



PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY  
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March 18, 2009

Ms. Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

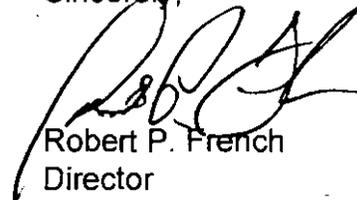
RE: PS Docket No. 09-14  
NET 911 Act Information Collection

Dear Ms. Dortch:

This correspondence serves to confirm Pennsylvania's electronic filing in response to the Initial Information Collection, mandated by the NET 911 Act that your agency requested in your February 12, 2009 correspondence to Pennsylvania Governor Edward G. Rendell. As the Director of the Pennsylvania Emergency Management Agency (PEMA), I also serve as Chairman of the Pennsylvania E-911 Emergency Services Advisory Committee.

Should you have any questions, please feel free to contact Mr. Robert P. Wentzel, Director, Bureau of 9-1-1 Programs, at (717) 651-2288 or via email at [rwentzel@state.pa.us](mailto:rwentzel@state.pa.us).

Sincerely,



Robert P. French  
Director

Enclosures

cc: Ms. Larissa Bedrick, Director, Governors Correspondence Office  
The Honorable James H. Cawley, Chairman, Pennsylvania Public Utility  
Commission  
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## **Pennsylvania's Response to the Initial Information Collection Mandated by the NET 911 Act**

**1.** The Commonwealth of Pennsylvania has established mechanisms for funding 911 through landline, wireless and VoIP services.

The contribution rate for wireline services is defined in the Public Safety Telephone Act at 35 P.S. § 7012.

The collection and disbursement of the wireline contribution rate is established at 35 P.S. § 7017.

Legal authority for the Wireless E 9-1-1 Emergency Services Fund and corresponding wireless surcharge is found at 35 P.S. § 7021.4.

The VoIP service customer 911 contribution is established in 35 P.S. § 7021.14.

**2.** Pennsylvania has three different fee structures for the collection of 911 funds; wireline services, wireless services and VoIP services.

The wireline contribution rate is collected based on the class of a particular county. Counties of the first through second class A may impose a monthly contribution rate in an amount not to exceed \$1 per line on each local exchange access line. Counties of the third through fifth class may impose monthly contribution rates in an amount not to exceed \$1.25 per line on each local exchange access line. Counties of the sixth through eighth class may impose a monthly contribution rate in an amount not to exceed \$1.50 per line on each local exchange access line.

The wireless E-911 surcharge is a \$1.00 monthly fee that is paid by wireless service customers for each device that provides wireless service for which that customer is billed by a wireless provider for wireless service or receives prepaid wireless telephone service from a wireless provider. Such fee shall be collected apart from and in addition to any fee levied by the wireless provider in whole or in part for the provision of 911 services.

The VoIP service customer 911 fee is \$1.00 per month for each telephone number or successor dialing protocol assigned by a VoIP provider to a VoIP service customer number that has outbound calling capability.

The total amount of wireline revenue reported by counties for the annual period ending December 31, 2008 was \$91,260,664.56.

The Commonwealth of Pennsylvania operates on a fiscal year that begins on July 1 and ends on June 30. Because the State collects and disburses wireless funds, the most recent and complete totals that Pennsylvania can provide are those totals from the State's FY2007-08. Net receipts from the wireless surcharge for FY2007-08 were \$98,560,282.00.

The legislation that created the VoIP 911 fee (35 P.S. § 7021.14) went into effect on November 6, 2008. VoIP providers have the option to remit on a monthly or quarterly basis to either the county or the Commonwealth. As of December 31, 2008, VoIP providers remitted \$418,858.43 in VoIP 911 fees to the Commonwealth.

Wireline, Wireless and VoIP 911 funds are made available to localities in different ways. The wireline contribution rate is collected by the service supplier providing local exchange telephone service within the county and then forwarded quarterly to the county treasurer where the money is placed in a restricted account. On a quarterly basis the county treasurer pays to a municipality which operates a 911 system, a sum of money not less than that contributed by the telephone subscribers of that municipality to the county 911 system less administrative costs (35 P.S. §§ 7012 (a) & (d)).

Wireless 911 fees are collected by providers and remitted to the State Treasurer on a quarterly basis for deposit into the Wireless E 9-1-1 Emergency Services Fund. The manner of payment is outlined in 35 P.S. § 7021.5(c):

**(c) Manner of payment.**--Each PSAP and wireless provider shall submit to the agency each year, not later than 120 days before the first day of the agency's fiscal year, the eligible costs it expects to incur for wireless E-911 service during the next fiscal year of the agency. The submission may include eligible costs that the PSAP or wireless provider has already incurred for wireless E-911 service at the time of the submission. The agency shall review the submission, ensure that the costs are eligible for payment from the fund and notify the submitting PSAP or wireless provider, not later than 30 days before the first day of the agency's fiscal year, of the eligible costs. The agency shall pay to each PSAP and wireless provider, from the fund, the amount of the submitted costs the agency determined to be eligible, whether or not the costs have been incurred at or before the time of payment and whether or not the costs, if already incurred, were incurred prior to the effective date of this section. Payment shall be made in four equal payments during the first month of each quarter of the agency's fiscal year as follows:

(1) The agency shall first pay the costs approved for each PSAP that are payable in the quarter.

(2) Following the payment of approved costs to a PSAP for Phase I deployment of wireless E-911 service, as set forth in the FCC E-911 Order, but only after the PSAP has issued its request to wireless providers to furnish Phase I wireless E-911 service pursuant to the FCC E-911 Order, the agency shall pay the approved costs of wireless providers that are payable in the quarter to provide the requested wireless E-911 service to that PSAP.

(3) Following the payment of approved costs to a PSAP for Phase II deployment of wireless E-911 service, as set forth in the FCC E-911 Order, but only after the PSAP has issued its request to wireless providers to furnish Phase II wireless E-911 service pursuant to the FCC E-911 Order, the agency shall pay the approved costs of wireless providers that are payable in the quarter to provide the requested wireless E-911 service to that PSAP.

(4) In any quarter of the agency's fiscal year, all costs

specified in section 11.4(a)(1) that are approved by the agency for payment to PSAPs or wireless providers shall be paid before any other costs payable pursuant to this chapter are paid to any PSAP or wireless provider. In the first quarter of the agency's fiscal year, the agency shall determine whether payments to PSAPs and wireless providers during the preceding fiscal year exceeded or were less than the eligible costs incurred by each PSAP and wireless provider submitting costs during the fiscal year. Each PSAP and wireless provider shall provide verification of such costs as required by the agency. Any overpayment shall be refunded to the agency or, with the agency's approval, may be used to pay agency-approved costs the PSAP or wireless provider submitted for the current fiscal year of the agency. The amount of any underpayment will be paid to the PSAP or wireless provider in accordance with this subsection and subsection (d) within the current fiscal year. The agency shall reconsider a determination of eligible costs pursuant to this subsection upon request by a submitting PSAP or wireless provider and shall provide a procedure for such reconsideration.

**(d) Pro rata sharing of fund amounts.--**

(1) If the total amount of money in the fund in any quarter is insufficient to pay for both agency-approved PSAP costs and agency-approved wireless provider costs which are payable in the quarter under subsection (c) for both Phase I deployment and Phase II deployment of wireless E-911 service, as set forth in the FCC E-911 Order, then payments from the fund for that quarter shall be made as follows:

(i) The agency-approved Phase I deployment costs of a PSAP and those wireless providers to which the PSAP has issued its request for Phase I wireless E-911 service shall be paid before any agency-approved costs for Phase II deployment are paid.

(ii) If, notwithstanding subparagraph (i), the total amount of moneys in the fund in the quarter is insufficient to pay all Phase I deployment costs of both PSAPs and wireless providers which are payable in the quarter, then each requesting PSAP and each requesting wireless provider shall receive, for payment of Phase I deployment costs, a pro rata share of the total amount of moneys in the fund in the quarter.

(iii) If the total amount of moneys in the fund in the

quarter is insufficient to pay all agency-approved Phase II deployment costs of both PSAPs and wireless providers which are payable in the quarter, then each requesting PSAP and each requesting wireless provider shall receive, for payment of Phase II deployment costs, a pro rata share of the total moneys in the fund which are available in the quarter for payment of Phase II deployment costs.

(2) For any PSAP or wireless provider, pro rata shares shall be computed based upon the total dollar amount of money available in the fund for payment of Phase I or Phase II deployment costs, whichever is applicable, multiplied by the ratio of:

(i) the total dollar amount of agency-approved but unpaid costs of that PSAP or wireless provider for Phase I or Phase II deployment, whichever is applicable; to

(ii) the total dollar amount of all agency-approved but unpaid costs.

(3) Any remaining unpaid agency-approved PSAP costs or wireless provider costs shall be carried forward for payment during the next fiscal quarter. Such carryforward process shall continue each fiscal quarter until all agency-approved PSAP costs and wireless provider costs have been paid. Pro rata and other payments under this subsection, including, but not limited to, payments of costs which are carried forward for payment in subsequent fiscal quarters, shall also be subject to all provisions and requirements of subsection (c) except for subsection (c)(1).

**(e) Triennial financial audit.**--The agency shall require a triennial financial audit of each PSAP's use of the disbursements it has received from the fund and of a wireless provider's collection, deduction, retention, remittance and use of the amounts collected by the wireless provider under the wireless E-911 surcharge or the disbursements it received from the fund. These triennial financial audits shall be consistent with guidelines established by the agency, and the cost of each audit shall be paid from the fund.

VoIP funds are collected and made available to counties in two different ways based on the choice of the provider. This is explained in 35 P.S. § 7021.14(d):

**(d) Remittance of fees.**--Remittance of fees shall be to the county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds, who shall deposit receipts into the Restricted Account established under section 7(c). Remittance to counties shall consist of the fees collected from VoIP service customers located in that county, less any reductions or administrative fees permitted by this section. The VoIP provider may instead, at its option, remit the fees to the State Treasurer

for deposit and distribution as provided under subsections (e) and (f). Elections shall be by rules established by the agency, which shall include appropriate notification to the affected counties of the exercise of this option.

**(e) Establishment of fund.**--There is hereby established in the State Treasury a non-lapsing restricted interest-bearing account to be known as the VoIP 911 Emergency Services Fund. The fund shall consist of the fees remitted to the State Treasurer pursuant to this section.

**(f) Distribution of fees.**--Moneys in the fund established by subsection (e) and the interest it accrues are hereby appropriated on a continuing basis to the agency to be disbursed by the agency. The agency shall make quarterly disbursements from the account to each county by March 31, June 30, September 30 and December 31 of each year in an amount equal to the amount of fees collected from VoIP service customers located in that county and for the purpose of assisting counties with the implementation of an agency-approved plan adopted under section 5. [FN3] The agency may retain up to 1% of the fees for costs incurred in administering this subsection.

The Commonwealth has established written criteria regarding the allowable uses of funds collected for 911 purposes.

The allowable uses for funds from the wireline contribution rate are outlined in 35 P.S. § 7018 and in regulations regarding eligible costs that can be found at 4 Pa.Code § 120b.106.

The allowable uses for the funds from the Wireless E 9-1-1 Emergency Service Fund are outlined in 35 P.S. §§ 7021.4 (a) & (d).

Disbursements from the wireless fund are limited by certain criteria found in 35 P.S. § 7021.5(b).

Pursuant to 35 P.S. § 7021.14(f) VoIP fees are to be used for the purpose of assisting counties with the implementation of an Agency-approved plan adopted under section 5.

**3.** The Pennsylvania Emergency Management Agency has the authority to approve the expenditures of funds collected for 911 or E911 purposes.

**Triennial Plans.** Counties must submit a triennial plan for Agency approval every three years. These plans must be in conformance with legislation and regulations in order for the county to establish and collect the contribution rate within the county. The contribution rate is established to cover the nonrecurring and recurring costs of a 911 system. In order to justify the requested contribution rate, a county must report the reimbursable expenses included in the contribution rate, nonrecurring and recurring. The expenses are to be summarized in a form with detailed schedules attached, when necessary, to explain and justify the items summarized on the form. The triennial plans require that counties submit copies of contracts, agreements or receipts for equipment, services or other recurring or nonrecurring costs eligible for reimbursement.

**Annual Report.** Additionally, 35 P.S. § 7018(c) mandates the Agency to adopt procedures to assure that the total amount collected from the 911 wireline contribution rate is expended only for the nonrecurring costs, costs for mobile communications equipment, maintenance and

operation of a county 911 system. The Agency issued regulations establishing an annual report that counties must submit in order to review county spending:

**4 PA.CODE § 120b.112. Reports.**

For counties where a 911 system has been established, a report shall be submitted to the Agency annually detailing the status of 911 systems. The report shall be on a form provided by the Agency and shall include information including the contribution rate, progress reports, installation schedules, installation expenses, anticipated 911 system changes, other system related costs and other information deemed necessary by the Agency. The report will be for the current calendar year and shall be forwarded to the Agency by December 1st of the current year.

Wireline contributions are deposited by the county treasurer into an interest-bearing restricted account used solely for the purpose of nonrecurring and recurring charges billed for the 911 system and to make quarterly payments to municipalities that operate a 911 system based on the contributions of the telephone subscribers of that municipality. The Agency requires a triennial audit of each county's collection and disbursement of contribution rate funds and expenditures for the nonrecurring costs, training, costs for mobile communications equipment, maintenance and operation of 911 systems. Counties are required to file two copies of the audit report with the Agency within 90 days of the applicable fiscal year.

Pennsylvania legislation provides VoIP providers the option to remit funds to the county or to the Agency, however, the Agency acts only as a pass through and the administration of VoIP funds is governed by the wireline legislation cited above. Therefore, the use and availability of VoIP funds is monitored using the same oversight procedures, outlined above, that are used to monitor the wireline contribution rate.

Wireless funds have different oversight procedures in Pennsylvania. Under 35 P.S. § 7021.5(c), each PSAP and wireless provider shall submit to the Agency each year, not later than 120 days before the first day of the Agency's fiscal year, the eligible costs it expects to incur for wireless E-911 service during the next fiscal year of the Agency. The submission may include eligible costs that the PSAP or wireless provider has already incurred for wireless E-911 service at the time of the submission. The Agency shall review the submission, ensure that the costs are eligible for payment from the fund and notify the submitting PSAP or wireless provider, not later than 30 days before the first day of the Agency's fiscal year, of the eligible costs. Each PSAP and wireless provider has to provide verification of such costs as required by the Agency.

A triennial financial audit is conducted by the counties of each PSAP's use of the disbursements received from the wireless fund and of a wireless provider's collection, deduction, retention, remittance and use of the amounts collected by the wireless provider under the wireless E-911 surcharge or the disbursements it received from the wireless fund.

A reconciliation of wireless funds is conducted by the Agency annually. In the first quarter of the Agency's fiscal year, the Agency determines whether payments to PSAPs and wireless providers during the preceding fiscal year exceeded or were less than the eligible costs incurred by each PSAP and wireless provider submitting costs during the fiscal year. Each PSAP and wireless provider is required to provide verification of these costs. Any overpayment is refunded to the

Agency or, with the Agency's approval, may be used to pay Agency-approved costs the PSAP or wireless provider submitted for the current fiscal year of the Agency.

**4.** All wireless funds collected by the Commonwealth are made available for 911 or E911 purposes according to the statutory language cited above. The Agency conducts an annual reconciliation of wireless funds to ensure the proper use of the funds. Wireline and VoIP funds are also made available only for the 911 and E911 purposes outlined in the statutory language. Counties are responsible for reporting the use of the funds to the Agency annually and filing a financial audit with the Agency triennially.

**5.** At no time did the Commonwealth of Pennsylvania make the wireline contribution rate, wireless surcharge, and VoIP 911 fee available for other than the purposes cited under the Public Safety Emergency Telephone Act, 35 P.S. §§ 7011, *et seq.*, as amended.

**6.** Pennsylvania offers no additional comments at this time.