PSAPs serving three to nine municipalities, 1.0% of the total surcharge revenues of the previous fiscal year; (iii) for regional PSAPs serving ten or more municipalities, 1.5% of the total surcharge revenues of the previous fiscal year; and (iv) for RECCs, 2.0% of the total surcharge revenues of the previous fiscal year. *See* G.L. c. 6A, § 18B(i)(4). The State 911 Commission may adjust those percentages, but the 911 Department must seek DTC approval if any such adjustment increases the “initial total allocation” of the Incentive Grant (i.e., categories (i) through (iv), total) by 10% or more. *Id.*; *15-2 Order* at 16; *11-2 Order* at 6. The DTC has approved increases to the Incentive Grant percentage allocations, most recently in 2015 when the DTC approved an increase to the RECC category allocation to 4.7% of the total surcharge revenues of the previous fiscal year.¹⁹ *See* Petition at 16; *15-2 Order* at 17-19, 27-28; *11-2 Order* at 5-7; Petition of the State 911 Dep’t to Adjust the E911 Surcharge, D.T.C. 15-2 (Mar. 20, 2015) at Exh. B (identifying projected expenditures and percentage allocations for FY2015 through FY2019).

¹⁹ The DTC notes that the 911 Department previously projected the RECC category allocation to decrease below 4.0% beginning in FY2017. *See 15-2 Order* at 19. However, as discussed below, regionalization efforts have increased in recent years, which accounts for retention of the projected higher allocation.

For categories (i) through (iv), the 911 Department's projected FY2017 allocations for the four Incentive Grant categories are 0.5%, 1.0%, 1.5%, and 4.7%, respectively, of the total surcharge revenues of the previous fiscal year. *See* RR-10, Exh. C. Because the 911 Department is not proposing an adjustment to the Incentive Grant allocation amounts for FY2017, independent DTC approval of the allocation amounts for FY2017 is not required. *See* G.L. c. 6A, § 18B(i)(4). Nonetheless, as the four Incentive Grant categories are included in the Petition, the DTC has reviewed them and determines that the overall projected FY2017 Incentive Grant expenditures, which are required by statute, are, or will be, prudently incurred. *See id.*

v. Development Grant

The final grant program is the Development Grant, for which the 911 Department projects FY2017 expenditures of \$8,000,000. *See* RR-10, Exh. C; IR 1-3, Exh. A; Petition at 9. The 911 Department also carries \$12,909,662 in rollover Development Grant expenses to FY2017. *See* RR-10, Exh. C; IR 1-3, Exh. A. The Development Grant has been funded at approximately \$8,000,000 since FY2012. *See* Petition at Exh. B (outlining specific and total Development Grant award amounts as of FY2009 through FY2017); *15-2 Order* at 19. The statute requires DTC approval for any adjustments to the allocation that increase the initial funding allocated to the Development Grant by 10% or more. *See* G.L. c. 6A, § 18B(i)(5). Because the 911 Department is not proposing an adjustment to the Development Grant allocation for FY2017, independent DTC approval of the allocation amount for FY2017 is not required. *See* G.L. c. 6A, § 18B(i)(5). The DTC determines that the projected Development Grant expenditures, which are required by statute and are under the level requiring DTC approval, are, or will be, prudently incurred. *See id.*

3. Enhanced 911

The third category of projected expenses in FY2017 is E911 expenses, which the 911 Department projects to be \$90,695,996. *See* RR-10, Exh. C; IR 1-3, Exh. A. This represents an increase in expenses from FY2016, which totaled \$33,095,240. *See* RR-10, Exh. C; IR 1-3, Exh. A. E911 expenses are the largest reason for the overall increase in projected FY2017 spending, and consist primarily of E911 Support, NG 911 project expenses, and, to a lesser extent, Map Data. *See* RR-10, Exh. C; IR 1-3, Exh. A. Projected E911 expenditures for FY2016 substantially exceeded the actual E911 program expenditures for that fiscal year, due to delays involving implementation of the NG 911 system. *See* RR-2; Tr. at 38-51. As a result, many of the NG 911 and underlying E911 Support costs projected for FY2016 shifted to FY2017. As discussed below, the DTC determines the 911 Department's projected E911 expenses for FY2017 are, or will be, prudently incurred.

i. *Background*

The 911 Department is required to “review and assess new communications technologies that may include, but are not limited to, wireless, video, broadband, and IP-based applications that may serve as the next generation 911 technology platforms, consistent with FCC decisions and federal law.” G.L. c. 6A, § 18B(h). As the current, analog-based E911 system—developed in the 1960s—has been reaching the end of its useful life, the 911 Department determined, in accordance with this statute and in consultation with outside consultants and other agencies, that technological advancements have dictated the need for NG 911 to completely replace the current E911 system. *See* Tr. at 15-18; Petition at 9-11. This determination, and the implementation of the replacement E911 system, which has begun in earnest, fulfills the 911 Department's statutory

mandate and stands to benefit all residents and visitors of the Commonwealth. *See 15-2 Order* at 22-23; G.L. c. 6A, § 18B(h). The 911 Department began this process in 2009, and in August 2014, after issuing a Request for Response (“RFR”) and undergoing a detailed evaluation process, entered into a five-year contract with General Dynamics Information Technology (“GDIT”) for NG 911 products and services. *See Tr.* at 34, 36; *Petition* at 10-11. Once fully deployed by October 31, 2017, which falls in early FY2018,²⁰ the NG 911 system will be a more efficient and effective 911 system than its predecessor, and will have the ability to offer for the first time certain capabilities such as text-to-911 and picture and video messaging. *See Tr.* at 15-18, 22-23, 35, 54-56, 59-60, 65; *15-2 Order* at 23. This project is a massive undertaking, which the 911 Department identifies as the largest in the country, and it is necessary for the modernization and long-term reliability and cost-effectiveness of the Commonwealth’s E911 system. *See Tr.* at 15-18, 21-23, 26-27, 50-51; *Petition* at 9-12; *15-2 Order* at 29.

ii. *NG 911 Costs*

The first major item within the E911 category of expenses involves the NG 911 project and related non-recurring and recurring costs. *See RR-10, Exh. C; IR 1-3, Exh. A.* NG 911 is the major driver behind the projected increase in E911 spending, and, indeed, the 911 Department’s FY2017 projected expenditures overall. *See RR-10, Exh. C; IR 1-3, Exh. A.* For FY2017, the 911 Department projects \$42,071,605 of non-recurring NG 911 expenditures and \$17,952,438 of recurring NG 911 expenditures. *See RR-10, Exh. C; IR 1-3, Exh. A.*

²⁰ The 911 Department’s fiscal year, consistent with the Commonwealth’s, begins on July 1 and ends on June 30. *See Tr.* at 37; *IR 1-1.* As a result, FY2018 commences on July 1, 2017. *See Tr.* at 37.

The Commonwealth's NG 911 system is largely in the implementation phase, with the greatest expenditures dedicated to deployment to PSAPs and related non-recurring and recurring NG 911 costs, which are based on the 911 Department's contract with GDIT. *See* RR-2 (identifying the NG 911 deployment schedule for PSAPs in the Commonwealth); Tr. at 48-49; IR 1-11(a), Att. E (providing a breakdown of the NG 911 Recurring and Non-Recurring cost for FY2016 and FY2017); Petition at 11-12. Further, the 911 Department must maintain its current, analog 911 system and underlying contract with Verizon until conversion to the NG 911 system is complete. *See* Tr. at 35, 37, 42-43, 53-54; Petition at 11. While a costly undertaking, it is also one that is necessary for the 911 Department to meet its statutory obligations, and to maintain public safety and the provision of E911 services while doing so. *See* G.L. c. 6A, § 18B(h); *15-2 Order* at 23.

While the NG 911 contract with GDIT was signed in August 2014, and the bulk of non-recurring expenses associated with the deployment of NG 911 were originally projected to be recorded in FY2015 and FY2016, the need for substantial testing, additional equipment in PSAPs, and other necessary projects to ensure a robust, working system shifted most of these costs into FY2017. *See* RR-10, Exh. C; Tr. at 38-51 (discussing unanticipated delays and the additional testing being performed, as well as how the potential for further delays is being mitigated, while ensuring "a system that works in all the PSAPs across the Commonwealth"); IR 1-11(b), Att. D (providing a copy of the NG 911 vendor contract, which lists original and certain revised NG 911 milestone and deployment dates); IR 1-9(c) (describing the progress made in implementing the NG 911 system and identifying certain additional expenses); IR 1-3, Exh. A; *15-2 Order* at 23, 29. After FY2017, the 911 Department projects non-recurring NG 911 costs to

decrease significantly because construction and initial deployment of NG 911 is scheduled to be complete. *See* RR-10, Exh. C; RR-2 (listing the current PSAP deployment schedule for NG 911); Tr. at 36-37, 53-54 (discussing the completion date of the deployment of the NG 911 system to the PSAPs); IR 1-11(b), Att. D (providing a copy of the NG 911 vendor contract, which lists original and certain revised NG 911 milestone and deployment dates); IR 1-9(c); IR 1-3, Exh. A. After construction and initial deployment, projected non-recurring costs include monitoring the rollout of the NG 911 system and addressing any issues that arise after the system becomes fully operational. *See* Tr. at 35-36; *15-2 Order* at 29. The DTC finds that the non-recurring NG 911 expenditures for FY2017 are contractual and are necessary to achieve the 911 Department's statutorily mandated goal of establishing NG 911. *See* G.L. c. 6A, § 18B(h); *15-2 Order* at 29. The DTC finds that these non-recurring costs are, or will be, prudently incurred.

While non-recurring NG 911 costs are projected to decrease, recurring NG 911 costs are projected to increase in FY2017 through FY2019 as the 911 Department begins to operate and maintain a fully functional NG 911 system under its contract with GDIT. *See* RR-10, Exh. C; Tr. at 35-37, 44. These projected cost increases, however, coincide with significant projected decreases in E911 Support expenses related to maintenance of the 911 Department's current, analog 911 system. *See* RR-10, Exh. C; Tr. at 35-37, 44. The DTC finds that the 911 Department's projected recurring NG 911 expenditures for FY2017 are contractual and necessary to achieve the 911 Department's statutorily mandated goal of establishing NG 911 and are, or will be, prudently incurred. *See* G.L. c. 6A, § 18B(h); *15-2 Order* at 30.

iii. *E911 Support*

E911 Support expenditures are the second major item within the E911 category of expenses, which the 911 Department projects at \$27,559,679 for FY2017 under its contract with Verizon.²¹ *See* RR-10, Exh. C; Petition at 11. The 911 Department states that the current 911 system costs will be eliminated once the NG 911 system is fully deployed. *See* RR-10, Exh. C; Tr. at 35-37, 44. In fact, the 911 Department's current contract with Verizon for E911 Support is scheduled to expire on October 31, 2017,²² and the 911 Department does not project any expenditures for E911 Support after FY2018. *See* RR-10, Exh. C; Tr. at 37. Recurring NG 911 expenditures and E911 Support expenditures are thus similar, except that they reflect maintenance costs for different 911 systems. *See 15-2 Order* at 30. As recurring NG 911 costs increase, E911 Support costs decrease. *See* RR-10, Exh. C. Costs in both categories are incurred in FY2016 through FY2018 because of the necessity that the 911 Department operate and maintain two 911 systems in parallel. *See* Tr. at 42-43, 50-54. Recurring NG 911 costs then should begin to stabilize in FY2018 as E911 Support expenditures end. *See* RR-10, Exh. C. The DTC finds that the 911 Department's projected E911 Support expenditures for FY2017 are contractual and necessary for the 911 Department to meet its statutory obligations and to maintain public safety and the provision of E911 services while doing so. *See* G.L. c. 6A, §

²¹ Under this contract, Verizon provides network, database, customer premises equipment, and maintenance services for the Commonwealth's E911 system. *See* Petition at 11.

²² Due to the unanticipated delays relating to the deployment of the NG 911 system, the 911 Department and Verizon extended their contract to October 31, 2017. *See* Tr. 34-37; IR 1-9(a), Att. C (providing a copy of the Verizon contract, which includes a contract amendment reflecting the updated contract termination date). If additional delays arise, under the terms of the contract, the 911 Department may extend the contract for up to two one-month terms. *See* Tr. at 49-51.

18B(h); *15-2 Order* at 30. The DTC finds that the E911 Support costs are, or will be, prudently incurred.

iv. *Map Data*

The last major item within the E911 category of expenses is Map Data. *See* RR-10, Exh. C; IR 1-3, Exh. A. The 911 Department has an interdepartmental service agreement with the Massachusetts Office of Geographic Information (“MassGIS”) under which MassGIS provides updated, synchronized mapping data and information to the 911 Department for use by the PSAPs. *See* Petition at 12. The 911 Department projects \$2,352,274 in Map Data expenses in FY2017, a slight increase over the \$2,257,380 spent on Map Data in FY2016. *See* RR-10, Exh. C; IR 1-3, Exh. A. The 911 Department explains that this expense “is part of the core component of the GIS data used in the current PSAP deployment as well as the base of the [NG] 911 system.” Petition at 12. Specifically, MassGIS continues to update its street database and its parcel data to allow for more accurate representations of emergency service zones, which are used to efficiently and accurately route 911 calls to the correct PSAPs. *Id.* The 911 Department indicates that it also “contracts with a vendor to provide software support by furnishing base map data updates on a quarterly basis” and “contracts with a vendor to furnish MassGIS with emergency subscriber listings through an extract of the Automatic Location Information database.” *Id.* The DTC finds that this data, including these updates and improvements, are necessary to reap the full benefits of NG 911, and that the projected Map Data expenses are, or will be, prudently incurred.

4. Disability Access

The final category of projected expenses in FY2017 is disability access programs, for which the 911 Department projects \$2,950,000 in expenditures. *See* RR-10, Exh. C; IR 1-3, Exh. A. This represents an increase in disability access expenses from FY2016, which totaled \$1,974,528, but which were below the FY2016 projection of \$4,000,000. *See* RR-10, Exh. C; IR 1-3, Exh. A. The disability access programs include Telecommunications Relay Service (“TRS”), Captioned Telephone Service (“CapTel”), and Specialized Customer Premises Equipment (“SCPE”).²³ *See* RR-10, Exh. C; IR 1-3, Exh. A; Petition at 13. The 911 Department is required to administer TRS and CapTel and provide for the distribution of SCPE in the Commonwealth. Petition at 23; *see also* G.L. c. 6A, §§ 18B(m), 18H(d); G.L. c. 166, § 15E. As described below, the DTC finds that the 911 Department’s projected FY2017 expenses associated with these programs are, or will be, prudently incurred.

TRS and CapTel are provided in the Commonwealth via a contractor whose bid was accepted by the 911 Department pursuant to an RFR previously approved by the DTC. *See* Petition at 13; 15-2 Order at 24-25 (citing *Petition of the State 911 Dep’t for Approval of Request for Response to Procure Telecomms. Relay Serv. & Captioned Tel. Relay Serv.*, D.T.C. 12-8, Order (Dec. 20, 2012)). For SCPE, the 911 Department contracts with various equipment vendors to provide such equipment to persons with disabilities. *See* Petition at 13. The 911

²³ TRS provides individuals with hearing or speech impairments the ability to communicate using voice over wire or radio, in a manner functionally equivalent to a person without such impairments. G.L. c. 166, § 15E. CapTel allows persons with a hearing disability, but who retain some residual hearing, to read captions of what a caller is saying while simultaneously listening to that caller. *Id.* SCPE includes items “such as artificial larynxes, signaling devices, amplified handset, hands-free telephones, text telephones, memory telephones, direct telephone dialing device, braille text telephones, captioned telephone, and other devices which provide access to telephone networks for people with a hearing, speech, vision, mobility or cognitive disability.” *Id.*

Department bases its projected TRS, CapTel, and SCPE expenses on these contracts and on historical trends. *See* Tr. 115-116; IR 1-23; Petition at 13.

The DTC determines that although the 911 Department's projected disability access program expenditures represent an increase in such spending over FY2016, the projected expenses are, or will be, prudently incurred. The majority of these expenses are based on a DTC-approved contract, and all of the expenses are necessary for the provisioning of disability access programs in accordance with the 911 Department's statutory mandate. *See* G.L. c. 6A, §§ 18B(m), 18H(d); G.L. c. 166, § 15E. In addition, the DTC notes that the 911 Department's projections reflect a decrease from prior year projections and lower usage trends in recent years. *See* RR-10, Exh. C; Tr. 115-116; IR 1-23; IR 1-3, Exh. A. Further, the 911 Department indicates that it will continue to monitor usage of these programs as it contemplates expenditures going forward and that the changes in the programs may be a result of technological advancements in the market. *See* Tr. at 115-116. As a result, the projected FY2017 expenses for disability access programs are, or will be, prudently incurred.

5. Conclusion

The DTC determines that the 911 Department's projected FY2017 expenditures are reasonable and are, or will be, prudently incurred. Accordingly, the DTC approves the expenditures under G.L. c. 6A, § 18H(b) and (c).²⁴

D. Analysis of 911 Department Development Grant Allocation for FY2018

The 911 Department requests DTC approval to increase the Development Grant funding amount from \$8,000,000 to \$12,000,000 for FY2018. *See* Petition at 14. As discussed above, the

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For a discussion of the stability of the surcharge, see *infra* Section II.F.

statute requires DTC approval for any adjustments that increase the “initial funding allocated” to the Development Grant by 10% or more. *See* G.L. c. 6A, § 18B(i)(5). The initial allocation amount of the Development Grant was \$7,500,000. Petition at 14. The DTC has previously approved an increase to this grant, most recently for FY2011. *See 10-1 Order* at 4. As discussed below, the DTC finds that a Development Grant allocation of \$12,000,000 for FY2018, which results in an increase from the “initial funding allocated” by more than 10%, is a prudently incurred expense. *See* G.L. c. 6A, § 18B(i)(5). The DTC accordingly approves the adjustment.

State law established the Development Grant to “support the development and startup of regional and regional secondary PSAPs and [RECCs], including the expansion or upgrade of existing regional and regional secondary PSAPs[.]”²⁵ *Id.* The purpose of the Development Grant is to “maximize effective emergency 911 and dispatch services as well as regional interoperability.” *Id.* In accordance with statutory requirements, the 911 Department has established guidelines regarding “[t]he eligibility for criteria, amount and allocation of funding” with the approval of the State 911 Commission. *Id.*; *see also* IR 1-16, Att. G (FY2017 Grant Guidelines for all grants funded through the E911 Fund). On December 19, 2016, the State 911 Commission voted unanimously to authorize the 911 Department to seek DTC approval of a \$12,000,000 allocation amount for FY2018. Petition at 15.

The 911 Department seeks to increase the FY2018 Development Grant amount in order to permit it “to fund projects more fully than it has in the past several fiscal years.” *Id.* The 911 Department specifies that it continuously receives funding requests that exceed the total amount

²⁵ The Commonwealth does not mandate regionalization efforts. *See* Tr. at 82. Instead, the decision to form or enter into a regional PSAP or RECC is made at the municipal level, and the Development Grant program simply acts as an incentive to those efforts. *See id.* at 82-83.

allocated to the grant. *See id.* at 15, Exh. B. For FY2017, the 911 Department received Development Grant requests totaling \$17,800,000, which is more than twice the amount initially allocated to the grant. *See id.*; Tr. at 69. The 911 Department indicates that, as of the date of the Petition, twenty-four PSAPs have become regionalized through either a regional PSAP or an RECC since the Development Grant program began, and it expects at least thirteen additional PSAPs to regionalize over the next five years. *See* Tr. at 91-93; IR 1-18(a), (b); Petition at 9. Further, recent statutory changes have facilitated municipalities' efforts to establish regional PSAPs and RECCs through the creation of regional 911 emergency communication districts. *See* Tr. 87-89; IR 1-18(b); 2014 Mass. Acts, c. 500 (codified at G.L. c. 6A, §§ 18O-18V (2015)).

The 911 Department states that regionalized PSAPs and RECCs enable more efficient and effective use of resources and improve public safety for the residents they service. Petition at 14. For instance, combined emergency communication resources "allows for increased staffing" and "for increased coordination of a region's limited emergency response resources." *Id.* at 14-15. This permits 911 telecommunicators "to more effectively interact with the public while gathering essential call information," and it permits "more efficient response to both routine requests for mutual aid and major disasters." *Id.*

Beginning in FY2018, the 911 Department also intends to include provisions in its Development Grant guidelines to encourage regionalization efforts to include wireless direct functionality. *See* Tr. at 24-25, 85. Wireless direct functionality permits PSAPs to receive wireless calls directly rather than being routed through one of the state police wireless PSAPs before reaching the appropriate destination. *See id.* at 29-30, 61-62. This functionality has become possible due to the deployment of the NG 911 system and its ability to use geospatial data to more

accurately pinpoint call location. *See id.* at 61-63. Since regional PSAPs and RECCs have more resources available to them, they are able to more easily handle wireless direct calls. *See id.* at 25, 85. Therefore, the 911 Department seeks to offer them additional funding to support wireless direct functionality. *See id.* at 85. If regionalization efforts include wireless direct capabilities, the wireless call volume at the state police wireless PSAPs should decrease, which should permit future reassessment of the level of necessary funding under the Wireless State PSAP Grant. *See id.* at 97-98.

The DTC finds that the 911 Department's requested increase to the Development Grant allocation amount is necessary to meet its statutory obligation to maximize effective E911 services and regional interoperability. *See* G.L. c. 6A, § 18B(i)(5). In addition, there will be potential cost savings in future fiscal years arising from regionalization efforts, and the surcharge will remain at the same level without eliminating or reducing any other necessary expenditures. As a result, the DTC finds that this increase in the Development Grant amount is, or will be, prudently incurred. Accordingly, the DTC approves the increase in the Development Grant amount to \$12,000,000 for FY2018.

E. Analysis of 911 Department Incentive Grant Allocations for FY2018

The 911 Department requests DTC approval for adjustments to two Incentive Grant allocations, which together will increase the initial total allocation of the Incentive Grant by 10% or more.²⁶ *See* Petition at 15-18. In particular, the 911 Department petitions to increase the Incentive Grant Regional PSAP Serving Two Communities category ("Two Communities Grant") from 0.5%

²⁶ The 911 Department intends that the increased allocations apply in future years as well. IR 1-20; IR 1-19(b).

to 0.75% of the total surcharge revenues from the previous fiscal year and to increase the Incentive Grant RECC category (“RECC Grant”) from 4.7% to 7.0% of the total surcharge revenues from the previous fiscal year.²⁷ *See id.* Utilizing these increased allocation percentages, the 911 Department projects \$10,954,861 in total FY2018 expenditures for the Incentive Grant. *See* RR-10, Exh. C; G.L. c. 6A, § 18B(i)(4). As discussed above, the statute requires DTC approval for any adjustments that increase the “initial total allocation” of the Incentive Grant by 10% or more. *See* G.L. c. 6A, § 18B(i)(4). The initial total allocation amount for the Incentive Grant, established in FY2009, was \$2,660,294. *See* Petition of the State 911 Dep’t for Approval of FY2012 Incentive Grant RECC Category Amount, State 911 Dep’t EMD Grant, & FY2011 Expenditures, D.T.C. 11-2 (Feb. 28, 2011) at 4. The DTC has twice approved adjustments to individual Incentive Grant categories that increased the initial total allocation by 10% or more, most recently in FY2015 when the RECC Grant allocation increased from 4.0% to 4.7%. *See* 15-2 Order at 17-19; 11-2 Order at 5-7 (approving an increase to the RECC Grant allocation from 2.0% to 4.0%). As discussed below, the DTC finds that the proposed adjustments to the Two Communities Grant and RECC Grant allocations, which result in an increase to the initial total allocation of the Incentive Grant of 10% or more, are prudently incurred expenses. *See* G.L. c. 6A, § 18B(i)(4). Accordingly, the DTC approves these adjustments.

State law established the Incentive Grant and its four categories to “provide regional PSAPs and [RECCs] with funds in addition to amounts allocated as part of the [Support Grant]” for reimbursement of allowable expenses as specified under the Support Grant.²⁸ G.L. c. 6A, §

²⁷ The 911 Department does not request adjustment to the other two Incentive Grant categories. *See* Petition.

²⁸ For a list of allowable expenses under the Support Grant, see G.L. c. 6A, § 18B(i)(2).

18B(i)(4); *see also* IR 1-16, Att. G (identifying the eligible award amounts for each PSAP and RECC for Support and Incentive Grants for FY2017). The Incentive Grant was thus established to incentivize the development of regional PSAPs and RECCs by making available greater levels of funding than otherwise available to PSAPs under the Support Grant alone. *See* Tr. at 67-68, 77, 81-83; G.L. c. 6A, § 18B(i).

The 911 Department seeks to increase the allocations for the Two Communities Grant and the RECC Grant for FY2018 in order to permit it “to ensure a proper allocation of incentive funds due to the addition of regional PSAPs and RECCs” and allow it “to meet its statutory obligations to maximize effective [E911] services and regional interoperability and will further the [911] Department’s goals of increased regionalization[.]” Petition at 16-18; *see also* IR 1-20; IR 1-19(a). This will, in turn, “lead to a more efficient and effective use of resources and improve public safety.” Petition at 17-18.

The 911 Department “has witnessed a continued significant interest in regionalization among the PSAPs and RECCs” since the 911 Department last adjusted an allocation percentage for the Incentive Grant. *Id.* at 16; *see also* 15-2 Order at 16-19. To date, twenty-four PSAPs in the Commonwealth have regionalized, including five since the 911 Department’s last allocation adjustment in 2015.²⁹ *See* Tr. 92-93; IR 1-18(a), Att. H; 15-2 Order at 18. The 911 Department expects at least thirteen additional PSAPs to regionalize over the next five years. *See* Petition at 9. In addition, recent statutory changes have facilitated municipalities’ efforts to establish regional

²⁹ As PSAPs regionalize, the individual PSAPs cease to exist. *See* Tr. at 92. As a result of this regionalization, the number of PSAPs operating in the Commonwealth continues to decrease. For instance, in 2008, 267 non-secondary PSAPs operated in the Commonwealth. *See id.* at 90-91. In 2015, 249 PSAPs operated in the Commonwealth. *See* 15-2 Order at 18. As of the date of the Petition, 244 PSAPs operated in the Commonwealth. *See* Petition at 9. As of the date of the hearing, 241 PSAPs operated in the Commonwealth. *See* Tr. at 26.

PSAPs and RECCs through the creation of regional 911 emergency communication districts. *See* Tr. at 87-89; 2014 Mass. Acts, c. 500 (codified at G.L. c. 6A, §§ 18O-18V (2015)). Finally, the increased allocation may be incurred while maintaining the current \$1.00 surcharge and without eliminating or reducing any other necessary expenditures.

The DTC finds that expenditures related to increases in the percentage allocations to the Incentive Grant (to 0.75% of surcharge revenues for the previous fiscal year for the Two Communities Grant and to 7.0% for the RECC Grant) are, or will be prudently incurred. Specifically, the DTC finds that given the goal of increased regionalization, the increase in expenditures is necessary not only to maintain support for existing regional PSAPs and RECCs, but also to ensure that sufficient funding is available for additional regionalization of PSAPs and RECCs. *See* IR 1-18(b); *15-2 Order* at 18; G.L. c. 6A, § 18B(i). Further, the 911 Department's requested increase is necessary to meet its statutory obligation to maximize effective E911 services and regional interoperability. *See* Petition at 16-18; G.L. c. 6A, § 18B(i). In addition, there will be potential cost savings in future fiscal years arising from regionalization efforts, discussed above, and the surcharge will remain at the same level without eliminating or reducing any other necessary expenditures. As a result, the DTC finds that expenses related to this increase in the Incentive Grant percentage allocation amounts are, or will be, prudently incurred. Accordingly, the DTC approves the requested increases for FY2018.

F. Stability of the Surcharge and Condition of the E911 Fund

Having addressed the 911 Department's projected revenues and expenditures and approved increases to certain grant allocations, the DTC next looks to the condition of the E911 Fund and the long-term prospects for stability of the surcharge. *See* Petition at 1 n.1; G.L. c. 6A,

§ 18H(b).³⁰ The E911 Fund is projected to end FY2017 with a balance of \$51,417,788. *See* RR-10, Exh. C; IR 1-3, Exh. A. Relying on maintaining the \$1.00 surcharge and on the NG 911 system being fully deployed before the end of FY2018, the 911 Department projects the ending balance of the E911 Fund to decrease to \$40,708,460 in FY2018, and then to increase by more than \$10 million per year, ending with a balance of \$74,104,274 in FY2021.³¹ *See* RR-10, Exh. C; Tr. at 101-104. The 911 Department indicates that its “[b]udget strategy is to incrementally increase the ending balance to build a reserve so that funding is available for replacement of the 911 system” by FY2025 or FY2026, while also “striving for maintenance of a stable surcharge.” RR-10, Exh. C; *see also* Tr. at 102-104 (discussing the 911 Department’s goal of ensuring continuity and stability). The reserve will also provide the 911 Department the flexibility to address any unforeseen expenses after the NG 911 system is deployed and will cover necessary NG 911 equipment replacements or upgrades anticipated for FY2020 or FY2021. *See* Tr. at 102-108.

The 911 Department is entitled to carry a surplus in the E911 Fund. *See 15-2 Order* at 35. However, while a sizeable surplus has been prudent in recent years given the implementation and deployment of the NG 911 system, such a large surplus may not be necessary once the system is fully deployed and implemented. *See id.* For instance, there is uncertainty regarding the 911 Department’s expenditures after the NG 911 system is fully deployed and implemented. *See id.* at 35-36 (discussing the uncertainty of NG 911 costs upon

³⁰ Section 18H(b) mandates that the 911 Department “report annually to the [DTC] on the financial condition of the [E911] Fund and on the [911 Department’s] assessment of new developments affecting the [E911] system.” G.L. c. 6A, § 18H(b).

³¹ The 911 Department projects that, based on the current \$1.00 surcharge amount, it will not need to seek an increase for at least eight years. Tr. at 103.

the contract's renewal date); Tr. at 103-108 (specifying that the 911 Department will have a better idea of future costs in FY2018 after deployment of the NG 911 system is complete and discussing possible rate increases and the likely need for upgrades and replacements to the NG 911 equipment beginning in FY2020). In addition, 911 Department expenditures will experience substantial cost savings once it is no longer necessary to support the legacy 911 system.

The deployment and implementation of NG 911, including the maintenance and operation of two 911 systems for a period of time, constitute substantial, one-time costs to the 911 Department. Once the NG 911 system is deployed, the 911 Department's projected expenditures begin to decrease, but it is unclear at this time by how much. The DTC appreciates the 911 Department's commitment to the maintenance of a stable surcharge that provides sufficient funding while protecting ratepayers. The DTC further recognizes the difficulty faced by the 911 Department in forecasting its future expenditures before the NG 911 system is fully deployed, and most or all of the potential issues with its implementation have arisen and been handled. *See 15-2 Order* at 36; *11-2 Order* at 24-25 (indicating that uncertainty in cost projections makes it difficult to forecast the stability of the E911 Fund in the long-term). Given the uncertainties discussed above, the DTC encourages the 911 Department to file a petition for review of the surcharge to affirm the health of the E911 Fund and the sufficiency of the surcharge in calendar year 2018 after the NG 911 deployment to PSAPs is complete.³² *See 15-2 Order* at 4, 37 (stating that if the DTC had not had the opportunity to review the health of the

³² In 2015, the DTC urged the 911 Department to submit the petition for review in calendar year 2017 based on the projected completion of the NG 911 project. *See 15-2 Order* at 37. As the NG 911 project is not yet fully deployed, a calendar year 2018 review of the surcharge would be more appropriate.

E911 Fund upon the completion of the deployment of NG 911, it would be prudent for the DTC to use its statutory authority to review the reasonableness of the surcharge at that time).

III. ORDER

Accordingly, after hearing, notice, and due consideration, it is:

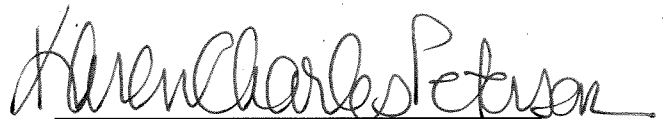
ORDERED: That the 911 Department's proposed FY2017 expenditures are APPROVED; and it is

FURTHER ORDERED: That the 911 Department's proposed adjustment to the Development Grant allocation amount for FY2018 is APPROVED; and it is

FURTHER ORDERED: That the 911 Department's proposed adjustments to the Incentive Grant allocation percentage amounts for the RECC category and for PSAPs Serving Two Communities category for FY2018 are APPROVED; and it is

FURTHER ORDERED: That the Petition satisfies, subject to the ordering clause above, for FY2016 and FY2017 the requirement of G.L. c. 6A, § 18H(b) that the 911 Department file an annual report on the financial condition of the E911 Fund and on the 911 Department's assessment of the new developments affecting the E911 system.

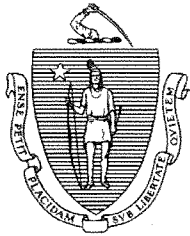
By Order of the DTC,

A handwritten signature in cursive script that reads "Karen Charles Peterson". The signature is written in dark ink and is positioned above the printed name and title.

Karen Charles Peterson
Commissioner

RIGHT OF APPEAL

Pursuant to G.L. c. 25, § 5 and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court.



**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Petition of the State 911 Department for Approval of Fiscal Year 2017 Expenditures, Fiscal Year 2018 Development Grant Amount, Fiscal Year 2018 Incentive Grant Regional Emergency Communications Center Category Amount, and Fiscal Year 2018 Incentive Grant Regional PSAPs Serving Two Communities Amount.

**17-1 Service List
(as of Jan. 20, 2017)**

Sara Clark, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
Telephone: 617-305-3580
Fax: 617-988-8267
Email: dtc.efiling@state.ma.us

Kerri DeYoung Phillips
Hearing Officer
Legal Division
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston MA 02118-6500
Telephone: 617-305-3580
Fax: 617-988-8260
Email: kerri.deyoung@state.ma.us

Sean Carroll, Deputy General Counsel
Legal Division
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
Telephone: 617-305-3580
Fax: 617-988-8253
Email: sean.m.carroll@state.ma.us

Sandra Merrick, General Counsel
Legal Division
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston MA 02118-6500
Telephone: 617-305-3580
Email: Sandra.e.merrick@state.ma.us

Lindsay DeRoche, Director
Competition Division
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
Telephone: 617-305-3580
Fax: 617-988-8258
Email: Lindsay.deroche@state.ma.us

Joseph Tiernan
Administrator of Special Projects and Data Analytics
Competition Division
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
Telephone: 617-305-3580
Fax: 617-988-8281
Email: joseph.tiernan@state.ma.us

Armine Simonyan, Economist
Competition Division
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
Telephone: 617-305-3580
Fax: 617-988-8279
Email: armine.simonyan@state.ma.us

Jacob Levine, Market Policy Economist
Competition Division
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston MA 02118-6500
Tel: 617-305-3580
Email: jacob.levine@state.ma.us

Joslyn Day, Director
Consumer Division
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
Telephone: 617-305-3580
Fax: 617-988-8256
Email: Joslyn.day@state.ma.us

Corey Pilz, Deputy Director
Consumer Division
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
Telephone: 617-305-3580
Fax: 617-988-8268
Email: corey.r.pilz@state.ma.us

Frank Pozniak
Executive Director
State 911 Department
151 Campanelli Drive, Suite A
Middleborough, MA 02346
Telephone: 508-828-2911
Email: frank.pozniak@state.ma.us

Normand Fournier
Deputy Director
State 911 Department
151 Campanelli Drive, Suite A
Middleborough, MA 02346
Telephone: 508-828-2911
Email: norm.fournier@state.ma.us

Karen Robitaille
Fiscal Director
State 911 Department
151 Campanelli Drive, Suite A
Middleborough, MA 02346
Telephone: 508-828-2911
Email: karen.robitaille@state.ma.us

Louise McCarthy
General Counsel
State 911 Department
151 Campanelli Drive, Suite A
Middleborough, MA 02346
Telephone: 508-828-2911
Email: louise.mccarthy@state.ma.us

Donald W. Boecke
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108
Telephone: 617-727-2200
Fax: 617-727-1047
Email: donald.boecke@state.ma.us
AGenergy@state.ma.us

Rebecca Tepper
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108
Telephone: 617-727-2200
Fax: 617-727-1047
Email: Rebecca.tepper@state.ma.us