

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Petition of)	
Michigan State 9-1-1 Committee for an order)	
finding that TracFone Wireless, Inc., is not)	
properly accounting for or paying into State)	Case No. U-17108
Emergency 9-1-1 fund the proper amount based)	
<u>upon its prepaid wireless sales.</u>)	

TRACFONE WIRELESS, INC.'S

MOTION TO DISMISS AND BRIEF IN SUPPORT

NOW COMES, TracFone Wireless, Inc. ("TracFone"), by and through its attorney's, Clark Hill PLC, and files this Motion to Dismiss, and request for Summary Disposition, and Brief in Support, pursuant to its Special Appearance and Rules R460.17513, Rule 460.17335, and MCR 2.116(C)(1)(4)(5) and (8) as applicable of, the Petition of the State 9-1-1 Committee .

Dismissal and a ruling for Summary Disposition is appropriate because 1.) the Commission does not have the jurisdiction nor the authority to hear this matter; 2.) the Emergency 9-1-1 Service Committee (the "Committee" or "SNC") does not have the standing to bring this Petition; 3.) the Committee does not have the jurisdiction or authority to make or pursue the claims it is alleging; 4.) the Committee has failed to state a claim upon which relief can be granted by the Commission; and 5.) the Petition fails to meet the standards required under the Michigan Administrative Procedures Act ("APA")¹ for a contested case proceeding. Were any one of these five grounds found to be true, this Petition would have to be dismissed, with prejudice, and summary disposition granted. However, as will be discussed in this brief, all five factors requiring dismissal are true and this Honorable Commission is obligated to dismiss the

¹ MCL 24.201 *et seq.*

Petition, with prejudice, grant summary disposition, and grant to TracFone an award of costs against the Committee.

I. BACKGROUND

The Committee was created by the Michigan Legislature through enactment of 1999 PA 79, the Emergency 9-1-1 Service Enabling Act² (the “Act”). Specifically, Section 712 of the Act provides:

An emergency 9-1-1 service committee is created within the department of state police to develop statewide standards and model system considerations and make other recommendations for emergency telephone services. **The committee shall only have the authority and duties granted to the committee under this act.**³

TracFone is a provider of prepaid wireless services in the United States. It is properly registered with the FCC to provide telecommunication services under 47 CFR §64.1195. Prior to 2008 the state statute (MCL 484.1101 *et seq*) prepaid providers were **not** required to collect from their customers 9-1-1 fees or remit such amounts to the State. *TracFone Wireless, Inc. v Department of Treasure and ETSC*, Docket 275065; 275942, Michigan Court of Appeals issued June 19, 2008 (Unpublished) Exhibit B. Nonetheless, more than \$541,000 had been mistakenly paid by TracFone prior to 2008, and the Circuit Court had awarded a judgment in favor of TracFone for a refund of more than \$231,000. Despite the fact that all agreed TracFone never owed the money to the State of Michigan, the Court of Appeals ruled none of the mistakenly paid sums could be returned to TracFone. *Ibid*. Thus, the Department of Treasury has already collected \$541,000 more in fees from TracFone than it ever owed. The SNC now seeks to charge TracFone again for fees it does not owe and which the SNC has no authority to even seek.

² MCL 484.1101 *et seq*. A copy of the Act is attached hereto as Exhibit A.

³ MCL 484.1712.

In 2007 PA 164, the Michigan Legislature first established procedures that prepaid wireless providers, such as TracFone, should use to collect an emergency 9-1-1 charge from each of its Michigan prepaid customers⁴ and remit that charge to the State Treasurer for deposit into the Emergency 9-1-1 Fund,⁵ created in the department of treasury. These new procedures were effective July 1, 2008.⁶ As noted in Paragraph 12 of the Petition, there is no dispute that TracFone has collected funds during the relevant period (according to the Petition, the relevant period is “since the second quarter of 2010”), submitted the appropriate Michigan Department of Treasury Form 4652, State 9-1-1 and Emergency 9-1-1 Charges, for each quarter during the relevant period from the Petition, and remitted payment to the State Treasurer. The Committee speculates in its Petition that “projections utilizing historical data and industry trends lead to the conclusion that the amounts TracFone has remitted to the emergency 9-1-1 fund are far less than what it is liable for under section 401c.” Petition, ¶ 14. While TracFone vehemently denies this accusation, it notes, and will explain in more detail later, that standing cannot be merely based on a speculative injury.⁷

Particularly troubling is the fact that the SNC and its counsel have long known and been advised that the MPSC has no jurisdiction in such a matter and the SNC has no standing to bring such a Petition, infra at VII. Also troubling is the fact the SNC has facts and information proving its allegations are not true and in fact TracFone has again overpaid its 9-1-1 fees. Yet, the SNC proceeds.

⁴ MCL 484.1401c.

⁵ MCL 484.1407 and 1408.

⁶ In 2012, the Michigan Legislature again re-wrote these procedures, effective January 1, 2013. *See*, 2012 PA 216 and 2012 PA 433, though not applicable here.

⁷ *See, In the matter of the Complaint of Alltel Communications, Inc. against Michigan Bell Telephone Company, d/b/a, AT&T Michigan, for improper assessment of SS7 messaging charges*, MPSC Case No. U-15116, Order issued May 22, 2007, *affirmed on appeal, Alltel Communications, Inc v Public Serve Comm’n*, Michigan Court of Appeals Docket No. 278864, 2009 Mich App LEXIS 137, Jan 22, 2009.

II. THE MICHIGAN PUBLIC SERVICE COMMISSION HAS NO JURISDICTION IN THIS MATTER.

Petitioner states “Section 712 of the Emergency 9-1-1 Service Enabling Act, 1986 PA 32, MCL 484.1101 *et seq.*, creates within the Department of State Police an emergency 9-1-1 service committee to develop statewide standards and model system considerations and make other recommendations for emergency telephone services. That committee is commonly known as the State 9-1-1 Committee (SNC).”

Petitioner further states:

“The SNC seeks a contested hearing before the Michigan Public Service Commission (MPSC) as provided by section 602(2) asking the MPSC to determine the respective rights and duties of the parties to this case. MCL 484.1602(2).” Petition, paragraph 10.

A. The MPSC Authority Under MCL 484.1602 Is Strictly Limited

However, Petitioner does not state section 602 in its full context:

“Sec. 602(1) The committee shall develop a voluntary informal dispute resolution process that can be utilized by any party in resolving any dispute involving the formulation, implementation, delivery, and funding of 9-1-1 services in this state.

(2) Except for a dispute between a commercial mobile radio service and a local exchange provider as defined under section 408, a dispute between or among one or more service suppliers, counties, public agencies, public service agencies, or any combination of those entities regarding their respective rights and duties under this act shall be heard as a contested case before the Public Service Commission as provided in the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.204 to 24.328.”

B. The SNC Is Not An Authorized Party to Invoke the MPSC’s Jurisdiction

Under Section 602(2), the Commission is empowered only to hear a dispute between or among a service supplier and a county; a service supplier and a public agency; a service supplier and a public service agency; between two service suppliers; a county and a public agency; a county and a public service agency; between two counties; a public agency and a public service

agency; between two public agencies; and/or between two public service agencies. The Commission’s jurisdiction and authority to hear disputes regarding respective rights and duties under the Act is narrowly focused and limited by the Legislature to only these entities. *The Committee is not included in this list of entities who have standing to bring a dispute regarding their respective rights and duties under this act to the Commission.* Therefore the Commission does not have subject matter jurisdiction to hear a dispute between the Committee and a service supplier, such as TracFone.

Any attempt to shoehorn the Committee into one of the entities who have standing would be frivolous under Section 123 of the APA as a position under which no one could have a “reasonable basis to believe that the facts underlying its legal position were in fact true”⁸ and a “legal position . . . devoid of arguable legal merit.”⁹ Each of the terms used in Section 602(2) are either defined in the Act or are used in such a way as to make any argument that the Committee falls within the purview of such frivolous.

The “Committee,” a word that does not appear in Section 602(2), but does appear in Section 602(1) – requiring it to establish an informal dispute resolution process, is specifically defined by the Act as “the emergency 9-1-1 service committee created under section 712.”¹⁰ The Committee is clearly not a “service supplier,” which is defined by the Act as “a person providing a communication service to a service user in this state.”¹¹ The Committee is clearly not a “public agency” under the terms of the Act, which define “public agency” as “a village, township, charter township, or city within the state and any special purpose district located in whole or in

⁸ MCL 24.123(1)(b).

⁹ MCL 24.123(1)(c).

¹⁰ MCL 484.1102(f).

¹¹ MCL 484.1102(gg).

part within the state.”¹² And the Committee is clearly not a “public service agency” under the terms of the Act, which, while not defining “public service agency”¹³ uses that term only three times in the Act, including the aforementioned use in Section 602, in a context throughout the act that implies that it certainly cannot be referring to the Committee. For example, in Section 505, the Act states:

A public service agency may not withdraw any part of its jurisdiction from a 9-1-1 service district until outstanding qualified obligations secured by emergency telephone operational charges incurred after the time of the addition of the public service agency to the 9-1-1 service area agreed to by the withdrawing public service agency and the remaining public service agencies comprising the 9-1-1 service district are paid or other provisions are made to pay the qualified obligations.¹⁴

Section 601 of the Act states:

The emergency 9-1-1 service committee created in section 712, upon request by a service supplier, county, public agency, or public service agency, shall provide, to the extent possible, technical assistance regarding the formulation or implementation, or both, of a 9-1-1 service plan and assistance in resolving a dispute between or among a service supplier, county, public agency, or public safety agency regarding their respective rights and duties under this act.¹⁵

Based on the Legislature’s use of the term “Committee” in Section 602(1), requiring the Committee to “develop a voluntary informal dispute resolution process that can be utilized by any party in resolving any dispute involving the formulation, implementation, delivery, and

¹² MCL 484.1102(bb).

¹³ Even if one were to assume that Section 602 contained a typo, and “public service agencies” was supposed to refer to “public safety agencies,” a term defined by Section 102(cc) of the Act, as “a functional division of a public agency, county, or the state that provides firefighting, law enforcement, ambulance, medical, or other emergency services,” MCL 484.1102(cc), again the Committee would not fall within such definition.

¹⁴ MCL 484.1505(2).

¹⁵ MCL 484.1601.

funding of 9-1-1 services in this state,”¹⁶ the Legislature clearly, unambiguously, and intentionally, refrained from mentioning the Committee as a party who may bring a complaint “regarding their respective rights and duties under this act [which] shall be heard as a contested case before the public service commission.”

As noted by the Michigan Court of Appeals,

The primary goal of statutory interpretation is to give effect to the intent of the Legislature. The first step in determining legislative intent is to review the language of the statute itself. If the language of the statute is unambiguous, the reviewing court must presume that the Legislature intended the meaning expressed, and judicial construction is neither required nor permitted. If the language of the statute is ambiguous, judicial construction to determine its meaning is appropriate. [*Ameritech Mich. v PSC* (“*In re MCI*”), 460 Mich 396, 421; 596 NW2d 164 (1999)]. The Legislature is presumed to be familiar with the rules of statutory construction and is charged with knowledge of existing laws on the same subject. *Inter Cooperative Council v Dep’t of Treasury*, 257 Mich App 219, 227; 668 NW2d 181 (2003). In addition, the Legislature is presumed to act with knowledge of administrative and appellate court statutory interpretations. *Gordon Sel-Way, Inc v Spence Bros, Inc*, 438 Mich 488, 505; 475 NW2d 704 (1991).¹⁷

Thus, because the legislature was clear and unambiguous in describing from what entities the Commission may hear a complaint under Section 602(2) and because the Committee was not listed among those, the Commission “must presume that the Legislature intended the meaning expressed, and judicial construction is neither required nor permitted.”

It is well established that the Commission has no inherent or common law powers.¹⁸ As a creation of the Legislature, it possesses only that authority specifically granted by statute.¹⁹

¹⁶ It should be noted that if the Committee has developed such a “voluntary informal dispute resolution process,” it has not shared such with TracFone nor offered such an informal dispute resolution process to settle its alleged dispute with TracFone.

¹⁷ *Detroit Edison Co. v. Mich. PSC*, 261 Mich. App. 1, 8-9 (Mich. Ct. App. 2004)

¹⁸ *Union Carbide Corp v Public Service Comm*, 431 Mich 135, 146; 428 NW2d 322 (1988).

¹⁹ *Telephone Association v Public Service Comm*, 210 Mich App 533, 539; 534 NW2d 194 (1995).

The [Commission's] authority must be plainly granted by the Legislature. The [Commission] is a creature of the Legislature, and the entirety of the [Commission's] authority must be found in statutory enactments. A statute that grants power to an administrative agency must be strictly construed and the administrative authority drawn from such statute must be granted plainly, because doubtful power does not exist.”²⁰

The Act strictly construes the entities between which the Commission has the power to hear disputes “regarding their respective rights and duties under [the] Act.”²¹ Because the Committee is not included in this very specific list of entities who have standing to bring a dispute to the Commission regarding their respective rights and duties under this act, the Commission does not have jurisdiction nor does the Commission have administrative authority to hear a dispute between the Committee and a service supplier such as TracFone. Thus, since the MPSC has no subject matter jurisdiction, this proceeding must be dismissed.

C. The SNC Was Intentionally Omitted from The List of Entities Who Can Invoke MCL 484.16002 For Good Reason

The Legislature did not include the SNC among those who could seek a contested case before the MPSC for a very good reason – the Chairman of the MPSC is on the SNC! MCL 484.1713(c). It clearly would not be reasonable to have the Chairman of the MPSC be part of one of the parties seeking a contested case hearing before himself! The Legislature would not have, and indeed did not, create such an absurdity. Even though the Legislature mentions the Committee regularly throughout the Act in series where it intends, in the essential provision here (i.e., MCL 484.1602(2)), the Legislature intentionally omits the Committee for this obvious reason.

²⁰ *Id.* at 539

²¹ MCL 484.1602(2).

III. THE EMERGENCY 9-1-1 SERVICE COMMITTEE DOES NOT HAVE THE STANDING TO BRING THIS PETITION

As noted above, the Committee states that it “seeks a contested hearing before the Michigan Public Service Commission (MPSC) as provided by section 602(2), asking the MPSC to determine the respective rights and duties of the parties to this case.”²²

Section 602 provides:

(1) The committee shall develop a voluntary informal dispute resolution process that can be utilized by any party in resolving any dispute involving the formulation, implementation, delivery, and funding of 9-1-1 services in this state.

(2) Except for a dispute between a commercial mobile radio service and a local exchange provider as defined under section 408, a dispute between or among 1 or more service suppliers, counties, public agencies, public service agencies, or any combination of those entities regarding their respective rights and duties under this act shall be heard as a contested case before the public service commission as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Under Section 602(2), the only entities permitted, by law, to bring a dispute before the Commission regarding respective rights and duties under the Act is narrowly focused and limited by the Legislature to a service supplier with a dispute against a county; a service supplier with a dispute against a public agency; a service supplier with a dispute against a public service agency; a service suppliers with a dispute against another service supplier; a county with a dispute against a public agency; a county with a dispute against a public service agency; a county with a dispute against another county; a public agency with a dispute against a public service agency; a public agency with a dispute against another public agencies; and a public service agency with a dispute against another public service agency. *The Committee is not included in this list of*

²² *Petition*, ¶10.

entities who have standing to bring a dispute regarding their respective rights and duties under the Act to the Commission.

For the reasons stated above, and earlier in Section II, because the legislature was clear and unambiguous in describing what entities have standing to bring a dispute before the Commission regarding their respective rights and duties under the Act, the Commission “must presume that the Legislature intended the meaning expressed, and judicial construction is neither required nor permitted.”²³

Neither the Committee nor the Commission may “read into” Section 602(2) standing for the Committee. Section 602(2) of the Act could not be clearer, the Committee is not included in those entities who have standing.

Even if the Committee had standing under 602(2), which it clearly does not, it would not have standing to bring the Petition it has brought. The Petition itself fails to establish standing on the Committee on two further grounds. Until the Michigan Supreme Court ruled in *Lansing Sch Educ. Ass'n v Lansing Bd of Educ*, that “a litigant has standing whenever there is a legal cause of action. . . . Where a cause of action is not provided at law, then a court should, in its discretion, determine whether a litigant has standing,”²⁴ it was well established Michigan law that Plaintiffs bore the burden of establishing each of the following elements of standing in order to invoke court jurisdiction:

First, the plaintiff must have suffered an 'injury in fact' -- an invasion of a legally protected interest which is (a) concrete and particularized, and (b) 'actual or imminent, not “conjectural” or “hypothetical.”’ Second, there must be a causal connection between the injury and the conduct complained of -- the injury has to be 'fairly . . . traceable to the challenged action of the defendant,

²³ *Detroit Edison Co v Public Serv Comm’n*, 261 Mich. App. at 9.

²⁴ 487 Mich. 349, 372; 792 NW2d 686 (2010). As noted above, the Committee does not have standing under this new standard because there is no cause of action provided for between the Committee and any possible party under Section 602(2) of the Act. MCL 484.1602(2).

and not . . . the result [of] the independent action of some third party not before the court.' Third, it must be 'likely,' as opposed to merely 'speculative,' that the injury will be 'redressed' by a favorable decision.²⁵

Under this standing doctrine often relied upon by the MPSC, the Committee would not have standing in this proceeding because the Committee has not suffered an injury in fact, any injury allegedly suffered is traceable only to third parties, and as admitted by the Committee, “projections utilizing historical data and industry trends lead to the conclusion that the amounts TracFone has remitted to the emergency 9-1-1 fund are far less than what it is liable for under section 401c,” and thus the allegations are merely speculative. The Commission cannot entertain a proceeding brought by an entity with no standing to do so.

IV. THE SNC HAS NO STATUTORY AUTHORITY OR ROLE IN COLLECTING 9-1-1 FEES AND HAS NOT STATED A PRIMA FACIE CASE

In the instant proceeding, and as noted by the Committee in its Petition, “in the case of the applicable state 9-1-1 charges, providers are required to remit the funds collected to the state treasurer for deposit into the emergency 9-1-1 fund created by section 407,”²⁶ in the department of treasury. Thus the Committee never sees the money collected by Prepaid Wireless Providers such as TracFone under the requirements of Section 401c of the Act. Any money remitted is remitted directly to the State Treasurer as provided for in Section 407 of the Act:

(1) The emergency 9-1-1 fund is created within the state treasury.

(2) The state treasurer may receive money or other assets as provided under this act and from any source for deposit into the fund. Money may be deposited into the fund by electronic funds transfer. Money in the CMRS emergency telephone fund on the effective date of the amendatory act that added section 401a shall be deposited into the fund and expended as provided by this act. The state treasurer shall direct the investment of the fund. The

²⁵ *Associated Builders & Contrs v Wilbur*, 472 Mich 117, 126-127; 693 NW2d 374 (2005).

²⁶ Petition, ¶5.

state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The **department of treasury** shall expend money from the fund only as provided in this act. The disbursement of money may be by electronic funds transfer.

(5) The auditor general shall audit the fund at least annually.
(Emphasis added)

This collection method is further illustrated by Michigan Department of Treasury Form 4652 – State 9-1-1 and Emergency 9-1-1 Charges (attached hereto as Exhibit C). Form 4652 makes no mention of the Committee and as noted clearly on the form, “State 9-1-1 and Emergency 9-1-1 Charges collected are due to Treasury within 30 days of the close of each quarter.” Because the Committee has no authority under the act to collect such State 9-1-1 and Emergency 9-1-1 Charges, it has no standing to bring a complaint regarding the methodology used in calculating how much is to be paid nor does it have standing to bring a complaint regarding the respective rights and duties of a service provider completing and submitting Form 4652 to the Department of Treasury.

This Commission considered a similar case *In the Matter of the Complaint of Alltel Communications, Inc. against Michigan Bell Telephone Company, d/b/a AT&T Michigan, for Improper Assessment of SS7 Messaging Charges*.²⁷ In *Alltel*, Alltel alleged that AT&T and it utilized a third-party to exchange SS7 signaling associated with the exchange of local traffic. Alltel had an Interconnection Agreement with AT&T that provided that they would exchange SS7 on a very low cost reciprocal compensation basis. However, because the parties were using a third-party to exchange SS7, AT&T billed that third-party, VerSign, at its tariffed rates.

²⁷ MPSC Case No. U-15166, Order, May 22, 2007.

VeriSign in turn billed Alltel at the rate AT&T was billing it. Alltel filed a complaint with the Commission alleging that AT&T was overcharging it for SS7, through its third-party provider, VeriSign. The Commission dismissed the Complaint stating:

The Commission finds that Alltel lacks standing to pursue Count I. Count I plainly alleges that AT&T Michigan has placed improper tariffed charges on VeriSign and has improperly collected certain monies from VeriSign, and the remedy requested is the return of those amounts to VeriSign. Thus, Count I, on its face, fails all three elements of the test for standing. The improper charges were not placed by AT&T Michigan on Alltel and the monies were not collected by AT&T Michigan from Alltel, thus Alltel shows no injury in fact. The injury, if any, appears to be traceable to the relevant portion of Alltel's contract with VeriSign, which requires Alltel to reimburse VeriSign for certain amounts. n5. Thus, VeriSign has taken independent action to impose certain charges on Alltel, and VeriSign is not before this Commission. Finally, if any amounts were awarded to VeriSign, as Alltel requests, it is surely conjectural that those amounts would end up in Alltel's pocket.²⁸

Similarly here, a third party is involved in the mix. The Committee's Petition plainly alleges that TracFone has remitted improper State 9-1-1 and Emergency 9-1-1 Charges to the Department of Treasury and that the Department of Treasury has allegedly collected the wrong amounts from TracFone. However, unlike in the Alltel Case, the Committee does not ask for definite relief. Paragraph 15 of the Petition notes that the Committee "desires and requests the MPSC to grant a discovery period and utilize its subpoena power, if necessary, in order to obtain subscriber data and revenue streams that will more definitively indicate the financial obligations of TracFone to the emergency 9-1-1 fund, and, in turn, to the overall 9-1-1 system in the State of Michigan." The Petition, however, fails to note that any financial obligation, and TracFone

²⁸ *Id.* Footnote five to the Order, is particularly relevant, it read, "The contract between Alltel and VeriSign (formerly known as Illuminet) provides: 'All charges contained herein are strictly for transport of ISUP and TCAP Messages and Responses through the ILLUMINET Network. Any other charges levied by database owners or Signaling Node owners are the Customer's responsibility. Arrangements for payment of such other charges should be made directly with the billing party by Customer, or if billed to ILLUMINET, such charges will be passed through to Customer.' Confidential Appendix D to second Williams affidavit, Docket Entry 3 1N. The quoted language was made publicly available in Alltel's exceptions."

maintains that it has fulfilled all of its proper financial obligations, would not be to the Committee, but to the Department of Treasury. Since any obligation to remit collected State 9-1-1 and Emergency 9-1-1 Charges is an obligation to the Department of Treasury, the Committee has no standing to bring a Petition regarding duties and obligations to remit such to Treasury.

The Michigan Court of Appeals, in affirming *Alltel*, noted,

Assuming the truth of Alltel's position, i.e., that Alltel has indeed reimbursed VeriSign through a direct pass-through provision of their contract for charges AT&T Michigan has improperly assessed against VeriSign by tariff, those assumptions still do not place Alltel in VeriSign's shoes so that Alltel may demand certain relief from AT&T Michigan on VeriSign's behalf. If Alltel was injured from having contractually reimbursed SS7 charges paid by VeriSign to AT&T Michigan, that injury was fairly traceable to VeriSign, not to AT&T Michigan.²⁹

Likewise, here the Committee cannot stand in the Department of Treasury's shoes. The Court of Appeals continued,

Moreover, were Alltel to obtain the relief sought--a refund of disputed amounts from AT&T Michigan to VeriSign--that result would not guarantee any improvement in Alltel's own position. Although, as Alltel suggests, such a result would provide ground upon which Alltel might seek refunds from VeriSign for itself, it would not be the automatic result of the relief requested in this case, but would follow only from other legal action.

Here, if the Committee prevailed and its speculation was correct, that TracFone owed additional State 9-1-1 and Emergency 9-1-1 Charges, the Committee would not be paid the charges, nor would the committee even directly benefit.

²⁹ *Alltel Communs v Public Serv Comm'n*, Michigan Court of Appeals Docket No. 278864, 2009 Mich. App. LEXIS 137 (Jan. 22, 2009).

V. THE COMMITTEE DOES NOT HAVE THE JURISDICTION OR AUTHORITY TO MAKE OR PURSUE THE CLAIMS IT IS ALLEGING

In its Petition, the Committee implies that it has the jurisdiction and authority to bring its Petition. “The SNC’s duties under the act are set forth at section 714, and include ‘all duties as required under this act relating to the development, implementation, operation, and funding of 9-1-1 systems in this state.’” Regardless of the Committee’s lack of standing to bring its Petition, which is discussed above, the Committee also lacks the jurisdiction and authority to bring its Petition.

It is long settled law in Michigan that “[t]he power and authority to be exercised by boards or commissions must be conferred by clear and unmistakable language, since a doubtful power does not exist.”³⁰

In all likelihood, the Committee will argue that the “all duties as required under this act” clause in Section 714 of the Act allows it to investigate and prosecute collection and remittance of funds by service providers. This argument would be made despite the fact that Section 714 specifically limits those other “duties” to duties related to “development, implementation, operation, and funding of 9-1-1 systems in this state”³¹ does not refer to nor even allude to the collection and remittance of funds by service providers. The Legislature was clear and unmistakable in omitting the Committee’s jurisdiction over such. In fact, in the Act, the Legislature only granted specific **limited** authority, not to the Committee, but rather to the State Treasurer.³²

In a proceeding in which this Commission’s decision to order parties to engage in “retail wheeling” was determined to be outside the Commission’s jurisdiction and authority, the

³⁰ *Mason Co Civil Research Council v Mason Co*, 343 Mich 313, 326-327; 72 NW2d 292 (1955).

³¹ MCL 484.1714(f).

³² MCL 484.1407; *See also, Supra*, p 15.

Michigan Supreme Court held that “[i]n construing the statutes empowering the PSC, this Court does not weigh the economic and public policy factors that underlie the action taken by the PSC.”³³ In that case, as this Commission should do here, the economic and public policy argument made by the Commission was found to be irrelevant, rather the Courts “strictly construes the statutes which confer power on the PSC.”³⁴ Likewise, the Commission must strictly construe the statutes which confer power on the Committee.

The Committee’s duty, power, and authority are established by the Legislature in Section 714 of the Act:

- (1) The committee shall do all of the following:
 - (a) Organize and adopt standards governing the committee's formal and informal procedures.
 - (b) Meet not less than 4 times per year at a place and time specified by the chairperson.
 - (c) Keep a record of the proceedings and activities of the committee.
 - (d) Provide recommendations to public safety answering points and secondary public safety answering points on statewide technical and operational standards for PSAPs and secondary PSAPs.
 - (e) Provide recommendations to public agencies concerning model systems to be considered in preparing a 9-1-1 service plan.
 - (f) Perform all duties as required under this act relating to the development, implementation, operation, and funding of 9-1-1 systems in this state.
 - (g) Provide notice to the service suppliers of any changes in the state or county 9-1-1 charge under sections 401a, 401b, and 401c.

³³ *Consumers Power Co v Public Serv Comm’n*, 460 Mich 148, 156; 596 NW2d 126 (1999).

³⁴ *Id.* at 156.

- (2) The department of state police and the public service commission shall provide staff assistance to the committee as necessary to carry out the committee's duties under this act.³⁵

Nowhere in the list of authority and duties granted to the committee does it say, or even imply, that the Committee has power to investigate, enforce, or bring a Petition regarding a service supplier's collection and remittance, to the Department of Treasury, of State 9-1-1 and Emergency 9-1-1 Charges. This omission is not accidental. In establishing the Committee, the Legislature gave as the purpose of creating the Committee:

An emergency 9-1-1 service committee is created within the department of state police to develop statewide standards and model system considerations and **make other recommendations for emergency telephone services. The committee shall only have the authority and duties granted to the committee under this act.**³⁶ (Emphasis added)

The Committee was established as an advisory board! As noted by the Michigan Auditor General, Thomas H. McTavish, C.P.A.:

The Act established the Emergency 9-1-1 Service Committee within MSP to provide oversight, including developing Statewide standards, determining county and public safety answering point (PSAP) eligibility for funding, notifying service suppliers of 9-1-1 service charges, recommending changes in 9-1-1 service charges and distribution percentages, and collecting and reporting data to the Legislature. The Department of Treasury collects the 9-1-1 service charges and expends the funds as required in the Act.³⁷

The Committee provides recommendations,³⁸ the Committee develops statewide standards,³⁹ the Committee provides notice to affected parties of such recommendations and

³⁵ MCL 484.1714

³⁶ MCL 484.1412 (emphasis added).

³⁷ McTAVISH, T.H., MICHIGAN OFFICE OF THE AUDITOR GENERAL, FINANCIAL AUDIT OF THE EMERGENCY 9-1-1 FUND, OCT 1, 2009 THROUGH SEPT 30, 2011, Rep No. 271-0265-12, Rel Aug 2012.

³⁸ MCL 484.1417(d) and (e).

³⁹ MCL 484.1412 and MCL 484.1417(a).

standards.⁴⁰ The Committee does **not** collect nor disburse funds – those actions are granted under the Act to the Department of Treasury.⁴¹ The Committee does **not** promulgate rules – that duty is granted under the Act to the Commission.⁴² The Committee does **not** establish 9-1-1 charges, with a very limited exception⁴³ – that duty is granted under the Act to the Commission.⁴⁴ And, the Committee does **not** adjudicate disputes regarding the Act – that duty is granted under the Act to the Commission.⁴⁵

The Committee has very limited authority and jurisdiction under the Act. The Legislature in establishing the Committee could not have been more clear or explicit, “**The committee shall only have the authority and duties granted to the committee under this act.**”⁴⁶ Nowhere in the Act is the Committee given authority or jurisdiction to deal with the collection of fees or to pursue a Petition such as the instant Petition.

VI. THE COMMITTEE HAS FAILED TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

Even if the Commission were to ignore the strict construction of Section 602(2) of the Act and hear the Petition, it would be going down a road for which it has no possible end result. **There is no statutory relief that can be granted.** The Petition asks the Commission for two areas of relief:

(1) Open a contested case proceeding under the provisions of MCL 484.1602(2) in order to determine the respective rights and duties of TracFone according to the provisions of the Emergency 9-1-1 Service Enabling Act.

⁴⁰ MCL 484.1417(g).

⁴¹ MCL 484.1407.

⁴² MCL 484.1413.

⁴³ MCL 484.1401c. The Legislature has repealed the Committee’s authority to do so, effective January 1, 2013. 2012 PA 260.

⁴⁴ MCL 484.1401a(5).

⁴⁵ MCL 484.1602(2).

⁴⁶ MCL 484.1412 (emphasis added).

(2) Provide for discovery and utilize its subpoena power in order that accurate information may be gathered on which to determine those rights and duties.

This prayer for relief contrasts greatly with the caption of the proceeding, which asks the Commission “for an order finding that TracFone Wireless, Inc. is not properly accounting for or paying into State Emergency 9-1-1 fund the proper amount based upon its prepaid wireless sales.” The fact that the request for relief differs so greatly from the caption alone should render this proceeding in violation of Section 72(2) of the APA, which requires that TracFone be given, in part,

a statement of the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular sections of the statutes and rules involved; and a short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is given, the initial notice may state the issues involved. Thereafter on application the agency or other party shall furnish a more definite and detailed statement on the issues.⁴⁷

A further reason the requested relief cannot be granted is because this Commission has yet to determine “the respective rights and duties of [anyone] according to the provisions of the Emergency 9-1-1 Service Enabling Act,” rights and duties that this Commission is statutorily **to promulgate under the rulemaking provisions of the APA**⁴⁸ – not through a contested-case proceeding, such as the instant proceeding.

Section 413 of the Act provides, in part, that,

(1) The commission may promulgate rules to establish 1 or more of the following:

* * * * *

(c) Uniform procedures, policies, and standards for the receipt and expenditure of 9-1-1 funds under

⁴⁷ MCL 24.271(2).

⁴⁸ MCL 24.24.231, *et seq.*

sections 401a, 401b, 401c, 401d, 401e, 406, and 408.

* * * * *

(e) The penalties and remedies for violations of this act and the rules promulgated under this act.

- (2) The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under this section.
- (3) The commission's rule-making authority is limited to that expressly granted under this section.
- (4) The rules promulgated under this section do not apply to service suppliers.⁴⁹

An examination of this Commission's Orders and of the Michigan Administrative Code reveal that this Commission has not promulgated any rules regarding "uniform procedures, policies, and standards for the receipt and expenditure of 9-1-1 funds under sections 401a, 401b, 401c, 401d, 401e, 406, and 408, nor has this Commission promulgated any rules regarding "the penalties and remedies for violations of this act and the rules promulgated under this act."

Without rules regarding the respective rights and duties of TracFone, were this proceeding to determine and establish such, the proceeding would be an impermissible rulemaking through a contested case proceeding.

The Michigan Supreme Court has found that:

The [Commission ("PSC")], as a creature of statute, derives its authority from the underlying statutes and possesses no common-law powers. *Union Carbide Corp v Public Service Comm*, 431 Mich 135, 146; 428 NW2d 322 (1988). . . . In particular, we note that the PSC must promulgate rules 'for the conduct of its business and the proper discharge of its functions' to the extent it intends to make its policies binding on 'all persons dealing with the commission or interested in any matter or proceedings pending before it' MCL 460.55; see also *Union Carbide Corp, supra*

⁴⁹ MCL 484.1413.

at 152. Rule promulgation must be conducted pursuant to the APA. See, e.g., MCL 460.557(6).⁵⁰

In that case, the Court of Appeals reviewed and invalidated the Commission's guidelines relating to transactions between affiliates of a public utility. The Court held that the Commission engaged in unlawful rulemaking by establishing guidelines through a contested case proceeding.

Invoking the public interest and the need for policy that is responsive to a changing industry, the PSC eschewed the procedural mandates of the APA in favor of its own course of action. By choosing to implement 'guidelines' by order in a contested case against unnamed parties, yet with the force and effect of law, the PSC culled elements of rulemaking, adjudication, and general policy formulation, with little regard for the dictates of the APA. While we do not doubt the PSC's legitimate concerns of lack of access to the accounts and records of a utility's nonregulated affiliates and subsidiaries, and the potential for 'cross-subsidization of nonutility investments through utility rates,' see *Midland Cogeneration Venture*, supra at 291, the process utilized by the PSC constituted a rather heavy-handed rebuke of established APA procedures, and, accordingly, we are compelled to invalidate that process.⁵¹

The Michigan Supreme Court has held that in Michigan "the preferred method of policymaking is by promulgation of rules."⁵² The Court noted that this is because "when action taken by an agency alters the status quo, those who will be affected by its future application should have the opportunity to be heard and to participate in the decisionmaking."⁵³ The APA defines a "rule" as "an agency regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure, or practice of the agency"⁵⁴ If the Commission were to proceed "to determine the respective rights and duties of TracFone according to the

⁵⁰ *Mich Elec & Gas Ass'n v Public Serv Comm'n*, 252 Mich App. 254, 263-264; 652 NW2d 1 (2002)

⁵¹ *Id.*, at 267-268.

⁵² *Detroit Base Coalition for the Human Rights of the Handicapped v Dep't of Social Services*, 431 Mich 172, 185; 428 NW2d 335 (1988).

⁵³ *Id.*, citing, *Metromedia v Taxation Div*, 97 NJ 313; 478 A2d 742 (1984).

⁵⁴ MCL 24.407.

provisions of the Emergency 9-1-1 Service Enabling Act” as sought by the Committee, it would be establishing the very “[u]niform procedures, policies, and standards for the receipt and expenditure of 9-1-1 funds under sections . . . 401c, and 408” and the “the penalties and remedies for violations of this act and the rules promulgated under this act” that it is required to promulgate rules for under Section 413 of the Act. To do so would be an improper promulgation of such rules in violation of the limited jurisdiction and authority granted to the Commission under the Act.

Further, the Commission has yet to promulgate rules establishing any standards for the receipt and expenditure of 9-1-1 funds under this act as required by Sections 408(8)⁵⁵ and 406(5) of the Act, which provide:

The commission shall consult with and consider recommendations of the committee in the promulgation of rules under section 413 establishing the standards for the receipt and expenditure of 9-1-1 funds under this act. Receipt of 9-1-1 funds under this act is dependent on compliance with the standards established under this subsection.

And,

The receipt of 9-1-1 funds under this act is dependent on compliance with the standards established by the commission under section 413.

Since no such rules have been promulgated or established by the Commission, the Commission has failed to exercise its limited jurisdiction under the Act, and even if the Commission had jurisdiction to hear a dispute between the Committee (which as discussed earlier, it does not have standing to bring this Petition) and a service supplier, such as TracFone,

⁵⁵ MCL 484.1408(8). Under MCL 484.1401c(4), CMRS providers such as TracFone are “shall deposit the amount collected under this section [MCL 484.1401c] into the emergency 9-1-1 fund to be distributed as provided under section 408.”

no standards exist under which to measure the receipt of any funds that are the subject of the Committee's Petition. Thus, there can be no claim for relief which can be granted.

The Michigan Court of Appeals has found that "An unsupported allegation which amounts solely to conjecture does not entitle a party to an extension of time for discovery, since under such circumstances discovery is nothing more than a fishing expedition to discover if any disputed material fact exists between the parties."⁵⁶ In an unpublished case involving this Commission, the Court of Appeals denied an appellant's claim for remand which "appears to be a fishing expedition to enable them to obtain some support for their speculative assertions, which we decline."⁵⁷

The Petition itself admits to being a fishing expedition, stating,

14. . . . Projections utilizing historical data and industry trends lead to the conclusion that the amounts TracFone Wireless, Inc. has remitted to the emergency 9-1-1 fund are far less than what it is liable for under section 401c.

15. For this reason, the SNC desires and requests the MPSC to grant a discovery period and utilize its subpoena power, if necessary, in order to obtain subscriber data and revenue streams that will more definitively indicate the financial obligations of TracFone Wireless, Inc. to the emergency 9-1-1 fund, and, in turn, to the overall 9-1-1 system in the State of Michigan.

"Fishing expeditions have always been, and will continue to be, frowned upon"⁵⁸ by Michigan Courts. In a long line of evidentiary rulings regarding sexual assaults, Michigan Courts have unambiguously held that Michigan "Court[s] should not condone, let alone order, 'a fishing expedition.'"⁵⁹ In addition, fishing expeditions are frowned upon by this Commission, i.e., "The Commission has no intention to allow the Attorney General to turn the reopened

⁵⁶ *Pauley v Hall*, 124 Mich App 255, 263; 335 NW2d 197 (1983).

⁵⁷ *In re Mich Consol. Gas Co.*, Michigan Court of Appeals Docket No. 282810, 2010 Mich. App. LEXIS 137, Jan. 21, 2010.

⁵⁸ *People v Dawsey*, 76 Mich. App. 741, 768; 257 NW2d 236 (1977) (N.J. Kaufman, *dissenting*).

⁵⁹ *People v Parks*, 478 Mich. 910, 914; 733 NW2d 14 (2007); *See also, People v Williams*, 191 Mich. App. 269; 477 NW2d 877 (1991), *People v Hackett*, 421 Mich 338; 365 NW2d 120 (1984).

proceeding into an open-ended fishing expedition.”⁶⁰ Likewise the Commission should not allow this proceeding to go forth as the relief requested is nothing more than a fishing expedition.

In *Smith v Lansing School Dist*, the Michigan Supreme Court overturned a Michigan Court of Appeals decision in which “the Court of Appeals held that [Michigan Employment Relations Commission (“MERC”)] may not summarily dispose of an unfair labor practice charge on the ground that, accepting all alleged facts as true, no claim for relief within the jurisdiction of the MERC has been stated.”⁶¹ Rather, the Court was “inclined to agree with appellants that the MERC’S own duly promulgated rules sufficiently authorize a designated hearing referee to recommend dismissal of a charge or complaint on the ground that the parties have failed to state a claim for relief.”⁶² The MPSC Rules similarly provide for dismissal of charges for which relief cannot be given.⁶³

Likewise, the Commission should dismiss this Petition, with prejudice, and grant summary disposition because the Committee has failed to state a valid claim for relief which the MPSC can or should grant and the Committee has not stated a prima facie case.

VII. THE PETITION FAILS TO MEET THE STANDARDS REQUIRED UNDER THE MICHIGAN ADMINISTRATIVE PROCEDURES ACT AND IS FRIVOLOUS AND WITHOUT LEGAL MERIT

A. The APA Require More Than The Petition Here

While Complainants are required, under the Commission’s rules of Practice and Procedure to plead their Complaint with specificity,⁶⁴ and under the APA to provide a “statement

⁶⁰ *In the matter of the application of Consumers Energy Company for approval of a power purchase agreement and for other relief in connection with the sale of the Palisades Nuclear Power Plan and other assets*, MPSC Case No. U-14922, Order Granting Petition to Reopen, Feb 6, 2007.

⁶¹ 428 Mich 248, 255; 406 NW2d 825 (1987).

⁶² *Id.* at 257.

⁶³ MAC R 460.17513.

⁶⁴ MAC R 460.17505(1)(d).

of the legal authority and jurisdiction under which the hearing is to be held,” “reference to the particular sections of the statutes and rules involved,” and “provide a short and plain statement of the matters asserted,”⁶⁵ the Petition fails to do so. While citing various portions of the Act, the Petition does not provide for the “legal authority and jurisdiction under which [a] hearing is to be held.”⁶⁶ The Petition fails to demonstrate how or where the Committee determined the alleged numbers it so freely throws around as its “calculations.”⁶⁷ As discussed above, the allegations contained in the Petition are purely speculative leading the Committee to ask for a fishing expedition rather than assert any matters upon which the Commission (if it had jurisdiction and authority) may act.

⁶⁵ MCL 24.71(2)(c) and (d).

⁶⁶ Perhaps the Committee could not do so because, as detailed above, there is no legal authority or jurisdiction to bring the Petition.

⁶⁷ In fact the Committee admits that these numbers are likely incorrect:

14. Although the SNC presents a prima facie case by this complaint, that case is necessarily based on well-grounded estimates and calculations. Projections utilizing historical data and industry trends lead to the conclusion that the amounts TracFone has remitted to the emergency 9-1-1 fund are far less than what it is liable for under section 401c.

15. For this reason, the SNC desires and requests the MPSC to grant a discovery period and utilize its subpoena power, if necessary, in order to obtain subscriber data and revenue streams that will more definitively indicate the financial obligations of TracFone to the emergency 9-1-1 fund, and, in turn, to the overall 9-1-1 system in the State of Michigan.

Petition, ¶¶ 14 and 15.

The APA provides that “[t]hereafter on application the agency or other party shall furnish a more definite and detailed statement on the issues.”⁶⁸ The Commission’s Rules of Practice and Procedure provide that:

If the respondent believes that a complaint is so vague or ambiguous that the respondent cannot reasonably be required to respond to it, the respondent may file and serve, upon the complainant, a motion requesting that the allegations or other matters contained in the complaint be made more definite and certain. The motion shall specify the defect complained of and the details requested. The respondent shall answer those portions of the complaint that are not subject to the motion. If the motion is granted, the complainant shall have an opportunity to file an amended complaint within the time specified in the order granting the motion.⁶⁹

However, neither the APA nor the Commission’s Rules of Practice and Procedure anticipate a fishing expedition based solely on speculation, as is the case with this Petition. Perhaps this is because standing must be based, in part on a “likely” injury, “as opposed to merely 'speculative,' that the injury will be 'redressed by a favorable decision.’”⁷⁰ Here we have no likelihood and no injury to the Petitioner.

Yet another defect in the Petition under the APA occurs when the Commission’s role is considered in this proceeding. “The chair of the Michigan Public Service Commission or his or her designated representative” sits on the Committee, pursuant to the Act.⁷¹ In addition, “the Public Service Commission shall provide staff assistance to the committee as necessary to carry out the Committee's duties under this act.”⁷² This comingling of efforts, staff, and authority between the Committee and the Commission may just be one of the many reasons that the

⁶⁸ MCL 24.71(2)(d).

⁶⁹ MAC R 460.17511.

⁷⁰ *Associated Builders & Contrs v Wilbur*, 472 Mich 117, 126-127; 693 NW2d 374 (2005).

⁷¹ MCL 484.1713(1)(c).

⁷² MCL 484.1714(2).

Legislature did not permit the Committee to bring a dispute regarding a party's respective rights and duties under the Act to the Commission in Section 602(2) of the Act.¹ Such foresight by the Legislature avoids the inherent conflict that such a dispute would raise under Sections 79 and 82 of the APA.²

Finally, the SNC's own records state it has met with the MPSC on this matter already. TracFone is entitled to "an impartial" hearing.³ How can it receive a fair and impartial hearing when the Chairman of the MPSC is among the complainants and the matter has already been discussed with the MPSC?

B. Costs Should Be Awarded For Such A Frivolous Petition

Section 123(1) of the APA provides:.

The presiding officer that conducts a contested case shall award to a prevailing party, other than an agency, the costs and fees incurred by the party in connection with that contested case, if the presiding officer finds that the position of the agency to the proceeding was frivolous. To find that an agency's position was frivolous, the presiding officer shall determine that at least 1 of the following conditions has been met:

- (a) The agency's primary purpose in initiating the action was to harass, embarrass, or injure the prevailing party.
- (b) The agency had no reasonable basis to believe that the facts underlying its legal position were in fact true.
- (c) The agency's legal position was devoid of arguable legal merit.⁴

In the instant proceeding, TracFone asserts that each of the three factors to be used to determine if a complaint is frivolous and if an award of costs is appropriate have been met.

¹ MCL 484.1602(2).

² MCL 24.279 and 282.

³ MCL 24.279

⁴ MCL 24.323.

The Committee has long known it does not have the standing to bring nor does the Commission have the jurisdiction to hear this Petition. The Committee has recorded such in its own minutes and in the minutes of its Legislative Action Subcommittee discussed below.

According to the August 16, 2010 Minutes of the Committee's Legislative Action Subcommittee:

Clear Language to Compel Compliance with Surcharge Contribution – Mr. Hal Martin reported that clear language speaking to this is not included in the current statute even though mechanisms to collect the money are included. It leaves it up to the MPSC to flush out the offenders. Can the MPSC enforce the statute as it reads now? There is nothing that states any penalties if the statute is not followed. He also discussed who would resolve a complaint – Treasury, MSP, etc. This is not clear either.⁷⁷

According to the November 9, 2010 Minutes of the Committee's Legislative Action Subcommittee:

During the August 16 LAS meeting, Mr. Hal Martin [the Attorney General Prosecuting the instant proceeding] and Ms. Miller-Brown [Committee Staff] were asked by the subcommittee members to identify shortcomings in the 9-1-1 statute. **Mr. Martin noted that through his research regarding the funding compliance, all enforcement was up to rulemaking.** There are currently two rulemakings in progress (Training and MLTS). Some ideas to gain compliance on surcharge contribution would be through the authority of the Treasurer. (Emphasis added).

As noted above, Mr. Martin was correct, enforcement is up to rulemaking. The Commission may promulgate rules for “the penalties and remedies for violations of this act”⁷⁸ and the rules promulgated under this act,” and for “[u]niform procedures, policies, and standards for the receipt and expenditure of 9-1-1 funds under sections 401a, 401b, 401c, 401d, 401e, 406,

⁷⁷ See, State 9-1-1 Committee, Legislative Action Subcommittee, Meeting Minutes, Aug 16, 2010, p 3 (attached hereto in Exhibit E).

⁷⁸ MCL 484.1413(1)(b).

and 408,”⁷⁹ but has not done so. So if Mr. Martin believed that enforcement is up to rulemaking, what basis does he have for prosecuting this Complaint?

According to the February 24, 2011 Minutes of the Committee’s Legislative Action Subcommittee:

Ms. Miller-Brown discussed an effort that she and Mr. Hal Martin are working on regarding the provider surcharge enforcement. There is a belief that a significant amount of money is being missed out on because of the lack of enforcement. Currently, there is no enforcement against provider(s) who do not pay 9-1-1 fees in Michigan.

Ms. Miller-Brown and Mr. Martin have met with Treasury and the MPSC, and have reviewed the Revenue Act. Those providers have been identified by the Office of the Auditor General. **There is nothing in the statute that gives the ability to compel providers to supply information to confirm there is a problem regarding the revenue.**⁸⁰ (Emphasis added).

However, despite an acknowledgement that “there is nothing in the statute that gives the ability to compel providers to supply information to confirm there is a problem regarding the revenue” the Committee has chosen to pursue this fishing expedition to do just that, compel TracFone to supply information.

Recognizing that the Committee does not have standing or authority to bring any action for enforcement of surcharges, Ms. Miller-Brown and Mr. Martin even reported to the Committee that the Act needs to be changed to grant the Committee such:

Ms. Miller-Brown and Mr. Martin have met with the Michigan Public Service Commission (MPSC), the Michigan Department of Treasury, and have done research through the statute and found there are not a lot of provisions within the statute for surcharge enforcement. They have spoken to the LAS and asked to pursue opening a single section of the Act to address the issue. The LAS has not yet made a recommendation. It is being

⁷⁹ MCL 484.1413(1)(c).

⁸⁰ See, State 9-1-1 Committee, Legislative Action Subcommittee, Meeting Minutes, Feb 24, 2011, p 3 (attached hereto in Exhibit E).

mentioned today as an update on the fact that there is discussion on looking at a single section amendment to the current Act to allow for enforcement provisions of the surcharge.⁸¹ (Emphasis added).

According to the October 4, 2011 Minutes of the Committee's Legislative Action Subcommittee, "Ms. Miller-Brown and Mr. Hal Martin met with staff at the Public Service Commission and they were advised that there was little to enforce the statute."⁸²

According to the November 30, 2012 Minutes of the Committee's Legislative Action Subcommittee,

Mr. Sible discussed that everyone would have the information regarding companies X and Y along with a memo from Mr. Hal Martin. Ms. Miller-Brown discussed the issues addressed within the memo that revolve around the current statute. The provisions necessary to have a case to take the MPSC, and that the SNC needs standing for this case and referred to the last two pages of the memo.⁸³

And, in a report to the Committee on June 14, 2011, it was reported,

Ms. Miller-Brown has worked on an initial draft for the LAS to begin discussions and work towards a recommendation to the SNC regarding both state and local surcharge enforcement with providers. **Mr. Sible reminded the group that there currently is no enforcement included in the Act against provider(s) who do not pay the state 9-1-1 fees in Michigan. Ms. Miller-Brown and Mr. Hal Martin have met with the Department of Treasury and the MPSC, reviewed the Revenue Act, and concluded that there's virtually no ability to enforce the revenue portion of the statute.** Mr. Sible reported that based on their work, a recommendation has been made to the LAS that a single section amendment to the statute be pursued to support compliance enforcement. The Office of the Auditor General's

⁸¹ See, State 9-1-1 Committee, Meeting Minutes, March 15, 2011, p 9 (attached hereto in Exhibit D).

⁸² See, State 9-1-1 Committee, Legislative Action Subcommittee, Meeting Minutes, Oct 4, 2011, p 3 (attached hereto in Exhibit E).

⁸³ See, State 9-1-1 Committee, Legislative Action Subcommittee, Meeting Minutes, Nov 30, 2011, p 3 (attached hereto in Exhibit E). Though the referenced memo was requested from the Committee via the Freedom of Information Act ("FOIA"), the Committee claimed that such was exempt from FOIA pursuant to Section 13(1)(g) of FOIA, as "information or records subject to the attorney-client privilege." MCL 15.243(1)(g).

report from the annual fund audit also supports the pursuit of compliance provisions in the statute.⁸⁴ (Emphasis added).

On December 13, 2011, Mr. Martin specifically noted that the Committee “is not the one within the current statute who could file a complaint and would hesitate to move forward.”

Providers failing to submit total surcharge remittance- Ms. Lori Howard provided the handouts of X Company that is a wireless provider and Y Company that is a VOIP provider and explained some of the shortages and conflicting information provided from these companies. **Mr. Hal Martin maintains the SNC is not the one within the current statute who could file a complaint and would hesitate to move forward.** However, MSP can act on behalf of the SNC to file the complaint. Ms. Harriet Miller-Brown has requested information from Company Y to provide documentation, but it still has not been received, so she is hesitant to move forward with Company Y until additional documentation is provided.⁸⁵ (Emphasis added).

The Committee’s own minutes establish that the Committee and its Attorney knew and believed that the Committee did not have the authority, jurisdiction, or standing to bring this Petition. Therefore the Committee “has no reasonable basis to believe that the facts underlying its legal position were in fact true” and the Committee “legal position is devoid of arguable legal merit.” Both of which should lead to an award of TracFone’s costs and reasonable attorney fees in having to research and file this motion.

In an e-mail sent on May 24, 2012, Committee Staff member Harriet Miller-Brown specifically told her colleague Lori Howard:

With self-reporting, they can claim whatever they want and report any random number. I do not receive the 4652 forms, which are only available if I request them; Al faxes only what I request. I typically look at providers that show up as not paying anything or pay a different amount than is claimed to be owed, and request their forms so I can figure out why the amounts are not the same. **I also pull Tracfone and Virgin Mobile, no matter what is reported.** Although the Treasury report shows that they pay what

⁸⁴ See, State 9-1-1 Committee, Meeting Minutes, June 14, 2011, p 5 (attached hereto in Exhibit D).

⁸⁵ See, State 9-1-1 Committee, Meeting Minutes, Dec 13, 2011, p 6 (attached hereto in Exhibit D).

they owe, the amounts are almost always wrong when I get the 4652 and do the math. My point is that we cannot know overall is the providers are "paying what they should" because we do not have access to all of those forms and nobody at Treasury actually does the math to see if what is reported is correct.⁸⁶ (Emphasis added)

Clearly the Committee staff has been targeting TracFone and Virgin Mobile (against whom it filed a similar Petition). This targeting may be retaliation for Complaints filed against the Department of Treasury and the Committee prior to the enactment of Section 401c of the Act.⁸⁷ In light of this statement by Ms. Miller Brown and the fact that the evidence is overwhelming that the Committee brought this Petition despite knowing that it lacked authority, jurisdiction and standing can only lead to the conclusion that the Committee filed this Petition to “harass, embarrass, or injure” TracFone. Such an action should lead to an award of TracFone’s costs and reasonable attorney fees in having to research and file this motion under Section 123(1)(a) of the APA.⁸⁸

VIII. CONCLUSION

As discussed above, dismissal of the instant Petition and a ruling for summary disposition is appropriate because 1.) the Commission does not have the jurisdiction nor the authority to hear this matter; 2.) the Committee does not have the standing to bring this Petition; 3.) the Committee does not have the jurisdiction or authority to make or pursue the claims it is alleging; 4.) the Committee has failed to state a claim upon which relief can be granted; and 5.) the Petition fails to meet the standards required under the APA for a contested case proceeding. In

⁸⁶ E-Mail exchange, dated May 24, 2012 between Lori Howard and Harriet Miller-Brown, attached hereto as Exhibit F.

⁸⁷ Virgin Mobile and Tracfone Wireless, Inc. were, based on information and belief the only prepaid wires carriers to bring such complaints before the Michigan Court of Claims. *Virgin Mobile USA L.P. v Department of Treasury*, Court of Claims Docket No. 07-125-MT; *Tracfone Wireless, Inc. v Department of Treasury*, Court of Claims Docket No. 06-028-MT.

⁸⁸ MCL 24.323(1)(a).

addition, pursuant to Section 123 of the APA, the Petition is frivolous and an award of costs to TracFone should be made.

Therefore, TracFone Wireless, Inc., respectfully requests that this honorable Commission:

- A. Dismiss The Petition of Michigan State 9-1-1 Committee for an Order Finding that TracFone Wireless, Inc. is Not Properly Accounting for or Paying into State Emergency 9-1-1 Fund the Proper Amount Based Upon its Prepaid Wireless Sales;
- B. Grant Summary Disposition to TracFone;
- C. Grant to TracFone an award of its costs and reasonable attorney fees against the Emergency 9-1-1 Service Committee; and
- D. Grant such other relief as may be just and reasonable.

	Respectfully submitted, CLARK HILL PLC By: _____ Roderick S. Coy (P12290) 212 East Grand River Avenue Lansing, MI 48906 (517) 318-3100 (517) 318-3099 Fax Attorney for TracFone Wireless, Inc.
Dated: January 11, 2013	

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Petition of)	
Michigan State 9-1-1 Committee for an order)	
finding that TracFone Wireless, Inc., is not)	
properly accounting for or paying into State)	Case No. U-17108
Emergency 9-1-1 fund the proper amount based)	
<u>upon its prepaid wireless sales.</u>)	

TRACFONE WIRELESS, INC.'S

MOTION TO DISMISS AND BRIEF IN SUPPORT

EXHIBITS

Exhibit A	The Emergency 9-1-1 Service Enabling Act, 1999 PA 79, MCL 484.1101 <i>et seq.</i> , as amended.
Exhibit B	<i>TracFone Wireless, Inc. v Department of Treasure and ETSC</i> , Docket 275065; 275942, Michigan Court of Appeals issued June 19, 2008 (Unpublished)
Exhibit C	Michigan Department of Treasury Form 4652 – State 9-1-1 and Emergency 9-1-1
Exhibit D	Selected Minutes of the State 9-1-1 Committee
Exhibit E	Selected Minutes of the State 9-1-1 Committee Legislative Action Subcommittee
Exhibit F	E-Mail Exchange Charges

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Petition of)
Michigan State 9-1-1 Committee for an order)
finding that TracFone Wireless, Inc., is not)
properly accounting for or paying into State)
Emergency 9-1-1 fund the proper amount based)
upon its prepaid wireless sales.)

Case No. U-17108

TRACFONE WIRELESS, INC.'S

MOTION TO DISMISS AND BRIEF IN SUPPORT

EXHIBIT A

The Emergency 9-1-1 Service Enabling Act, 1999 PA 79, MCL 484.1101 *et seq.*, as amended.

***** *Act 32 of 1986 THIS ACT IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021*

EMERGENCY 9-1-1 SERVICE ENABLING ACT

Act 32 of 1986

AN ACT to provide for the establishment of emergency 9-1-1 districts; to provide for the installation, operation, modification, and maintenance of universal emergency 9-1-1 service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, service suppliers, and others; to create an emergency 9-1-1 service committee; to provide remedies and penalties; and to repeal acts and parts of acts.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1989, Act 36, Imd. Eff. June 1, 1989;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

The People of the State of Michigan enact:

CHAPTER I

***** *484.1101 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021*

484.1101 Short title.

Sec. 101. This act shall be known and may be cited as the "emergency 9-1-1 service enabling act".

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** *484.1102 THIS SECTION IS REPEALED BY ACT 379 OF 2008 EFFECTIVE DECEMBER 31, 2014*

***** *484.1102 THIS SECTION IS AMENDED EFFECTIVE JANUARY 1, 2013: See 484.1102.amended*

484.1102 Definitions.

Sec. 102. As used in this act:

(a) "Automatic location identification" or "ALI" means a 9-1-1 service feature provided by the service supplier that automatically provides the name and service address or, for a CMRS service supplier, the location associated with the calling party's telephone number as identified by automatic number identification to a 9-1-1 public safety answering point.

(b) "Automatic number identification" or "ANI" means a 9-1-1 service feature provided by the service supplier that automatically provides the calling party's telephone number to a 9-1-1 public safety answering point.

(c) "Commercial mobile radio service" or "CMRS" means commercial mobile radio service regulated under section 3 of title I and section 332 of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 USC 153 and 332, and the rules of the federal communications commission or provided under the wireless emergency service order. Commercial mobile radio service or CMRS includes all of the following:

(i) A wireless 2-way communication device, including a radio telephone used in cellular telephone service or personal communication service.

(ii) A functional equivalent of a radio telephone communications line used in cellular telephone service or personal communication service.

(iii) A network radio access line.

(d) "Commission" means the Michigan public service commission.

(e) "Committee" means the emergency 9-1-1 service committee created under section 712.

(f) "Common network costs" means the costs associated with the common network required to deliver a 9-1-1 call with ALI and ANI from a selective router to the proper PSAP and the costs associated with the 9-1-1 database and data distribution system of the primary 9-1-1 service supplier identified in a county 9-1-1 plan. As used in this subdivision, "common network" means the elements of a service supplier's network that are not exclusive to the supplier or technology capable of accessing the 9-1-1 system.

(g) "Communication service" means a service capable of accessing, connecting with, or interfacing with a 9-1-1 system, exclusively through the numerals 9-1-1, by dialing, initializing, or otherwise activating the

9-1-1 system through the numerals 9-1-1 by means of a local telephone device, cellular telephone device, wireless communication device, interconnected voice over the internet device, or any other means.

(h) "CMRS connection" means each number assigned to a CMRS customer.

(i) "Consolidated dispatch" means a countywide or regional emergency dispatch service that provides dispatch service for 75% or more of the law enforcement, fire fighting, emergency medical service, and other emergency service agencies within the geographical area of a 9-1-1 service district or serves 75% or more of the population within a 9-1-1 service district.

(j) "County 9-1-1 charge" means the charge allowed under sections 401b, 401c, and 401e.

(k) "Database service provider" means a service supplier who maintains and supplies or contracts to maintain and supply an ALI database or an MSAG.

(l) "Direct dispatch method" means that the agency receiving the 9-1-1 call at the public safety answering point decides on the proper action to be taken and dispatches the appropriate available public safety service unit located closest to the request for public safety service.

(m) "Emergency response service" or "ERS" means a public or private agency that responds to events or situations that are dangerous or that are considered by a member of the public to threaten the public safety. An emergency response service includes a police or fire department, an ambulance service, or any other public or private entity trained and able to alleviate a dangerous or threatening situation.

(n) "Emergency service zone" or "ESZ" means the designation assigned by a county to each street name and address range that identifies which emergency response service is responsible for responding to an exchange access facility's premises.

(o) "Emergency telephone charge" means emergency telephone operational charge and emergency telephone technical charge allowed under section 401.

(p) "Emergency 9-1-1 district" or "9-1-1 service district" means the area in which 9-1-1 service is provided or is planned to be provided to service users under a 9-1-1 system implemented under this act.

(q) "Emergency 9-1-1 district board" means the governing body created by the board of commissioners of the county or counties with authority over an emergency 9-1-1 district.

(r) "Emergency telephone operational charge" means a charge allowed under section 401 for nonnetwork technical equipment and other costs directly related to the dispatch facility and the operation of 1 or more PSAPs including, but not limited to, the costs of dispatch personnel and radio equipment necessary to provide 2-way communication between PSAPs and a public safety agency. Emergency telephone operational charge does not include non-PSAP related costs such as response vehicles and other personnel.

(s) "Emergency telephone technical charge" means a charge as allowed under section 401 or 401d for costs directly related to 9-1-1 service including plant-related costs associated with the use of the public switched telephone network from the end user to the selective router, the network start-up costs, customer notification costs, common network costs, administrative costs, database management costs, and network nonrecurring and recurring installation, maintenance, service, and equipment charges of a service supplier providing 9-1-1 service under this act. Emergency telephone technical charge does not include costs recovered under sections 401b(9) and 408(2).

(t) "Exchange access facility" means the access from a particular service user's premises to the communication service. Exchange access facilities include service supplier provided access lines, PBX trunks, and centrex line trunk equivalents, all as defined by tariffs of the service suppliers as approved by the public service commission. Exchange access facilities do not include telephone pay station lines or WATS, FX, or incoming only lines.

(u) "Final 9-1-1 service plan" means a tentative 9-1-1 service plan that has been modified only to reflect necessary changes resulting from any exclusions of public agencies from the 9-1-1 service district of the tentative 9-1-1 service plan under section 306 and any failure of public safety agencies to be designated as PSAPs or secondary PSAPs under section 307.

(v) "Master street address guide" or "MSAG" means a perpetual database that contains information continuously provided by a service district that defines the geographic area of the service district and includes an alphabetical list of street names, the range of address numbers on each street, the names of each community in the service district, the emergency service zone of each service user, and the primary service answering point identification codes.

(w) "Obligations" means bonds, notes, installment purchase contracts, or lease purchase agreements to be issued by a public agency under a law of this state.

(x) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(y) "Primary public safety answering point", "PSAP", or "primary PSAP" means a communications facility operated or answered on a 24-hour basis assigned responsibility by a public agency or county to receive 9-1-1

calls and to dispatch public safety response services, as appropriate, by the direct dispatch method, relay method, or transfer method. It is the first point of reception by a public safety agency of a 9-1-1 call and serves the jurisdictions in which it is located and other participating jurisdictions, if any.

(z) "Prime rate" means the average predominant prime rate quoted by not less than 3 commercial financial institutions as determined by the department of treasury.

(aa) "Private safety entity" means a nongovernmental organization that provides emergency fire, ambulance, or medical services.

(bb) "Public agency" means a village, township, charter township, or city within the state and any special purpose district located in whole or in part within the state.

(cc) "Public safety agency" means a functional division of a public agency, county, or the state that provides fire fighting, law enforcement, ambulance, medical, or other emergency services.

(dd) "Qualified obligations" means obligations that meet 1 or more of the following:

(i) The proceeds of the obligations benefit the 9-1-1 district, and for which all of the following conditions are met:

(A) The proceeds of the obligations are used for capital expenditures, costs of a reserve fund securing the obligations, and costs of issuing the obligations. The proceeds of obligations shall not be used for operational expenses.

(B) The weighted average maturity of the obligations does not exceed the useful life of the capital assets.

(C) The obligations shall not in whole or in part appreciate in principal amount or be sold at a discount of more than 10%.

(ii) The obligations are issued to refund obligations that meet the conditions described in subparagraph (i) and the net present value of the principal and interest to be paid on the refunding obligations, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligations being refunded, as calculated using a method approved by the department of treasury.

(ee) "Relay method" means that a PSAP notes pertinent information and relays it by a communication service to the appropriate public safety agency or other provider of emergency services that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.

(ff) "Secondary public safety answering point" or "secondary PSAP" means a communications facility of a public safety agency or private safety entity that receives 9-1-1 calls by the transfer method only and generally serves as a centralized location for a particular type of emergency call.

(gg) "Service supplier" means a person providing a communication service to a service user in this state.

(hh) "Service user" means a person receiving a communication service.

(ii) "State 9-1-1 charge" means the charge provided for under sections 401a and 401c.

(jj) "Tariff" means the rate approved by the public service commission for 9-1-1 service provided by a particular service supplier. Tariff does not include a rate of a commercial mobile radio service by a particular supplier.

(kk) "Tentative 9-1-1 service plan" means a plan prepared by 1 or more counties for implementing a 9-1-1 system in a specified 9-1-1 service district.

(ll) "Transfer method" means that a PSAP transfers the 9-1-1 call directly to the appropriate public safety agency or other provider of emergency service that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.

(mm) "Universal emergency number service" or "9-1-1 service" means public communication service that provides service users with the ability to reach a public safety answering point by dialing the digits "9-1-1".

(nn) "Universal emergency number service system" or "9-1-1 system" means a system for providing 9-1-1 service under this act.

(oo) "Wireless emergency service order" means the order of the federal communications commission, FCC docket No. 94-102, adopted June 12, 1996 with an effective date of October 1, 1996.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1991, Act 196, Imd. Eff. Jan. 2, 1992;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1996, Act 313, Imd. Eff. June 24, 1996;—Am. 1999, Act 80, Eff. Oct. 27, 1999;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1102.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2013; THIS AMENDED SECTION IS ALSO REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1102.amended Definitions.

Sec. 102. As used in this act:

(a) "Automatic location identification" or "ALI" means a 9-1-1 service feature provided by the service supplier that automatically provides the name and service address or, for a CMRS service supplier, the location associated with the calling party's telephone number as identified by automatic number identification to a 9-1-1 public safety answering point.

(b) "Automatic number identification" or "ANI" means a 9-1-1 service feature provided by the service supplier that automatically provides the calling party's telephone number to a 9-1-1 public safety answering point.

(c) "Commercial mobile radio service" or "CMRS" means commercial mobile radio service regulated under section 3 of title I and section 332 of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 USC 153 and 332, and the rules of the federal communications commission or provided under the wireless emergency service order. Commercial mobile radio service or CMRS includes all of the following:

(i) A wireless 2-way communication device, including a radio telephone used in cellular telephone service or personal communication service.

(ii) A functional equivalent of a radio telephone communications line used in cellular telephone service or personal communication service.

(iii) A network radio access line.

(d) "Commission" means the Michigan public service commission.

(e) "Committee" means the emergency 9-1-1 service committee created under section 712.

(f) "Common network costs" means the costs associated with the common network required to deliver a 9-1-1 call with ALI and ANI from a selective router to the proper PSAP and the costs associated with the 9-1-1 database and data distribution system of the primary 9-1-1 service supplier identified in a county 9-1-1 plan. As used in this subdivision, "common network" means the elements of a service supplier's network that are not exclusive to the supplier or technology capable of accessing the 9-1-1 system.

(g) "Communication service" means a service capable of accessing, connecting with, or interfacing with a 9-1-1 system, exclusively through the numerals 9-1-1, by dialing, initializing, or otherwise activating the 9-1-1 system through the numerals 9-1-1 by means of a local telephone device, cellular telephone device, wireless communication device, interconnected voice over the internet device, or any other means.

(h) "CMRS connection" means each number assigned to a CMRS customer.

(i) "Consolidated dispatch" means a countywide or regional emergency dispatch service that provides dispatch service for 75% or more of the law enforcement, fire fighting, emergency medical service, and other emergency service agencies within the geographical area of a 9-1-1 service district or serves 75% or more of the population within a 9-1-1 service district.

(j) "County 9-1-1 charge" means the charge allowed under sections 401b and 401e.

(k) "Database service provider" means a service supplier who maintains and supplies or contracts to maintain and supply an ALI database or an MSAG.

(l) "Direct dispatch method" means that the agency receiving the 9-1-1 call at the public safety answering point decides on the proper action to be taken and dispatches the appropriate available public safety service unit located closest to the request for public safety service.

(m) "Emergency response service" or "ERS" means a public or private agency that responds to events or situations that are dangerous or that are considered by a member of the public to threaten the public safety. An emergency response service includes a police or fire department, an ambulance service, or any other public or private entity trained and able to alleviate a dangerous or threatening situation.

(n) "Emergency service zone" or "ESZ" means the designation assigned by a county to each street name and address range that identifies which emergency response service is responsible for responding to an exchange access facility's premises.

(o) "Emergency telephone charge" means the emergency telephone operational charge and emergency telephone technical charge allowed under section 401.

(p) "Emergency 9-1-1 district" or "9-1-1 service district" means the area in which 9-1-1 service is provided or is planned to be provided to service users under a 9-1-1 system implemented under this act.

(q) "Emergency 9-1-1 district board" means the governing body created by the board of commissioners of the county or counties with authority over an emergency 9-1-1 district.

(r) "Emergency telephone operational charge" means a charge allowed under section 401 for nonnetwork technical equipment and other costs directly related to the dispatch facility and the operation of 1 or more PSAPs including, but not limited to, the costs of dispatch personnel and radio equipment necessary to provide 2-way communication between PSAPs and a public safety agency. Emergency telephone operational charge does not include non-PSAP related costs such as response vehicles and other personnel.

(s) "Emergency telephone technical charge" means a charge as allowed under section 401 or 401d for costs

directly related to 9-1-1 service including plant-related costs associated with the use of the public switched telephone network from the end user to the selective router, the network start-up costs, customer notification costs, common network costs, administrative costs, database management costs, and network nonrecurring and recurring installation, maintenance, service, and equipment charges of a service supplier providing 9-1-1 service under this act. Emergency telephone technical charge does not include costs recovered under sections 401b(10) and 408(2).

(t) "Exchange access facility" means the access from a particular service user's premises to the communication service. Exchange access facilities include service supplier provided access lines, PBX trunks, and centrex line trunk equivalents, all as defined by tariffs of the service suppliers as approved by the public service commission. Exchange access facilities do not include telephone pay station lines or WATS, FX, or incoming only lines.

(u) "Final 9-1-1 service plan" means a tentative 9-1-1 service plan that has been modified only to reflect necessary changes resulting from any failure of public safety agencies to be designated as PSAPs or secondary PSAPs under section 307.

(v) "Master street address guide" or "MSAG" means a perpetual database that contains information continuously provided by a service district that defines the geographic area of the service district and includes an alphabetical list of street names, the range of address numbers on each street, the names of each community in the service district, the emergency service zone of each service user, and the primary service answering point identification codes.

(w) "Obligations" means bonds, notes, installment purchase contracts, or lease purchase agreements to be issued by a public agency under a law of this state.

(x) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(y) "Prepaid wireless telecommunications service" means a commercial mobile radio service that allows a caller to dial 9-1-1 to access the 9-1-1 system and is paid for in advance and sold in predetermined units or dollars of which the number declines with use in a known amount.

(z) "Primary public safety answering point", "PSAP", or "primary PSAP" means a communications facility operated or answered on a 24-hour basis assigned responsibility by a public agency or county to receive 9-1-1 calls and to dispatch public safety response services, as appropriate, by the direct dispatch method, relay method, or transfer method. It is the first point of reception by a public safety agency of a 9-1-1 call and serves the jurisdictions in which it is located and other participating jurisdictions, if any.

(aa) "Prime rate" means the average predominant prime rate quoted by not less than 3 commercial financial institutions as determined by the department of treasury.

(bb) "Private safety entity" means a nongovernmental organization that provides emergency fire, ambulance, or medical services.

(cc) "Public agency" means a village, township, charter township, or city within the state and any special purpose district located in whole or in part within the state.

(dd) "Public safety agency" means a functional division of a public agency, county, or the state that provides fire fighting, law enforcement, ambulance, medical, or other emergency services.

(ee) "Qualified obligations" means obligations that meet 1 or more of the following:

(i) The proceeds of the obligations benefit the 9-1-1 district, and for which all of the following conditions are met:

(A) The proceeds of the obligations are used for capital expenditures, costs of a reserve fund securing the obligations, and costs of issuing the obligations. The proceeds of obligations shall not be used for operational expenses.

(B) The weighted average maturity of the obligations does not exceed the useful life of the capital assets.

(C) The obligations shall not in whole or in part appreciate in principal amount or be sold at a discount of more than 10%.

(ii) The obligations are issued to refund obligations that meet the conditions described in subparagraph (i) and the net present value of the principal and interest to be paid on the refunding obligations, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligations being refunded, as calculated using a method approved by the department of treasury.

(ff) "Relay method" means that a PSAP notes pertinent information and relays it by a communication service to the appropriate public safety agency or other provider of emergency services that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.

(gg) "Secondary public safety answering point" or "secondary PSAP" means a communications facility of a public safety agency or private safety entity that receives 9-1-1 calls by the transfer method only and

generally serves as a centralized location for a particular type of emergency call.

(hh) "Service supplier" means a person providing a communication service to a service user in this state.

(ii) "Service user" means a person receiving a communication service.

(jj) "State 9-1-1 charge" means the charge provided for under section 401a.

(kk) "Tariff" means the rate approved by the public service commission for 9-1-1 service provided by a particular service supplier. Tariff does not include a rate of a commercial mobile radio service by a particular supplier.

(ll) "Tentative 9-1-1 service plan" means a plan prepared by 1 or more counties for implementing a 9-1-1 system in a specified 9-1-1 service district.

(mm) "Transfer method" means that a PSAP transfers the 9-1-1 call directly to the appropriate public safety agency or other provider of emergency service that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.

(nn) "Universal emergency number service" or "9-1-1 service" means public communication service that provides service users with the ability to reach a public safety answering point by dialing the digits "9-1-1".

(oo) "Universal emergency number service system" or "9-1-1 system" means a system for providing 9-1-1 service under this act.

(pp) "Wireless emergency service order" means the order of the federal communications commission, FCC docket No. 94-102, adopted June 12, 1996 with an effective date of October 1, 1996.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1991, Act 196, Imd. Eff. Jan. 2, 1992;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1996, Act 313, Imd. Eff. June 24, 1996;—Am. 1999, Act 80, Eff. Oct. 27, 1999;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007;—Am. 2012, Act 260, Eff. Jan. 1, 2013.

Popular name: 9-1-1

CHAPTER II

***** 484.1201 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1201 Implementation of emergency 9-1-1 service system; conditions; creation by 1 or more counties or cities; access.

Sec. 201. (1) An emergency 9-1-1 service system shall not be implemented in this state except as provided under this act.

(2) One or more counties may create an emergency 9-1-1 service system under this act.

(3) With the approval of the county board of commissioners in a county with a population of 1,800,000 or more, 4 or more cities may create an emergency 9-1-1 service district under this act.

(4) Each service supplier in this state is required to provide each of its service users access to the 9-1-1 system. Each service supplier shall provide the committee with contact information to allow for notifications as required under section 714.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1999, Act 78, Imd. Eff. June 28, 1999;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

484.1201a, 484.1201b Repealed. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's note: The repealed sections pertained to universal emergency number service systems created by counties or cities.

Popular name: 9-1-1

***** 484.1202 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1202 Technical modifications to existing system; cost.

Sec. 202. A public agency which is excluded from a 9-1-1 service district in a 9-1-1 system implemented under this act, but which is operating an existing emergency 9-1-1 service at the time the 9-1-1 system is implemented, shall permit any technical modifications to its existing system which are necessary for compatibility with the 9-1-1 system. Any cost of the service supplier associated with such modifications shall be collected from service users in the 9-1-1 service district.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1203 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1203 Primary emergency 9-1-1 number; secondary backup number; number for nonemergency contacts.

Sec. 203. The digits 9-1-1 shall be the primary emergency 9-1-1 number within every 9-1-1 system established pursuant to this act. A public safety agency whose services are available through a 9-1-1 system implemented under this act may maintain a separate secondary backup number for emergencies, and shall maintain a separate number for nonemergency contacts.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1204 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1204 System designs.

Sec. 204. (1) A 9-1-1 system implemented pursuant to this act shall be designed to meet the individual circumstances of each county and the public agencies participating in the 9-1-1 system, and shall be within the service limitations of service suppliers providing the 9-1-1 service in the 9-1-1 system. System designs shall include provision for expansion of the system to include capabilities not required in initial implementation, including the addition of PSAPs and secondary PSAPs.

(2) Every 9-1-1 system shall be designed so that a 9-1-1 call is processed by means of either the direct dispatch method, the relay method, or the transfer method. At least 2 of the specified methods shall be available for use by the PSAP receiving the call. The PSAP may handle nonemergency calls by referring the caller to another number.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

***** 484.1205 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1205 Capabilities and requirements of 9-1-1 system.

Sec. 205. (1) A 9-1-1 system established under this act shall be capable of transmitting requests for law enforcement, fire fighting, and emergency medical and ambulance services to 1 or more public safety agencies which provide the requested service to the place where the call originates.

(2) A 9-1-1 system shall process all 9-1-1 calls originating from telephones within an exchange any part of which is within the emergency 9-1-1 district served by the system. This requirement does not apply to any part of an exchange not located within the county or counties that established the 9-1-1 system if that part has been included in an implemented 9-1-1 system for the county within which that part is located.

(3) A 9-1-1 system may provide for transmittal of requests for other emergency services, such as poison control, suicide prevention, and civil defense. Conferencing capability with counseling, aid to persons with disabilities, and other services as considered necessary for emergency response determination may be provided by the 9-1-1 system.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1998, Act 23, Imd. Eff. Mar. 12, 1998;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1206 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1206 PSAP transmissions.

Sec. 206. A PSAP may transmit emergency response requests to private safety entities under a 9-1-1 system.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

***** 484.1207 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1207 Automatic alerting devices prohibited.

Sec. 207. The installation of automatic intrusion alarms and other automatic alerting devices which cause the number 9-1-1 to be dialed shall be prohibited in a 9-1-1 system.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

CHAPTER III

***** 484.1301 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1301 Emergency 9-1-1 district; establishment; implementation of 9-1-1 service; modification or alteration of existing emergency 9-1-1 service; emergency 9-1-1 district board; creation and powers.

Sec. 301. (1) The board of commissioners of a county may establish an emergency 9-1-1 district within all or part of the county and may cause 9-1-1 service to be implemented within the emergency 9-1-1 district under this act.

(2) The board of commissioners of a county all or part of which is operating an existing emergency telephone service shall modify the existing emergency telephone service or may alter the scope or method of financing of 9-1-1 service within all or part of the county by establishing an emergency 9-1-1 district and causing 9-1-1 service to be implemented within the emergency 9-1-1 district under this act.

(3) The board of commissioners of a county may create an emergency 9-1-1 district board and delegate certain powers to the board.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 2006, Act 249, Imd. Eff. July 3, 2006;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1302 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1302 Emergency 9-1-1 district; joint establishment; implementation of 9-1-1 service; actions; notices.

Sec. 302. Two or more county boards of commissioners may jointly establish an emergency 9-1-1 district within all or part of the counties and may cause 9-1-1 service to be implemented within the emergency 9-1-1 district under this act. If 2 or more county boards of commissioners wish to jointly establish an emergency 9-1-1 district under this act, then all actions required or permitted to be taken by a county or its officials under this act shall be taken by each county or the officials of each county, and all notices required or permitted to be given to a county or its officials under this act shall be given to each county or the officials of each county.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1303 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1303 Tentative 9-1-1 service plan; adoption by resolution; requirements; payments for installation and recurring charges associated with PSAP.

Sec. 303. (1) To establish an emergency 9-1-1 district and to cause 9-1-1 service to be implemented within that emergency 9-1-1 district, the board of commissioners of a county shall first adopt a tentative 9-1-1 service plan by resolution.

(2) A tentative 9-1-1 service plan shall comply with chapter II and shall address at a minimum all of the following:

(a) Technical considerations of the service supplier, including but not limited to, system equipment for facilities to be used in providing emergency 9-1-1 service.

(b) Operational considerations, including but not limited to, the designation of PSAPs and secondary PSAPs, the manner in which 9-1-1 calls will be processed, the dispatch functions to be performed, plans for documenting closest public safety service unit dispatching requirements, the dispatch of Michigan state police personnel, and identifying information systems to be utilized.

(c) Managerial considerations including the organizational form and agreements that would control technical, operational, and fiscal aspects of the emergency 9-1-1 service.

(d) Fiscal considerations including projected nonrecurring and recurring costs with a financial plan for

implementing and operating the system.

(3) The tentative 9-1-1 service plan shall require each public agency operating a PSAP under the 9-1-1 system to pay directly for all installation and recurring charges for terminal equipment, including customer premises equipment, associated with the public agency's PSAP, and may require each public agency operating a PSAP under the 9-1-1 system to pay directly to the service supplier all installation and recurring charges for all 9-1-1 exchange and tie lines associated with the public agency's PSAP.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1999, Act 80, Eff. Oct. 27, 1999;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1304 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1304 Specifications of resolution.

Sec. 304. A resolution adopting a tentative 9-1-1 service plan pursuant to section 303 shall specify a time, date, and place for the public hearing to be held on the final 9-1-1 service plan pursuant to section 309, which date shall be not less than 90 days after the date of the adoption of the resolution authorized by this section.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

***** 484.1305 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1305 Forwarding copy of resolution and tentative 9-1-1 service plan to clerk or other appropriate official.

Sec. 305. Within 5 days after the adoption of a resolution authorized in section 303, the county clerk shall forward a copy of such resolution, together with a copy of the tentative 9-1-1 service plan, by certified mail, return receipt requested, to the clerk or other appropriate official of each public agency located within the 9-1-1 district of the tentative 9-1-1 service plan.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

484.1306 Repealed. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's note: The repealed section pertained to exclusion from 9-1-1 service district.

Popular name: 9-1-1

***** 484.1307 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1307 Notice of intent to function as PSAP or secondary PSAP.

Sec. 307. (1) Any public safety agency designated in the tentative 9-1-1 service plan to function as a PSAP or secondary PSAP shall be so designated under the final 9-1-1 service plan if the public safety agency files with the county clerk a notice of intent to function as a PSAP or secondary PSAP within 45 days after the public agency which the public safety agency has been designated to serve by the tentative 9-1-1 service plan receives a copy of the resolution and the tentative 9-1-1 service plan adopted under section 303. The notice of intent to function as a PSAP or secondary PSAP shall be in substantially the following form:

NOTICE OF INTENT TO FUNCTION

AS A PSAP OR SECONDARY PSAP

Pursuant to section 307 of the emergency 9-1-1
service enabling act, _____ shall
function as a (check one) _____ PSAP
_____ Secondary PSAP within the 9-1-1 service district
of the tentative 9-1-1 service plan adopted by resolution
of the board of commissioners for the county of
_____, on _____, 19____.

(Acknowledgment)

(2) If a public safety agency designated as a PSAP or secondary PSAP in the tentative 9-1-1 service plan fails to file a notice of intent to function as a PSAP or secondary PSAP within the time period specified in

subsection (1), the public safety agency shall not be designated as a PSAP or secondary PSAP in the final 9-1-1 service plan.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1308 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1308 Hearing on final 9-1-1 service plan; notice.

Sec. 308. The clerk of each county which has adopted a tentative 9-1-1 service plan under section 303 shall give notice by publication of the hearing on the final 9-1-1 service plan to be held under section 309. The notice shall be published twice in a newspaper of general circulation within the county, the first publication of the notice occurring at least 30 days prior to the date of the hearing. The notice shall state all of the following:

(a) The time, date, and place of the hearing.

(b) A description of the boundaries of the 9-1-1 service district of the final 9-1-1 service plan.

(c) That if the board of commissioners of the county, after a hearing, adopts the final 9-1-1 service plan under this act, the state 9-1-1 charge and, if a county 9-1-1 charge has been approved, a county 9-1-1 charge shall be collected on a uniform basis from all service users within the 9-1-1 service district.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1309 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1309 Conduct of hearing; opportunity to be heard.

Sec. 309. The board of commissioners shall conduct a hearing on the final 9-1-1 service plan at the time, place, and date specified in the notice published pursuant to section 308. All persons attending the meeting shall be afforded a reasonable opportunity to be heard.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

***** 484.1310 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1310 Final 9-1-1 service plan; adoption by resolution; application to service suppliers.

Sec. 310. After conducting the hearing on the final 9-1-1 service plan pursuant to this act, the board of commissioners of the affected county may adopt by resolution the final 9-1-1 service plan. Upon adoption of the resolution, the county, on behalf of public agencies located within the 9-1-1 service district, shall apply in writing to the service supplier or suppliers designated to provide 9-1-1 service within the 9-1-1 service district under the final 9-1-1 service plan.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

***** 484.1311 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1311 Implementation of 9-1-1 service in 9-1-1 service district; public safety agency to function as PSAP or secondary PSAP.

Sec. 311. (1) As soon as feasible after receipt of a written application from a county requesting 9-1-1 service within a 9-1-1 service district described in a final 9-1-1 service plan adopted pursuant to this act, each service supplier designated in the final 9-1-1 service plan shall implement 9-1-1 service within the 9-1-1 service district in accordance with the final 9-1-1 service plan.

(2) Upon implementation of 9-1-1 service in a 9-1-1 service district pursuant to subsection (1), each public safety agency designated as a PSAP or secondary PSAP in the final 9-1-1 service plan shall begin to function as a PSAP or secondary PSAP.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1991, Act 196, Imd. Eff. Jan. 2, 1992.

Popular name: 9-1-1

***** 484.1312 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1312 Amendment of final 9-1-1 service plan.

Sec. 312. (1) Except as otherwise provided under subsection (2), after a final 9-1-1 service plan has been adopted under section 310, a county may amend the final 9-1-1 service plan only by complying with the procedures described in sections 301 to 310. Upon adoption of an amended final 9-1-1 service plan by the county board of commissioners, the county shall forward the amended final 9-1-1 service plan to the service supplier or suppliers designated to provide 9-1-1 service within the 9-1-1 service district as amended. Upon receipt of the amended final 9-1-1 service plan, each designated service supplier shall implement as soon as feasible the amendments to the final 9-1-1 service plan in the 9-1-1 service district as amended.

(2) The county board of commissioners may by resolution make minor amendments to the final 9-1-1 service plan for any of the following:

(a) Changes in PSAP premises equipment, including, but not limited to, computer-aided dispatch systems, call processing equipment, and computer mapping.

(b) Changes involving the participating public safety agencies within a 9-1-1 service district.

(c) Changes in the 9-1-1 charges collected by the county subject to the limits under this act.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1313 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1313 Termination of 9-1-1 system.

Sec. 313. A 9-1-1 system implemented pursuant to this act shall be terminated only if each public agency, all or part of which was included within the 9-1-1 service district of the final 9-1-1 service plan, withdraws its entire jurisdiction from the 9-1-1 service district pursuant to section 505.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

***** 484.1314 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1314 Duties of service supplier or other owner or lessee of pay station telephone; installation of pay station telephone; costs of service supplier.

Sec. 314. (1) At the time that a 9-1-1 system becomes operational or as soon as feasible thereafter, each service supplier or other owner or lessee of a pay station telephone to be operated within the 9-1-1 service district shall do both of the following:

(a) Convert or cause to be converted each such telephone to permit a caller to dial 9-1-1 without first inserting a coin or paying any other charge.

(b) Prominently display on each such telephone a notice advising callers to dial 9-1-1 in an emergency and that deposit of a coin is not required.

(2) After commencement of 9-1-1 service in a 9-1-1 service district, a person shall not install, cause to be installed, or offer for use within the 9-1-1 district a pay station telephone, whether on public or private premises, unless the telephone is capable of accepting a 9-1-1 call without prior insertion of a coin or payment of any other charge, and displays the notice described in subsection (1).

(3) All costs of a service supplier associated with converting pay station telephones and maintaining the required notices under this section shall be borne by the service users within the 9-1-1 district.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

***** 484.1315 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1315 Displaying address of telephone.

Sec. 315. If the 9-1-1 system does not provide ALI, each service supplier, owner, or lessee of a pay station telephone shall prominently display on each telephone or telephone pay station the address of the telephone at the time that a 9-1-1 system becomes operational or as soon as feasible thereafter.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

***** 484.1316 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1316 Providing accurate database information; customer telephone numbers and service addresses; expenses; waiver of privacy; notice of inaccurate information.

Sec. 316. (1) Except for a CMRS supplier, a service supplier shall provide to a 9-1-1 database service provider accurate database information, including the name, service address, and telephone number of each user, in a format established and distributed by that database service provider. The information shall be provided to the 9-1-1 database service provider within the following time periods:

(a) Within 1 business day after the initiation of service or the processing of a service order change.

(b) Within 1 business day after receiving database information from a service supplier or service district.

(2) Except for a CMRS supplier, if an ALI is not offered by the service supplier with the 9-1-1 system and the 9-1-1 system requires that information, a service supplier shall provide current customer telephone numbers and service addresses to each PSAP and secondary PSAP within the 9-1-1 system and shall periodically update customer telephone numbers and service addresses and provide such information to each PSAP and secondary PSAP within the 9-1-1 system. The 9-1-1 service district shall determine the period within which the service supplier shall update customer telephone numbers and service addresses. Expenses incurred in providing this information shall be included in the price of the system. Private listing service customers in a 9-1-1 service district shall waive the privacy afforded by nonlisted and nonpublished numbers to the extent that the name and address associated with the telephone number may be furnished to the 9-1-1 system.

(3) A service district shall notify the service supplier or the database provider within 1 business day of any address that comes to the service district's attention that does not match the master street address guide.

(4) A CMRS supplier shall provide accurate database information for the ANI and the ALI to the 9-1-1 database service provider that complies with the wireless emergency service order.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1999, Act 80, Eff. Oct. 27, 1999.

Popular name: 9-1-1

***** 484.1317 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1317 Use of name, address, and telephone number information; limitation; violation as misdemeanor.

Sec. 317. Name, address, and telephone number information provided to a 9-1-1 system by a service supplier shall be used only for the purpose of identifying the telephone location or identity, or both, of a person calling the 9-1-1 emergency telephone number and shall not be used or disclosed by the 9-1-1 system agencies, their agents, or their employees for any other purpose, unless the information is used or disclosed as otherwise required under this act, to a member of a public safety agency if necessary to respond to events or situations that are dangerous or threaten individual or public safety, or pursuant to a court order. A person who violates this section is guilty of a misdemeanor.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 2004, Act 515, Imd. Eff. Jan. 3, 2005.

Popular name: 9-1-1

***** 484.1317a THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1317a Emergency notification system.

Sec. 317a. (1) A 9-1-1 service district may implement an emergency notification system that will allow emergency service responders to contact service users within a specific geographic area regarding an imminent danger or emergency that may affect the user's health, safety, or welfare.

(2) A person that provides an emergency notification system allowed under this section is a service supplier under section 604.

(3) A service supplier shall upon request provide to each 9-1-1 service district within the provider's service area the telephone number and address data, including all listed, unlisted, and unpublished numbers and addresses, for each service user within the district.

(4) A service supplier may charge a reasonable rate to provide the data required under subsection (3).

(5) A 9-1-1 service district shall not request the data required under subsection (3) more than once per

month.

(6) The data provided under subsection (3) shall be used only for the purposes provided under this section.

(7) This section does not apply to a wireless carrier. As used in this subsection, "wireless carrier" means a provider of 2-way cellular, broadband PCS, geographic area 800 MHz and 900 MHz commercial mobile radio service, wireless communications service, or other commercial mobile radio service as defined in 47 CFR 20.3, that offers radio communications that may provide fixed, mobile, radio location, or satellite communication services to individuals or businesses within its assigned spectrum block and geographical area or that offers real-time, 2-way voice or data service that is interconnected with the public switched network, including a reseller of the service.

(8) A person who violates this section is guilty of a misdemeanor.

History: Add. 2004, Act 515, Imd. Eff. Jan. 3, 2005.

Popular name: 9-1-1

***** 484.1318 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1318 Agreement to service as PSAP or secondary PSAP.

Sec. 318. A public agency may enter into an agreement with a public safety agency of another public agency, or of the state, to serve as a PSAP or secondary PSAP for such public agency in a 9-1-1 system implemented pursuant to this act.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994.

Popular name: 9-1-1

***** 484.1319 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1319 Duties of certain public agencies.

Sec. 319. A public agency that plans to establish a 9-1-1 system without using the financing method provided under this act shall do all of the following:

(a) Provide public notice of its intent to enter into a contract for 9-1-1 services. The public notice shall be provided in the same manner as required under section 308.

(b) Provide public notice of its intent to enter into a contract for 9-1-1 services to the county board of commissioners of the county within which the public agency is located and to all other public agencies that share wire centers with the contracting public agency. The public notice shall be provided in the same manner as required under section 308.

(c) Conduct a public hearing in the same manner as required under section 309.

History: Add. 1989, Act 36, Imd. Eff. June 1, 1989;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1320 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1320 Emergency 9-1-1 district board; creation; membership, powers, and duties; appropriations to board; contracts; system to be used in dispatching participating service units; basis for determination.

Sec. 320. (1) The county shall create an emergency 9-1-1 district board if a county creates a consolidated dispatch within an emergency 9-1-1 district after March 2, 1994.

(2) The membership of the board and the board's powers and duties shall be determined by the county board of commissioners. The membership of the board shall include a representative of the county sheriff or his or her designated representative, a representative of the Michigan state police designated by the director of the Michigan state police, and a firefighter. If the emergency 9-1-1 district consists of more than 1 county, the sheriff representative shall be appointed by the president of the Michigan sheriffs' association.

(3) A county or other public agency may make appropriations to the emergency 9-1-1 district board.

(4) A public agency may contract with the emergency 9-1-1 district board, and persons who are both members of the board and of the governing body of the public agency may vote both on the board and the body if approved by the contract.

(5) The basis under which a consolidated dispatch meets the requirement for being a dispatch under section 102(c) shall determine the system to be used in dispatching participating service units.

History: Add. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1998, Act 122, Imd. Eff. June 10, 1998;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1321 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1321 Services provided by consolidated dispatch.

Sec. 321. A consolidated dispatch shall provide full public safety dispatching services for service requests for the participating sheriff departments, state police, and other participating public safety agencies within the 9-1-1 service district.

History: Add. 1994, Act 29, Imd. Eff. Mar. 2, 1994.

Popular name: 9-1-1

CHAPTER IV

***** 484.1401 SUBSECTIONS (3) THROUGH (13) DO NOT APPLY AFTER JUNE 30, 2008 *****

***** 484.1401 THIS SECTION IS REPEALED BY ACT 379 OF 2008 EFFECTIVE DECEMBER 31, 2014 *****

484.1401 Agreement; emergency telephone technical charge and emergency telephone operational charge; billing and collection service; computation; monthly charge for recurring costs and charges; ballot question; annual accounting; distribution of operational charge; limitation on levy and collection; applicability of subsections (3) through (13) after June 30, 2008.

Sec. 401. (1) An emergency 9-1-1 district board, a 9-1-1 service district as defined in section 102 and created under section 201b, or a county on behalf of a 9-1-1 service area created by the county may enter into an agreement with a public agency that does either of the following:

(a) Grants a specific pledge or assignment of a lien on or a security interest in any money received by a 9-1-1 service district for the benefit of qualified obligations.

(b) Provides for payment directly to the public entity issuing qualified obligations of a portion of the county 9-1-1 charge or state 9-1-1 charge sufficient to pay when due principal of and interest on qualified obligations.

(2) A pledge, assignment, lien, or security interest for the benefit of qualified obligations is valid and binding from the time the qualified obligations are issued without a physical delivery or further act. A pledge, assignment, lien, or security interest is valid and binding and has priority over any other claim against the emergency 9-1-1 district board, the 9-1-1 service district, or any other person with or without notice of the pledge, assignment, lien, or security interest.

(3) Except as provided in sections 407 to 412, each service supplier within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge and emergency telephone operational charge from all service users of the service supplier within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone operational charge and that portion of the technical charge used for billing cost shall begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge and emergency telephone operational charge shall be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, shall be amortized at the prime rate plus 1% over a period not to exceed 10 years and shall be billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization shall be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge and emergency telephone operational charge shall continue to be billed to the service user.

(4) Except as provided in sections 407 to 412 and subject to the limitation provided by this section, the amount of the emergency telephone technical charge and emergency telephone operational charge to be billed to the service user shall be computed by dividing the total emergency telephone technical charge and emergency telephone operational charge by the number of exchange access facilities within the 9-1-1 service

district.

(5) Except as provided in subsection (7) and sections 407 to 412, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 2% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges shall not exceed 5% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. With the approval of the county board of commissioners, a county may assess an amount for recurring emergency telephone operational costs and charges that shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the geographical boundaries of the assessing county. The percentage to be set for the emergency telephone operational charge shall be established by the county board of commissioners under section 312. A change to the percentage set for the emergency telephone operational charge may be made only by the county board of commissioners. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (4) and the maximum permitted under this section shall be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(6) Except as provided in sections 407 to 412, the emergency telephone technical charge and emergency telephone operational charge shall be collected in accordance with the regular billings of the service supplier. The amount collected for emergency telephone operational charge shall be paid by the service supplier to the county that authorized the collection. The emergency telephone technical charge and emergency telephone operational charge payable by service users pursuant to this act shall be added to and shall be stated separately in the billings to service users.

(7) Except as provided in sections 407 to 412, for a 9-1-1 service district created or enhanced after June 27, 1991, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district.

(8) Except as provided in sections 407 to 412, a county may, with the approval of the voters in the county, assess up to 16% of the lesser of \$20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the geographical boundaries of the assessing county or assess a millage or combination of the 2 to cover emergency telephone operational costs. In a ballot question under this subsection, the board of commissioners shall specifically identify how the collected money is to be distributed. An affirmative vote on a ballot question under this subsection shall be considered an amendment to the 9-1-1 service plan pursuant to section 312. Not more than 1 ballot question under this subsection may be submitted to the voters within any 12-month period. An assessment approved under this subsection shall be for a period not greater than 5 years.

(9) The total emergency telephone operational charge as prescribed in subsections (5) and (8) shall not exceed 20% of the lesser of \$20.00 or the highest monthly flat rate charged for primary basic service by a service supplier for a 1-party access line.

(10) Except as provided in sections 407 to 412, if the voters approve the charge to be assessed on the service user's telephone bill on a ballot question under subsection (8), the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your telephone carrier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER)."

(11) Except as provided in sections 407 to 412, an annual accounting shall be made of the emergency telephone operational charge approved under this act in the same manner as the annual accounting required by section 405.

(12) Except as otherwise provided in subsection (13), or as provided in sections 407 to 412, the emergency telephone operational charge collected under this section shall be distributed by the county or the counties to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to the distribution of access lines within the primary PSAPs.

(13) Except as provided in sections 407 to 412, if a county had multiple emergency telephone districts before March 2, 1994, then the emergency telephone operational charge collected under this section shall be distributed in proportion to the amount of access lines within the primary PSAPs.

(14) This act does not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency 9-1-1 district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(15) Notwithstanding any other provision of this act, the emergency telephone technical charge collected under this section and the emergency telephone operational charge shall not be levied or collected after June 30, 2008. If all or a portion of the emergency telephone operational charge has been pledged as security for the payment of qualified obligations, the emergency telephone operational charge shall be levied and collected only to the extent required to pay the qualified obligations or satisfy the pledge.

(16) Subsections (3) through (13) do not apply after June 30, 2008.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1989, Act 36, Imd. Eff. June 1, 1989;—Am. 1991, Act 45, Imd. Eff. June 27, 1991;—Am. 1991, Act 196, Imd. Eff. Jan. 2, 1992;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1999, Act 81, Imd. Eff. June 28, 1999;—Am. 2006, Act 249, Imd. Eff. July 3, 2006;—Am. 2007, Act 164, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 48, Eff. Jan. 1, 2008.

Compiler's note: Enacting section 1 of Act 48 of 2008 provides: "Enacting section 1. This amendatory act is retroactive and is effective January 1, 2008."

Popular name: 9-1-1

***** 484.1401a THIS SECTION IS REPEALED BY ACT 379 OF 2008 EFFECTIVE DECEMBER 31, 2014

***** 484.1401a THIS SECTION IS AMENDED EFFECTIVE JANUARY 1, 2013: See 484.1401a.amended

484.1401a Billing and collection of state 9-1-1 charge; amount; limitation; listing on bill or payment receipt; review and adjustment of charge; separate charges imposed on access points or lines; effective date of section.

Sec. 401a. (1) Except as otherwise provided under section 401c, each service supplier within a 9-1-1 service district shall bill and collect a state 9-1-1 charge from all service users of the service supplier within the geographical boundaries of the 9-1-1 service district or as otherwise provided by this section. The billing and collection of the state 9-1-1 charge shall begin July 1, 2008. The state 9-1-1 charge shall be uniform per each service user within the 9-1-1 service district.

(2) The amount of the state 9-1-1 charge payable monthly by a service user shall be established as provided under subsection (4). The amount of the state 9-1-1 charge shall not be more than 25 cents or less than 15 cents. The charge may be adjusted annually as provided under subsection (4).

(3) The state 9-1-1 charge shall be collected in accordance with the regular billings of the service supplier. Except as otherwise provided under this act, the amount collected for the state 9-1-1 charge shall be remitted quarterly by the service supplier to the state treasurer and deposited in the emergency 9-1-1 fund created under section 407. The charge allowed under this section shall be listed separately on the customer's bill or payment receipt.

(4) The initial state 9-1-1 charge shall be 19 cents and shall be effective July 1, 2008. The state 9-1-1 charge shall reflect the actual costs of operating, maintaining, upgrading, and other reasonable and necessary expenditures for the 9-1-1 system in this state. The state 9-1-1 charge may be reviewed and adjusted as provided under subsection (5).

(5) The commission in consultation with the committee shall review and may adjust the state 9-1-1 charge under this section and the distribution percentages under section 408 to be effective on July 1, 2009 and July 1, 2010. Any adjustment to the charge by the commission shall be made no later than May 1 of the preceding year and shall be based on the committee's recommendations under section 412. Any adjustments to the state 9-1-1 charge or distribution percentages after December 31, 2010 shall be made by the legislature.

(6) If a service user has multiple access points or access lines, the state 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

(7) This section takes effect July 1, 2008.

History: Add. 2007, Act 164, Eff. July 1, 2008;—Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008.

Popular name: 9-1-1

***** 484.1401a.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2013; THIS AMENDED SECTION IS ALSO REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1401a.amended Billing and collection of state 9-1-1 charge; amount; limitation; listing on bill or payment receipt; review and adjustment of charge; separate charges imposed on access points or lines; effective date of section.

Sec. 401a. (1) Each service supplier within a 9-1-1 service district shall bill and collect a state 9-1-1 charge from all service users, except for users of a prepaid wireless telecommunications service, of the service supplier within the geographical boundaries of the 9-1-1 service district or as otherwise provided by this section. The billing and collection of the state 9-1-1 charge shall begin July 1, 2008. The state 9-1-1 charge shall be uniform per each service user within the 9-1-1 service district.

(2) The amount of the state 9-1-1 charge payable monthly by a service user shall be established as provided under subsection (4). The amount of the state 9-1-1 charge shall not be more than 25 cents or less than 15 cents. The charge may be adjusted annually as provided under subsection (4).

(3) The state 9-1-1 charge shall be collected in accordance with the regular billings of the service supplier. Except as otherwise provided under this act, the amount collected for the state 9-1-1 charge shall be remitted quarterly by the service supplier to the state treasurer and deposited in the emergency 9-1-1 fund created under section 407. The charge allowed under this section shall be listed separately on the customer's bill or payment receipt or otherwise disclosed to the consumer.

(4) The initial state 9-1-1 charge shall be 19 cents and shall be effective July 1, 2008. The state 9-1-1 charge shall reflect the actual costs of operating, maintaining, upgrading, and other reasonable and necessary expenditures for the 9-1-1 system in this state. The state 9-1-1 charge may be reviewed and adjusted as provided under subsection (5).

(5) The commission in consultation with the committee shall review and may adjust the state 9-1-1 charge under this section and the distribution percentages under section 408 to be effective on July 1, 2009 and July 1, 2010. Any adjustment to the charge by the commission shall be made no later than May 1 of the preceding year and shall be based on the committee's recommendations under section 412. Any adjustments to the state 9-1-1 charge or distribution percentages after December 31, 2010 shall be made by the legislature.

(6) If a service user has multiple access points or access lines, the state 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

(7) This section takes effect July 1, 2008.

History: Add. 2007, Act 164, Eff. July 1, 2008;—Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008;—Am. 2012, Act 260, Eff. Jan. 1, 2013.

Popular name: 9-1-1

***** 484.1401b THIS SECTION IS REPEALED BY ACT 379 OF 2008 EFFECTIVE DECEMBER 31, 2014 *****

***** 484.1401b THIS SECTION IS AMENDED EFFECTIVE JANUARY 1, 2013: See 484.1401b.amended *****

484.1401b Additional charge assessed by county board of commissioners; method; limitation; approval of charge by voters; statement on service provider's bill; annual accounting; payment and distribution; methods; adjustment; county having multiple emergency response districts; distribution to secondary PSAPs; retention of percentage to cover supplier's costs; listing as separate charge on customer's bill; exemption from disclosure; separate charges imposed on access points or lines; use of charge assessed; levy after repeal date.

Sec. 401b. (1) In addition to the charge allowed under section 401a, after June 30, 2008 a county board of commissioners may assess a county 9-1-1 charge to service users located within that county by 1 of the following methods:

(a) Up to \$0.42 per month by resolution.

(b) Up to \$3.00 per month with the approval of the voters in the county.

(c) Any combination of subdivisions (a) and (b) with a maximum county 9-1-1 charge of \$3.00 per month.

(2) A county assessing a county 9-1-1 charge amount approved in the commission's order in case number U-15489 that exceeds the amounts established in subsection (1) may continue to assess the amount approved by the commission. Any proposed increase to the amount approved in the commission order is subject to

subsection (1).

(3) The charge assessed under this section and section 401e shall not exceed the amount necessary and reasonable to implement, maintain, and operate the 9-1-1 system in the county.

(4) If the voters approve the charge to be assessed on the service user's monthly bill on a ballot question under this section, the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your service supplier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER)."

(5) Within 90 days after the first day of each fiscal or calendar year of a county, an annual accounting shall be made of the charge approved under this section.

(6) Except as otherwise provided in subsection (10), the county 9-1-1 charge collected under this section shall be paid quarterly directly to the county and distributed by the county to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to population within the emergency 9-1-1 district.

(7) Subject to subsection (1), the county may adjust the county 9-1-1 charge annually to be effective July 1. The county shall notify the committee no later than May 15 of each year of any change in the county 9-1-1 charge under this section.

(8) If a county has multiple emergency response districts, the county 9-1-1 charge collected under this section shall be distributed under subsection (6) in proportion to the population within the emergency 9-1-1 district.

(9) This section shall not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency 9-1-1 district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(10) The service supplier may retain 2% of the approved county 9-1-1 charge to cover the supplier's costs for billings and collections under this section.

(11) The charge allowed under this section shall be listed separately on the customer's bill and shall state by which means the charge was approved under subsection (1).

(12) Information submitted by a service supplier to a county under this section is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be released by the county without the consent of the service supplier. Unless required or permitted by statute, court rule, subpoena, or court order, or except as necessary for a county, the commission, committee, or public agency to pursue or defend the public's interest in any public contract or litigation, a county treasurer, the commission, committee, agency, or any employee or representative of a PSAP, database administrator, or public agency shall not divulge any information acquired with respect to customers, revenues or expenses, trade secrets, access line counts, commercial information, or any other proprietary information with respect to a service supplier while acting or claiming to act as an employee, agent, or representative. An aggregation of information that does not identify or effectively identify the number of customers, revenues or expenses, trade secrets, access lines, commercial information, and other proprietary information attributable to a specific service supplier may be made public.

(13) If a service user has multiple access points or access lines, the county 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

(14) A county 9-1-1 charge assessed under subsection (1) shall be used only to fund costs approved as allowable in a published report by the committee prior to December 1, 2008. The committee shall notify the standing committees of the senate and house of representatives having jurisdiction over issues pertaining to communication technology at least 90 days prior to modifying what constitutes an allowable cost under this subsection.

(15) Notwithstanding any other provision of this act, the county 9-1-1 charge levied under this section shall not be levied after the repeal date provided in section 717. If all or a portion of the county 9-1-1 charge levied under this section has been pledged as security for the payment of qualified obligations, the county 9-1-1 charge shall be levied and collected only to the extent required to pay the qualified obligations or satisfy the pledge.

History: Add. 2007, Act 164, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008.

Popular name: 9-1-1

***** 484.1401b.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2013; THIS AMENDED SECTION IS ALSO REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1401b.amended Additional charge assessed by county board of commissioners; method; limitation; approval of charge by voters; statement on service provider's bill; annual accounting; payment and distribution; methods; adjustment; county having multiple emergency response districts; distribution to secondary PSAPs; retention of percentage to cover supplier's costs; listing as separate charge on customer's bill; exemption from disclosure; separate charges imposed on access points or lines; use of charge assessed.

Sec. 401b. (1) In addition to the charge allowed under section 401a, after June 30, 2008 a county board of commissioners may assess a county 9-1-1 charge to service users, except for users of a prepaid wireless telecommunications service, located within that county by 1 of the following methods:

(a) Up to \$0.42 per month by resolution.

(b) Up to \$3.00 per month with the approval of the voters in the county.

(c) Any combination of subdivisions (a) and (b) with a maximum county 9-1-1 charge of \$3.00 per month.

(2) A county assessing a county 9-1-1 charge amount approved in the commission's order in case number U-15489 that exceeds the amounts established in subsection (1) may continue to assess the amount approved by the commission. Any proposed increase to the amount approved in the commission order is subject to subsection (1).

(3) The charge assessed under this section and section 401e shall not exceed the amount necessary and reasonable to implement, maintain, and operate the 9-1-1 system in the county.

(4) If the voters approve the charge to be assessed on the service user's monthly bill on a ballot question under this section, the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your service supplier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER)."

(5) Within 90 days after the first day of each fiscal or calendar year of a county, an annual accounting shall be made of the charge approved under this section.

(6) Except as otherwise provided in subsection (10), the county 9-1-1 charge collected under this section shall be paid quarterly directly to the county and distributed by the county to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to population within the emergency 9-1-1 district.

(7) Subject to subsection (1), the county may adjust the county 9-1-1 charge annually to be effective July 1. The county shall notify the committee no later than May 15 of each year of any change in the county 9-1-1 charge under this section.

(8) If a county has multiple emergency response districts, the county 9-1-1 charge collected under this section shall be distributed under subsection (6) in proportion to the population within the emergency 9-1-1 district.

(9) This section shall not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency 9-1-1 district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(10) The service supplier may retain 2% of the approved county 9-1-1 charge to cover the supplier's costs for billings and collections under this section.

(11) The charge allowed under this section shall be listed separately on the customer's bill or otherwise disclosed to the consumer and shall state by which means the charge was approved under subsection (1).

(12) Information submitted by a service supplier to a county under this section is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be released by the county without the consent of the service supplier. Unless required or permitted by statute, court rule, subpoena, or court order,

or except as necessary for a county, the commission, committee, or public agency to pursue or defend the public's interest in any public contract or litigation, a county treasurer, the commission, committee, agency, or any employee or representative of a PSAP, database administrator, or public agency shall not divulge any information acquired with respect to customers, revenues or expenses, trade secrets, access line counts, commercial information, or any other proprietary information with respect to a service supplier while acting or claiming to act as an employee, agent, or representative. An aggregation of information that does not identify or effectively identify the number of customers, revenues or expenses, trade secrets, access lines, commercial information, and other proprietary information attributable to a specific service supplier may be made public.

(13) If a service user has multiple access points or access lines, the county 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

(14) A county 9-1-1 charge assessed under subsection (1) shall be used only to fund costs approved as allowable in a published report by the committee before December 1, 2008. The committee shall notify the standing committees of the senate and house of representatives having jurisdiction over issues pertaining to communication technology at least 90 days before modifying what constitutes an allowable cost under this subsection.

History: Add. 2007, Act 164, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008;—Am. 2012, Act 260, Eff. Jan. 1, 2013.

Popular name: 9-1-1

***** 484.1401c THIS SECTION IS REPEALED BY ACT 379 OF 2008 EFFECTIVE DECEMBER 31, 2014 *****

***** 484.1401c THIS SECTION IS AMENDED EFFECTIVE JANUARY 1, 2013: See 484.1401c.amended *****

484.1401c Collection of emergency 9-1-1 charge by CMRS supplier or reseller from prepaid customers; amount; method of determining amount; annual review; deposit of amount collected; effective date of section; definitions.

Sec. 401c. (1) Each CMRS supplier or reseller shall collect an emergency 9-1-1 charge from each of its prepaid customers. The amount of the emergency 9-1-1 charge shall be established annually by the committee by combining the amounts determined under subsections (2) and (3).

(2) The CMRS supplier or reseller shall have a 1-time option of selecting 1 of the following methods of determining the portion of the emergency 9-1-1 charge that represents the state 9-1-1 charge amount:

(a) By dividing the total earned prepaid revenue received by the CMRS supplier or reseller within the monthly 9-1-1 reporting period by \$50.00 and then multiplying that number by the amount of the state 9-1-1 charge as established under section 401a.

(b) By multiplying the amount of the state 9-1-1 charge as established under section 401a for each active prepaid account of the CMRS supplier or reseller.

(3) The committee shall review and annually establish the portion of the emergency 9-1-1 charge assessed under this section that represents the county 9-1-1 charge amount. The charge shall be based on the weighted average of all county 9-1-1 charges imposed statewide.

(4) The CMRS shall deposit the amount collected under this section into the emergency 9-1-1 fund to be distributed as provided under section 408.

(5) This section takes effect July 1, 2008.

(6) As used in this section:

(a) "Active prepaid accounts" means a customer who has recharged or replenished his or her account at least once during the billing period or calendar month and has a sufficient positive balance at the end of each month equal to or greater than the amount of the emergency 9-1-1 charge established under this section.

(b) "CMRS reseller" means a provider who purchases telecommunication services from another telecommunication service provider and then resells, uses a component part of, or integrates the purchased services into a mobile telecommunication service.

(c) "Earned prepaid revenue" means new revenue that has been generated from prepaid service accounts since the close of the last billing period or calendar month.

(d) "Prepaid customer" means a CMRS subscriber who pays in full prospectively for the service and has 1 of the following:

(i) A Michigan telephone number or a Michigan identification number for the service.

(ii) A service for exclusive use in an automotive vehicle and whose place of primary use is within this

state. As used in this sub-subparagraph, "place of primary use" means that phrase as defined under 4 USC 124.

History: Add. 2007, Act 164, Eff. July 1, 2008.

Popular name: 9-1-1

***** 484.1401c.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2013; THIS AMENDED SECTION IS ALSO REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1401c.amended Collection of prepaid wireless surcharge; amount; transactions considered as occurring in this state; surcharge as liability of consumer; sale of service with 1 or more products or services; "minimal amount" defined; remittance of surcharge; administration; rules; retention of by seller; liability; definitions.

Sec. 401c. (1) A seller shall collect a prepaid wireless 9-1-1 surcharge from a consumer for each retail transaction occurring in this state.

(2) The amount of the prepaid wireless 9-1-1 surcharge shall be 1.92% per retail transaction. The charge allowed under this section shall be either separately stated on an invoice, receipt, or other similar document that is provided to a consumer by the seller or otherwise disclosed to the consumer.

(3) Each of the following transactions shall be considered to have occurred in this state:

(a) A retail transaction that is effected in person by a consumer at a business location of a seller located in this state.

(b) A retail transaction that is treated as occurring in this state as provided in section 3c of the use tax act, 1937 PA 94, MCL 205.93c, as that section applies to a prepaid wireless calling service.

(4) A prepaid wireless 9-1-1 surcharge is the liability of the consumer and not of the seller or of any provider.

(5) Except as otherwise provided in subsection (6), if a prepaid wireless telecommunications service is sold with 1 or more products or services for a single, nonitemized price, the seller shall collect 1.92% on the entire nonitemized price unless the seller elects to do the following:

(a) If the amount of the prepaid wireless telecommunications service is disclosed to the consumer as a dollar amount, apply the percentage to that dollar amount.

(b) If the seller can identify the portion of the price that is attributable to the prepaid wireless telecommunications service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes, apply the percentage to that portion.

(6) If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, a seller may elect not to apply the percentage specified in subsection (5)(a) to that transaction. As used in this subsection, "minimal amount" means an amount of service denominated as 10 minutes or less or \$5.00 or less.

(7) The prepaid wireless 9-1-1 surcharge shall be remitted at the same time and in the same manner as the taxes provided by the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78. The department shall establish record keeping, payment, and other procedures for providers or sellers that are substantially similar to those applicable procedures for taxpayers imposed under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78. The department shall deposit the prepaid wireless 9-1-1 surcharges in the emergency 9-1-1 fund created in section 407.

(8) The prepaid wireless 9-1-1 surcharge imposed by this act shall be administered by the department under 1941 PA 122, MCL 205.1 to 205.31, and this act. If the provisions of 1941 PA 122, MCL 205.1 to 205.31, and this act conflict, the provisions of this act apply.

(9) The department shall promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) A seller may retain 2% of prepaid wireless 9-1-1 surcharges that are collected by the seller to reimburse the seller for its direct costs in collecting and remitting the prepaid wireless 9-1-1 surcharges.

(11) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 9-1-1 service or for identifying or failing to identify the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 9-1-1 service.

(12) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigative or law enforcement officer of the United States, this state, or any other state in connection with

any lawful investigation or other law enforcement activity by that law enforcement officer.

(13) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications services in a retail transaction.

(b) "Department" means the Michigan department of treasury.

(c) "Prepaid wireless 9-1-1 surcharge" means the fee that is required to be collected by a seller from a consumer in the amount established under subsection (2).

(d) "Provider" means a person that provides prepaid wireless telecommunications services under a license issued by the federal communications commission.

(e) "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

(f) "Seller" means a person who sells prepaid wireless telecommunications service to another person.

History: Add. 2007, Act 164, Eff. July 1, 2008;—Am. 2012, Act 260, Eff. Jan. 1, 2013.

Popular name: 9-1-1

***** 484.1401d THIS SECTION IS REPEALED BY ACT 379 OF 2008 EFFECTIVE DECEMBER 31, 2014

***** 484.1401d THIS SECTION IS AMENDED EFFECTIVE JANUARY 1, 2013: See 484.1401d.amended

484.1401d Billing and collection of emergency telephone technical charge; "local exchange provider" defined.

Sec. 401d. (1) Each local exchange provider within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge from all service users of the provider within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone technical charge used for billing cost shall begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge shall be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, shall be amortized at the prime rate plus 1% over a period not to exceed 10 years and shall be billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization shall be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge shall continue to be billed to the service user.

(2) The amount of the emergency telephone technical charge to be billed to the service user shall be computed by dividing the total emergency telephone technical charge by the number of exchange access facilities within the 9-1-1 service district.

(3) The amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the local exchange provider for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges shall not exceed 5% of the lesser of \$20.00 or the highest monthly rate charged by the provider for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (2) and the maximum permitted under this section shall be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(4) The emergency telephone technical charge shall be collected in accordance with the regular billings of the local exchange provider. The emergency telephone technical charge payable by service users under this act shall be added to and shall be stated separately in the billings to service users.

(5) As used in this section, "local exchange provider" means a provider of basic local exchange service as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

History: Add. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1401d.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2013; THIS
AMENDED SECTION IS ALSO REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1401d.amended Billing and collection of emergency telephone technical charge; "local exchange provider" defined.

Sec. 401d. (1) Each local exchange provider within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge from all service users, except for users of a prepaid wireless telecommunications service, of the provider within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone technical charge used for billing cost shall begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge shall be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, shall be amortized at the prime rate plus 1% over a period not to exceed 10 years and shall be billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization shall be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge shall continue to be billed to the service user.

(2) The amount of the emergency telephone technical charge to be billed to the service user shall be computed by dividing the total emergency telephone technical charge by the number of exchange access facilities within the 9-1-1 service district.

(3) The amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 4% of the lesser of \$20.00 or the highest monthly rate charged by the local exchange provider for primary basic local exchange service within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges shall not exceed 5% of the lesser of \$20.00 or the highest monthly rate charged by the provider for primary basic local exchange service within the 9-1-1 service district. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (2) and the maximum permitted under this section shall be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(4) The emergency telephone technical charge shall be collected in accordance with the regular billings of the local exchange provider. The emergency telephone technical charge payable by service users under this act shall be added to and shall be stated separately in the billings to service users or otherwise disclosed to the consumer.

(5) As used in this section, "local exchange provider" means a provider of basic local exchange service as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

History: Add. 2007, Act 164, Imd. Eff. Dec. 21, 2007;—Am. 2012, Act 260, Eff. Jan. 1, 2013.

Popular name: 9-1-1

***** 484.1401e THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1401e Surcharge; assessment; submission of certain information to commission; review and approval or disapproval of surcharge.

Sec. 401e. (1) No later than February 15, 2008, each county that decides to assess a surcharge under section 401b shall with the assistance of the state 9-1-1 office submit to the commission all of the following:

- (a) The initial county 9-1-1 surcharge for each 9-1-1 service district to be effective July 1, 2008.
- (b) The estimated amount of revenue to be generated in each 9-1-1 service district for 2007.
- (c) Based on the surcharge established under this subsection, the estimated amount of revenue to be generated for 2008.

(2) If the amount to be generated in 2008 exceeds the amount received in 2007 plus an amount not to exceed 2.7% of the 2007 revenues, the commission, in consultation with the committee, shall review and approve or disapprove the county 9-1-1 surcharge adopted under section 401b. If the commission does not act by March 17, 2008, the county 9-1-1 surcharge shall be deemed approved. If the surcharge is rejected, it shall

be adjusted to ensure that the revenues generated do not exceed the amounts allowed under this subsection. In reviewing the surcharge under this subsection, the commission shall consider the allowable and disallowable costs as approved by the committee on June 21, 2005.

History: Add. 2007, Act 164, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1402 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1402 Liability for charge.

Sec. 402. Each billed service user shall be liable for any state, county, or technical 9-1-1 charge imposed on the service user under this act.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1403 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1403 Responsibility for billing charge and transmitting money.

Sec. 403. Each service supplier shall be solely responsible for the billing of the state and county 9-1-1 charge and the transmittal of money collected to the emergency 9-1-1 fund and to the counties as required under this act.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1999, Act 81, Imd. Eff. June 28, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1404 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1404 Alteration of state or county 9-1-1 charge.

Sec. 404. A service supplier providing or designated to provide 9-1-1 service under this act shall not alter the state or county 9-1-1 charge collected from service users within the 9-1-1 service district except as provided under this act.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1999, Act 81, Imd. Eff. June 28, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1405 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1405 Service user with multiline telephone system; installation of equipment and software; rules.

Sec. 405. (1) The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under section 413 to require each service user with a multiline telephone system to install no later than December 31, 2016 the necessary equipment and software to provide specific location information of a 9-1-1 call.

(2) This section applies to multiline telephone systems regardless of the system technology.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1999, Act 81, Imd. Eff. June 28, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007;—Am. 2011, Act 271, Imd. Eff. Dec. 19, 2011.

Popular name: 9-1-1

***** 484.1406 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1406 Expenditure of funds; accounting, auditing, monitoring, and evaluation procedures provided by PSAP or secondary PSAP; annual audit; authorization or expenditure of increase in charges; receipt of 9-1-1 funds.

Sec. 406. (1) The funds collected and expended under this act shall be expended exclusively for 9-1-1 services and in compliance with the rules promulgated under section 413.

(2) Each PSAP or secondary PSAP shall assure that fund accounting, auditing, monitoring, and evaluation procedures are provided as required by this act and the rules promulgated under this act.

(3) An annual audit shall be conducted by an independent auditor using generally accepted accounting principles and copies of the annual audit shall be made available for public inspection.

(4) An increase in the charges allowed under this act shall not be authorized or expended for the next fiscal year unless according to the most recently completed annual audit the expenditures are in compliance with this act.

(5) The receipt of 9-1-1 funds under this act is dependent on compliance with the standards established by the commission under section 413.

History: Add. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1999, Act 81, Imd. Eff. June 28, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1407 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1407 Emergency 9-1-1 fund; creation; disposition of assets; money remaining in fund; expenditure; disbursement; audit.

Sec. 407. (1) The emergency 9-1-1 fund is created within the state treasury.

(2) The state treasurer may receive money or other assets as provided under this act and from any source for deposit into the fund. Money may be deposited into the fund by electronic funds transfer. Money in the CMRS emergency telephone fund on the effective date of the amendatory act that added section 401a shall be deposited into the fund and expended as provided by this act. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of treasury shall expend money from the fund only as provided in this act. The disbursement of money may be by electronic funds transfer.

(5) The auditor general shall audit the fund at least annually.

History: Add. 1999, Act 78, Imd. Eff. June 28, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1408 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1408 Collection of service charge by CMRS supplier or reseller; state 9-1-1 service charge by service supplier; retention of percentage to cover supplier's costs; deposit of money in emergency 9-1-1 fund; collection, deposit, and distribution of money; distribution of amount for integrated IP-based 9-1-1 mapping system; funding portion of department's costs for Michigan public safety communications system; methods of distribution to primary PSAPs by county; rules to establish standards for receipt and expenditure of funds.

Sec. 408. (1) Beginning January 1, 2008, a CMRS supplier or reseller shall, until July 1, 2008, for each CMRS connection that has a billing address in this state, continue to collect the service charge that the CMRS supplier or reseller was authorized to collect by this section prior to December 21, 2007. Except as otherwise provided under this act, starting July 1, 2008, a service supplier shall bill and collect a state 9-1-1 service charge per month as determined under section 401a. The service supplier shall list the state 9-1-1 service charge authorized under this act as a separate line item on each bill. The service charge shall be listed on the bill as the "state 9-1-1 charge".

(2) Each service supplier may retain 2% of the state 9-1-1 charge collected under this act to cover the supplier's costs for billing and collection.

(3) Except as otherwise provided under subsection (2), the money collected as the state 9-1-1 charge under subsection (1) shall be deposited in the emergency 9-1-1 fund created in section 407 no later than 30 days after the end of the quarter in which the state 9-1-1 charge was collected.

(4) Except as otherwise provided under section 401a(5), all money collected and deposited in the emergency 9-1-1 fund created in section 407 shall be distributed as follows:

(a) 82.5% shall be disbursed to each county that has a final 9-1-1 plan in place. Forty percent of the 82.5% shall be distributed quarterly on an equal basis to each county, and 60% of the 82.5% shall be distributed

quarterly based on a population per capita basis. Money received by a county under this subdivision shall only be used for 9-1-1 services as allowed under this act. Money expended under this subdivision for a purpose considered unnecessary or unreasonable by the committee or the auditor general shall be repaid to the fund.

(b) 7.75% shall be available to reimburse local exchange providers for the costs related to wireless emergency service. Any cost reimbursement allowed under this subdivision shall not include a cost that is not related to wireless emergency service. A local exchange provider may submit an invoice to the commission for reimbursement from the emergency 9-1-1 fund for allowed costs. Within 45 days after the date an invoice is submitted to the commission, the commission shall approve, either in whole or in part, or deny the invoice.

(c) 6.0% shall be available to PSAPs for training personnel assigned to 9-1-1 centers. A written request for money from the fund shall be made by a public safety agency or county to the committee. The committee shall semiannually authorize distribution of money from the fund to eligible public safety agencies or counties. A public safety agency or county that receives money under this subdivision shall create, maintain, and make available to the committee upon request a detailed record of expenditures relating to the preparation, administration, and carrying out of activities of its 9-1-1 training program. Money expended by an eligible public safety agency or county for a purpose considered unnecessary or unreasonable by the committee or the auditor general shall be repaid to the fund. The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under section 413 establishing training standards for 9-1-1 system personnel. Money shall be disbursed on a biannual basis to an eligible public safety agency or county for training of PSAP personnel through courses certified by the committee only for either of the following purposes:

(i) To provide basic 9-1-1 operations training.

(ii) To provide in-service training to employees engaged in 9-1-1 service.

(d) 1.88% shall be credited to the department of state police to operate a regional dispatch center that receives and dispatches 9-1-1 calls, and 1.87% shall be credited to the department of state police for costs to administer this act and to maintain the office of the state 9-1-1 coordinator.

(5) For fiscal year 2010-2011 only, an amount not to exceed \$1,700,000.00 is distributed to the department of state police for an integrated IP-based 9-1-1 mapping system in this state. The money distributed under this subsection is for the restricted purpose of matching funds for the state's award of a grant under the grant program established under the federal ensuring needed help arrives near callers employing 911 act of 2004, 47 USC 942, to be used solely for the acquisition and deployment of a state integrated IP-based 9-1-1 mapping system. All costs associated with the state integrated IP-based 9-1-1 mapping system including, but not limited to, its construction, administration, and maintenance shall only be paid from money distributed under this subsection and any federal grant money.

(6) For fiscal year 2010-2011 only, an amount not to exceed \$7,000,000.00 shall be distributed to the department of state police to fund a portion of the department's costs for the Michigan public safety communications system. For fiscal year 2011-2012 only, an amount not to exceed \$7,000,000.00 shall be distributed to the department of state police to fund a portion of the department's costs for the Michigan public safety communications system. For fiscal year 2011-2012 only, from money not distributed to local exchange providers under subsection (4)(b), an amount not to exceed \$150,000.00 shall be distributed to the department of treasury to fund a portion of the department's costs in administering this act.

(7) Money received by a county under subsection (4)(a) shall be distributed by the county to the primary PSAPs geographically located within the 9-1-1 service district by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the 9-1-1 service plan under subdivision (a), then according to any agreement for distribution between a county and a public agency.

(c) If distribution is not provided for in the 9-1-1 service plan under subdivision (a) or by agreement between the county and public agency under subdivision (b), then according to the population within the geographic area for which the PSAP serves as primary PSAP.

(d) If a county has multiple emergency 9-1-1 districts, money for that county shall be distributed as provided in the emergency 9-1-1 districts' final 9-1-1 service plans.

(8) The commission shall consult with and consider recommendations of the committee in the promulgation of rules under section 413 establishing the standards for the receipt and expenditure of 9-1-1 funds under this act. Receipt of 9-1-1 funds under this act is dependent on compliance with the standards established under this subsection.

History: Add. 1999, Act 78, Imd. Eff. June 28, 1999;—Am. 2003, Act 244, Eff. Jan. 1, 2004;—Am. 2004, Act 89, Imd. Eff. Apr. 22, 2004;—Am. 2006, Act 74, Imd. Eff. Mar. 20, 2006;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 48, Eff. Jan. 1, 2008;—Am. 2010, Act 206, Imd. Eff. Oct. 12, 2010;—Am. 2010, Act 284, Imd. Eff. Dec. 16, 2010;—Am. 2011, Act 146, Imd. Eff. Sept. 21, 2011.

Compiler's note: Enacting section 1 of Act 48 of 2008 provides:
"Enacting section 1. This amendatory act is retroactive and is effective January 1, 2008."

Popular name: 9-1-1

484.1409 Repealed. 2003, Act 244, Eff. Jan. 1, 2004.

Compiler's note: The repealed section pertained to distribution of money.

Popular name: 9-1-1

484.1410, 484.1411 Repealed. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's note: The repealed sections pertained to review of expenditures by subcommittee and use of funds.

Compiler's note: 9-1-1

***** 484.1412 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1412 Report on 9-1-1 system and charge.

Sec. 412. (1) The committee shall make a report annually on the 9-1-1 system in this state and the state and county 9-1-1 charge required under sections 401, 401a, 401b, 401c, 401d, and 401e and distributed under section 408 not later than August 1 of each year. The report shall include at a minimum all of the following:

- (a) The extent of emergency 9-1-1 service implementation in this state.
- (b) The actual 9-1-1 service costs incurred by PSAPs and counties.
- (c) The state 9-1-1 charge required under section 401a and a recommendation of any changes in the state 9-1-1 charge amount or in the distribution percentages under section 408.
- (d) A description of any commercial applications developed as a result of implementing this act.
- (e) The charge allowed under sections 401a, 401b, 401c, 401d, and 401e and a detailed record of expenditures by each county relating to this act.

(2) The committee shall deliver the report required under subsection (1) to the secretary of the senate, the clerk of the house of representatives, and the standing committees of the senate and house of representatives having jurisdiction over issues pertaining to communication technology.

History: Add. 1999, Act 78, Imd. Eff. June 28, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1412a THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1412a Annual accounting of total emergency telephone charges; adjustment of amount collected; additional charge.

Sec. 412a. (1) Within 90 days after the first day of the calendar year following the year in which a service supplier commenced collection of the emergency telephone technical charge under section 401d, and within 90 days after the first day of each calendar year thereafter, a service supplier collecting the emergency telephone technical charge for the purpose of providing 9-1-1 service pursuant to this act shall make an annual accounting to the 9-1-1 service district of the total emergency telephone charges collected during the immediately preceding calendar year.

(2) If an annual accounting made pursuant to subsection (1) discloses that the total emergency telephone technical charges collected during the immediately preceding calendar year exceeded the total cost of installing and providing 9-1-1 service within the 9-1-1 service district for the immediately preceding calendar year according to the rates and charges of the service supplier, the service supplier shall adjust the emergency telephone technical charge collected from service users in the 9-1-1 service district in an amount computed pursuant to this section. The amount of the adjustment shall be computed by dividing the excess by the number of exchange access facilities within the 9-1-1 service district as the district existed for the billing period immediately following the annual accounting. Costs of the service supplier associated with making the adjustment under this subsection as part of the billing and collection service shall be deducted from the amount to be adjusted.

(3) If the annual accounting discloses that the total emergency telephone technical charges collected during the calendar year are less than the total cost of installing and providing 9-1-1 service within the 9-1-1 service district for the immediately preceding calendar year according to the costs and rates of the service supplier, the service supplier shall collect an additional charge from service users in the 9-1-1 service district in an amount computed pursuant to this section. Subject to the limitations provided by section 401d, the amount of the additional charge shall be computed by dividing the amount by which the total cost exceeded the total

emergency telephone technical charges collected during the immediately preceding calendar year by the number of exchange access facilities within the 9-1-1 service district as the district existed for the billing period immediately following the annual accounting.

History: Add. 2008, Act 379, Imd. Eff. Dec. 23, 2008.

Popular name: 9-1-1

***** 484.1413 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1413 Rules.

Sec. 413. (1) The commission may promulgate rules to establish 1 or more of the following:

(a) Uniform procedures, policies, and protocols governing 9-1-1 services in counties and PSAPs in this state.

(b) Standards for the training of PSAP personnel.

(c) Uniform procedures, policies, and standards for the receipt and expenditure of 9-1-1 funds under sections 401a, 401b, 401c, 401d, 401e, 406, and 408.

(d) The requirements for multiline telephone systems under section 405.

(e) The penalties and remedies for violations of this act and the rules promulgated under this act.

(2) The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under this section.

(3) The commission's rule-making authority is limited to that expressly granted under this section.

(4) The rules promulgated under this section do not apply to service suppliers.

History: Add. 2006, Act 249, Imd. Eff. July 3, 2006;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008.

Popular name: 9-1-1

CHAPTER V

***** 484.1501 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1501 Notice of intent to function as PSAP or secondary PSAP; forwarding notice to service supplier; commencement of function; payment of cost of equipment installation or system modification.

Sec. 501. (1) After installation and commencement of operation of a 9-1-1 system implemented pursuant to this act, a public safety agency serving a public agency or county within the 9-1-1 service district may be added to the 9-1-1 system as a PSAP or a secondary PSAP by giving written notice of intent to function as a PSAP or secondary PSAP as provided in section 307 to the county clerk. Within 5 days of receipt of the notice, the county clerk shall forward the written notice to the service supplier. The public safety agency shall commence to function as a PSAP or secondary PSAP as soon as feasible after giving the written notice.

(2) The costs of equipment installation or system modification, or both, necessary for a public safety agency to function as a secondary PSAP pursuant to subsection (1) shall be paid directly by the public safety agency and shall not be collected from service users in the 9-1-1 service district.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994.

Popular name: 9-1-1

***** 484.1502 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1502 Cessation of function as PSAP or secondary PSAP; notice; payment of costs for equipment removal or system modification.

Sec. 502. (1) After installation and commencement of operation of a 9-1-1 system implemented under this act, a public safety agency serving a public agency or county within the 9-1-1 service district shall cease to function as a PSAP or a secondary PSAP 60 days after giving written notice to the county clerk. Within 5 days after receipt of the notice, the county clerk shall forward the written notice to the service supplier.

(2) Notwithstanding any provision of this act, any costs incurred by a service supplier for equipment removal or system modification necessary for a public safety agency to cease functioning as a PSAP or secondary PSAP under subsection (1) shall be paid directly by the public safety agency.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

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Popular name: 9-1-1

***** 484.1503 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1503 Adding jurisdiction of public agency to 9-1-1 service district; conditions.

Sec. 503. After installation and commencement of operation of a 9-1-1 system implemented pursuant to this act, all or part of the jurisdiction of a public agency within the county shall be added to the 9-1-1 service district pursuant to section 504 if both of the following occur:

(a) The legislative body of the public agency adopts a resolution including all or part of the public agency within the 9-1-1 service district.

(b) A certified copy of the resolution adopted by the legislative body of the public agency is forwarded by certified mail, return receipt requested, to the county clerk.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

***** 484.1504 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1504 Forwarding certified copy of resolution to service supplier by certified mail; commencement of service and collection of state and county 9-1-1 charge.

Sec. 504. Within 5 days after receipt of a certified copy of a resolution adopted by a public agency under section 503, the county clerk shall forward the certified copy of the resolution to the service supplier by certified mail, return receipt requested. Within a reasonable time after the service supplier receives the certified copy of the resolution, the service supplier shall commence 9-1-1 service to all or part of the jurisdiction of the public agency, as the case may be, and after commencement of the service shall commence the collection of the state and county 9-1-1 charge, in accordance with this act, from service users within all or part of the jurisdiction of the public agency added to the 9-1-1 service district.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1505 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1505 Withdrawal of jurisdiction; conditions.

Sec. 505. (1) After installation and commencement of operation of a 9-1-1 system implemented pursuant to this act, a public agency all or part of which is included within a 9-1-1 service district may withdraw all or part of its jurisdiction from a 9-1-1 service district effective January 1 of the following year if all of the following occur:

(a) The public agency, after giving notice required in subdivisions (b) and (c), conducts a public hearing on the withdrawal at which all persons attending are afforded a reasonable opportunity to be heard.

(b) Written notice of the time, date, and place of the public hearing conducted by the public agency is given to the county clerk and the clerk of each public agency within the 9-1-1 service district, at least 30 days prior to the date of the hearing.

(c) Notice of the time, date, place, and purpose of the public hearing is published twice in a newspaper of general circulation within the public agency, the first publication of the notice occurring at least 30 days prior to the date of the hearing.

(d) After the public hearing on withdrawal but prior to 90 days before the end of the calendar year, the legislative body of the public agency adopts a resolution withdrawing all or part of the area of the public agency from the 9-1-1 service district. Such resolution shall describe the area of the public agency withdrawing from the 9-1-1 service district. The resolution shall also state the emergency telephone number to be used within the jurisdiction of the public agency following withdrawal from the 9-1-1 service district.

(e) Within 5 days after adoption of the resolution by the legislative body of the public agency, the clerk or other appropriate official of the public agency shall forward such resolution by certified mail, return receipt requested, to the county clerk. Within 5 days of receipt of a certified copy of the resolution adopted pursuant to this section, the county clerk shall forward such resolution by certified mail, return receipt requested, to the service suppliers providing or designated to provide 9-1-1 service to the area of the public agency withdrawing from the 9-1-1 service district.

(2) A public service agency may not withdraw any part of its jurisdiction from a 9-1-1 service district until

all outstanding qualified obligations secured by emergency telephone operational charges incurred after the time of the addition of the public service agency to the 9-1-1 service area agreed to by the withdrawing public service agency and the remaining public service agencies comprising the 9-1-1 service district are paid or other provisions are made to pay the qualified obligations.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1999, Act 81, Imd. Eff. June 28, 1999.

Popular name: 9-1-1

484.1506 Repealed. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's note: The repealed section pertained to cessation of 9-1-1 service and duties of the service supplier.

Popular name: 9-1-1

***** 484.1507 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1507 Contract with service supplier for 9-1-1 service.

Sec. 507. This act shall not be construed to prohibit a public agency or a county from contracting with a service supplier for 9-1-1 service within all or part of the jurisdiction of the public agency or county and paying for such service directly from the funds of the public agency or county.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986.

Popular name: 9-1-1

CHAPTER VI

***** 484.1601 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1601 Technical assistance and assistance in resolving dispute.

Sec. 601. The emergency 9-1-1 service committee created in section 712, upon request by a service supplier, county, public agency, or public service agency, shall provide, to the extent possible, technical assistance regarding the formulation or implementation, or both, of a 9-1-1 service plan and assistance in resolving a dispute between or among a service supplier, county, public agency, or public safety agency regarding their respective rights and duties under this act.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1989, Act 36, Imd. Eff. June 1, 1989;—Am. 1999, Act 80, Eff. Oct. 27, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's note: Sec. 601, being MCL 484.1601 of the Michigan Compiled Laws, as originally enacted by 1986 PA 32 and amended by 1989 PA 36, was repealed by Section 2 of 1994 PA 29, Eff. Mar. 2, 1994. Subsequent to its repeal by 1994 PA 29, Sec. 601 was amended by 1999 PA 80, Eff. Oct. 27, 1999.

Popular name: 9-1-1

***** 484.1602 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1602 Development of voluntary informal dispute resolution process; hearing dispute as contested case.

Sec. 602. (1) The committee shall develop a voluntary informal dispute resolution process that can be utilized by any party in resolving any dispute involving the formulation, implementation, delivery, and funding of 9-1-1 services in this state.

(2) Except for a dispute between a commercial mobile radio service and a local exchange provider as defined under section 408, a dispute between or among 1 or more service suppliers, counties, public agencies, public service agencies, or any combination of those entities regarding their respective rights and duties under this act shall be heard as a contested case before the public service commission as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1989, Act 36, Imd. Eff. June 1, 1989;—Am. 1994, Act 29, Imd. Eff. Mar. 2, 1994;—Am. 1999, Act 80, Eff. Oct. 27, 1999;—Am. 2003, Act 244, Eff. Jan. 1, 2004;—Am. 2004, Act 515, Imd. Eff. Jan. 3, 2005;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

484.1603 Repealed. 1989, Act 36, Imd. Eff. June 1, 1989.

Compiler's note: The repealed section pertained to review and findings regarding implementation of a 9-1-1 emergency service.

Popular name: 9-1-1

***** 484.1604 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1604 Liability for civil damages.

Sec. 604. Except for pro rata charges for the service during a period when the service may be fully or partially inoperative, a service supplier, public agency, PSAP, or an officer, agent, or employee of any service supplier, public agency, or PSAP, or an owner or lessee of a pay station telephone shall not be liable for civil damages to any person as a result of an act or omission on the part of the service supplier, public agency, PSAP, or an officer, agent, or employee of any service supplier, public agency, or PSAP, or an owner or lessee in complying with any provision of this act, unless the act or omission amounts to a criminal act or to gross negligence or willful and wanton misconduct.

History: 1986, Act 32, Imd. Eff. Mar. 17, 1986;—Am. 1999, Act 80, Eff. Oct. 27, 1999.

Popular name: 9-1-1

***** 484.1605 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1605 Prohibited use of emergency 9-1-1 service; violation; penalty; exception.

Sec. 605. (1) A person shall not use an emergency 9-1-1 service authorized by this act for any reason other than to call for an emergency response service from a primary public safety answering point.

(2) A person who knowingly uses or attempts to use an emergency 9-1-1 service for a purpose other than authorized in subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$5,000.00, or both.

(3) A person who violates subsection (2) and has 1 or more prior convictions under this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$10,000.00, or both.

(4) This section does not apply to a person who calls a public safety answering point to report a crime or seek assistance that is not an emergency unless the call is repeated after the person is told to call a different number.

History: Add. 1999, Act 80, Eff. Oct. 27, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

CHAPTER VII

484.1701-484.1707 Repealed. 1995, Act 247, Eff. Dec. 31, 1998.

Compiler's note: The repealed sections pertained to emergency telephone service committee.

Popular name: 9-1-1

484.1711 Repealed. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Compiler's note: The repealed section pertained to definition of committee.

Popular name: 9-1-1

***** 484.1712 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1712 Emergency 9-1-1 service committee; creation; purpose; authority and duties.

Sec. 712. An emergency 9-1-1 service committee is created within the department of state police to develop statewide standards and model system considerations and make other recommendations for emergency telephone services. The committee shall only have the authority and duties granted to the committee under this act.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1713 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1713 Committee; membership; quorum; vote; chairperson; conduct of business; compensation and expenses of members.

Sec. 713. (1) The committee shall consist of 21 members as follows:

- (a) The director of the department of state police or his or her designated representative.
 - (b) The director of the department of consumer and industry services or his or her designated representative.
 - (c) The chair of the Michigan public service commission or his or her designated representative.
 - (d) The president of the Michigan sheriffs' association or his or her designated representative.
 - (e) The president of the Michigan association of chiefs of police or his or her designated representative.
 - (f) The president of the Michigan fire chiefs association or his or her designated representative.
 - (g) The executive director of the Michigan association of counties or his or her designated representative.
 - (h) The executive director of the deputy sheriffs association of Michigan or his or her designated representative.
 - (i) Three members of the general public, 1 member to be appointed by the governor, 1 member to be appointed by the speaker of the house of representatives, and 1 member to be appointed by the majority leader of the senate. The 3 members of the general public shall have expertise relating to telephone systems, rural health care concerns, or emergency radio communications, dispatching, and services. The members of the general public shall serve for terms of 2 years.
 - (j) The executive director of the Michigan fraternal order of police or his or her designated representative.
 - (k) The president of the Michigan state police troopers association or his or her designated representative.
 - (l) The president of the Michigan chapter of the associated public safety communications officers or his or her designated representative.
 - (m) The president of the Michigan chapter of the national emergency number association or his or her designated representative.
 - (n) The president of the telecommunications association of Michigan or his or her designated representative.
 - (o) The executive director of the Upper Peninsula emergency medical services corporation or his or her designated representative.
 - (p) The executive director of the Michigan association of ambulance services or his or her designated representative.
 - (q) The president of the Michigan state firefighters union or his or her designated representative.
 - (r) The president of the Michigan communications directors association or his or her designated representative.
 - (s) One representative of commercial mobile radio service, to be appointed by the governor.
- (2) A majority of the members of the committee constitute a quorum for the purpose of conducting business and exercising the powers of the committee. Official action of the committee may be taken upon a vote of a majority of the members of the committee.
- (3) The committee shall elect 1 of its members who is not a member of the wireline or commercial mobile radio service industry to serve as chairperson. The chairperson of the committee shall serve for a term of 1 year.
- (4) The committee may adopt, amend, and rescind bylaws, rules, and regulations for the conduct of its business.
- (5) Members of the committee shall serve without compensation, but shall be entitled to actual and necessary expenses incurred in the performance of official duties under this chapter.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999.

Popular name: 9-1-1

***** 484.1714 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021 *****

484.1714 Duties of committee; staff assistance.

Sec. 714. (1) The committee shall do all of the following:

- (a) Organize and adopt standards governing the committee's formal and informal procedures.
- (b) Meet not less than 4 times per year at a place and time specified by the chairperson.
- (c) Keep a record of the proceedings and activities of the committee.
- (d) Provide recommendations to public safety answering points and secondary public safety answering points on statewide technical and operational standards for PSAPs and secondary PSAPs.
- (e) Provide recommendations to public agencies concerning model systems to be considered in preparing a 9-1-1 service plan.
- (f) Perform all duties as required under this act relating to the development, implementation, operation, and

funding of 9-1-1 systems in this state.

(g) Provide notice to the service suppliers of any changes in the state or county 9-1-1 charge under sections 401a, 401b, and 401c.

(2) The department of state police and the public service commission shall provide staff assistance to the committee as necessary to carry out the committee's duties under this act.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1715 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1715 Business conducted at public meeting.

Sec. 715. The business which the committee may perform shall be conducted at a public meeting of the committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999.

Popular name: 9-1-1

***** 484.1716 THIS SECTION IS REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1716 Availability of writing to public.

Sec. 716. Except as otherwise provided under this act, a writing prepared, owned, used, in the possession of, or retained by the committee in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007.

Popular name: 9-1-1

***** 484.1717 THIS SECTION IS REPEALED BY ACT 379 OF 2008 EFFECTIVE DECEMBER 31, 2014

***** 484.1717 THIS SECTION IS AMENDED EFFECTIVE JANUARY 1, 2013: See 484.1717.amended

484.1717 Repeal of act.

Sec. 717. This act is repealed effective December 31, 2014.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999;—Am. 2006, Act 249, Imd. Eff. July 3, 2006;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008.

Popular name: 9-1-1

***** 484.1717.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2013; THIS
AMENDED SECTION IS ALSO REPEALED BY ACT 260 OF 2012 EFFECTIVE DECEMBER 31, 2021

484.1717.amended Repeal of act.

Sec. 717. This act is repealed effective December 31, 2021.

History: Add. 1999, Act 79, Imd. Eff. June 28, 1999;—Am. 2006, Act 249, Imd. Eff. July 3, 2006;—Am. 2007, Act 165, Imd. Eff. Dec. 21, 2007;—Am. 2008, Act 379, Imd. Eff. Dec. 23, 2008;—Am. 2012, Act 260, Eff. Jan. 1, 2013.

Popular name: 9-1-1

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Petition of)	
Michigan State 9-1-1 Committee for an order)	
finding that TracFone Wireless, Inc., is not)	
properly accounting for or paying into State)	Case No. U-17108
Emergency 9-1-1 fund the proper amount based)	
<u>upon its prepaid wireless sales.</u>)	

TRACFONE WIRELESS, INC.'S

MOTION TO DISMISS AND BRIEF IN SUPPORT

EXHIBIT B

TracFone Wireless, Inc. v Department of Treasure and ETSC, Docket 275065; 275942,
Michigan Court of Appeals issued June 19, 2008 (Unpublished)

STATE OF MICHIGAN
COURT OF APPEALS

TRACFONE WIRELESS, INC.,

Plaintiff/Counter-Defendant-
Appellee/Cross-Appellant,

v

DEPARTMENT OF TREASURY and
EMERGENCY TELEPHONE SERVICE
COMMITTEE,

Defendants/Cross-Plaintiffs-
Appellants/Cross-Appellees.

UNPUBLISHED

June 19, 2008

Nos. 275065; 275942

Court of Claims

LC No. 06-000028-MZ

Before: Davis, P.J., and Murray and Beckering, JJ.

PER CURIAM.

This appeal arises out of the trial court's orders holding that the provisions of the Emergency Telephone Service Enabling Act (ETSEA), MCL 484.1101 *et seq*, do not apply to providers of prepaid wireless cellular telephone services like plaintiff, but also holding that a portion of the fees plaintiff erroneously remitted pursuant to the ETSEA was not recoverable because it was outside the applicable limitations period, and awarding judgment in plaintiff's favor in the amount of \$231,432.76.¹ We affirm in part and reverse in part.

Plaintiff is a provider of "commercial mobile radio services" (CMRS) in the form of prepaid, "pay as you go," wireless cellular telephones that are purchased "off the shelf" by consumers at various retail establishments. Plaintiff therefore does not invoice its customers or enter into monthly service contracts with them. In relevant part, the ETSEA requires CMRS providers and retailer to collect a monthly fee from their customers for "each CMRS connection that has a billing address in this state." MCL 484.1408(1). In the years 2000, 2001, 2002, and 2003, plaintiff remitted to defendants a total of \$541,574.33 pursuant to that requirement. However, plaintiff contends that it paid its own funds and did so by accident. Plaintiff argues that because it does not have billing addresses or monthly bills for its customers, the 9-1-1 fee

¹ The trial court also granted summary disposition in plaintiff's favor on defendants' counterclaim, and defendants have not appealed that order.

does not apply, so it was not required to collect or remit the fees. When plaintiff discovered the mistake, it informed defendants that it wished the monies refunded. Plaintiff was ultimately informed that it could only obtain a refund by filing the instant suit in the Court of Claims, which plaintiff then did.

A grant or denial of summary disposition is reviewed de novo on the basis of the entire record to determine if the moving party is entitled to judgment as a matter of law. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). A motion brought under MCR 2.116(C)(8) should be granted only where the complaint is so legally deficient that recovery would be impossible even if all well-pleaded facts were true and construed in the light most favorable to the nonmoving party. *Id.*, 119. Only the pleadings may be considered when deciding a motion under MCR 2.116(C)(8). *Id.*, 119-120. Likewise, under MCR 2.116(C)(9), all of the defendant's well-pleaded allegations are accepted as true, and summary disposition is appropriate only "when the defendant's pleadings are so clearly untenable that as a matter of law no factual development could possibly deny the plaintiff's right to recovery." *Slater v Ann Arbor Public Schools Bd of Ed*, 250 Mich App 419, 425-426; 648 NW2d 205 (2002). Under MCR 2.116(C)(10), we consider all evidence submitted by the parties in the light most favorable to the non-moving party and grant summary disposition only where the evidence fails to establish a genuine issue regarding any material fact. *Maiden, supra* at 120.

This Court also reviews de novo questions of statutory construction, with the fundamental goal of giving effect to the intent of the Legislature. *Weakland v Toledo Engineering Co, Inc*, 467 Mich 344, 347; 656 NW2d 175, amended on other grounds 468 Mich 1216 (2003). The goal of statutory interpretation is to determine and give effect to the intent of the Legislature, with the presumption that unambiguous language should be enforced as written. *Gladych v New Family Homes, Inc*, 468 Mich 594, 597; 664 NW2d 705 (2003). If the language is unambiguous, "the proper role of a court is simply to apply the terms of the statute to the circumstances in a particular case." *Veenstra v Washtenaw Country Club*, 466 Mich 155, 159-160; 645 NW2d 643 (2002). Equitable determinations are also reviewed de novo, although the factual findings underlying those determinations are reviewed for clear error. *Blackhawk Development Corp v Village of Dexter*, 473 Mich 33, 40; 700 NW2d 364 (2005).

We first address defendants' contention that plaintiff lacks standing. "Whether a party has standing is a question of law that we review de novo." *Nat'l Wildlife Federation v Cleveland Cliffs Iron Co*, 471 Mich 608, 612; 684 NW2d 800 (2004). In the absence of a particularized injury, no genuine case or controversy can exist between the parties, and therefore the courts lack any power to exercise over those parties. *Id.* Plaintiff must allege and prove that it did or will suffer some kind of actual harm as a consequence of defendants' conduct. *Id.*, 629-631.

Defendants contend that plaintiff has failed to show actual harm because the plain language of the statute requires plaintiff to collect the applicable fees from its customers, not pay the fees itself. However, plaintiff has alleged that it paid the fees out of its own funds by accident, and it has submitted an interrogatory response stating that it did not collect the funds from its customers. The evidence in the record fails to show any indication to the contrary. Plaintiff's injury in fact is the loss of certain monies that plaintiff alleges it was not required to remit. Plaintiff has provided allegations and evidence tending to prove this injury, and defendant has not cast any doubt thereon. We therefore find that plaintiff has standing.

The primary issue in this case is whether, as a pure matter of law, the requirements of MCL 484.1408 apply to prepaid cellular telephone services. At the times relevant to this action,² the pertinent provisions of that statute provided as follows:

(1) Until 2 years after the effective date of this section, a CMRS supplier or a reseller shall include a service charge of 55 cents per month for each CMRS connection that has a billing address in this state. Beginning 2 years after the effective date of this section, a CMRS supplier or a reseller shall include a service charge of 52 cents per month for each CMRS connection that has a billing address in this state. The CMRS supplier or reseller shall list the service charge as a separate line item on each bill. The service charge shall be listed on the bill as the “emergency 9-1-1 charge”.

* * *

(6) A CMRS supplier or reseller shall implement the billing provisions of this section not later than 120 days after the effective date of this section.

The ETSEA further provides the following relevant definitions in MCL 484.1102:

(c) “Commercial mobile radio service” or “CMRS” means commercial mobile radio service regulated under section 3 of title I and section 332 of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 USC 153 and 332, and the rules of the federal communications commission or provided under the wireless emergency service order. Commercial mobile radio service or CMRS includes [among other things, cellular telephone service].

* * *

(h) “CMRS connection” means each number assigned to a CMRS customer.

* * *

(x) “Person” means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

* * *

(gg) “Service supplier” means a person providing a communication service to a service user in this state.

² The supplied statutory language is the language as enacted in 1999 PA 78, which was the Public Act that added this section to the Emergency Telephone Service Enabling Act by 1999 PA 78. Subsection (1) underwent some minor changes, such as in wording, date references, and amount of money to be charged, but it has remained the same in substance. Subsection (6) was eventually renumbered, and a specific target date inserted, but again substantially unmodified. It is clear that none of the changes are material to the outcome of this appeal, and neither party suggests otherwise.

(hh) “Service user” means a person receiving a communication service.

Plaintiff asserts that it is not a “reseller,” but by its own concession it is a “provider,” so it is a “supplier” and potentially obligated to collect and remit the fees under MCL 484.1408(1). Significantly, the ETSEA does not define what constitutes a “billing address.”

We find it irrelevant that plaintiff does not have a monthly billing cycle. The plain language of the statute requires the fees to be computed on a monthly basis, but not necessarily collected on a monthly basis. There is no inherent restriction on having only one bill, or having a billing cycle of either longer or shorter than one month. The plain language of the statute does mandate at least one “bill,” but most importantly, it requires a “billing address.”

The term “billing address” is not defined by the ETSEA, but a definition does exist in the Michigan Business Tax Act, MCL 208.1101 *et seq.* According to MCL 208.1261(a), “[b]illing address” means the location indicated in the books and records of the financial institution on the first day of the tax year or on a later date in the tax year when the customer relationship began as the address where any notice, statement, or bill relating to a customer’s account is mailed.” This is consistent with the dictionary definition of “bill,” which in relevant part means either “a statement of money owed for goods or services supplied” or “to send a list of charges to.” Random House Webster’s College Dictionary, 2001 ed. Given that *billing* is either a present participle or a gerund, “billing address” must refer to the *verb* form of “bill.” We are persuaded that a “billing address” must in some way pertain to ongoing contact information for a customer. In particular, a “billing address” requires a *physical* location to which some kind of *written* information regarding an “account” could be delivered, and thereby relied on to be received, by a customer with some kind of ongoing relationship with the supplier.

Defendants contend that discovery would reveal that plaintiff’s billing practices entail collection of extensive information from its customers, including customers’ billing addresses. However, defendants admit that plaintiff “does not enter into monthly service contracts with its customers or invoice its customers.” Because the meaning of “billing address” entails actually sending bills on an account to a customer, the fact that plaintiff might know where its customers live does not necessarily mean plaintiff has a “billing address” for those customers. In other words, there can be no billing address if there is no billing. Irrespective of what data plaintiff collects from its CMRS connection customers, if the CMRS connections do not have designated physical addresses for the purpose of receiving information about ongoing accounts, those CMRS connections do not have “billing addresses” within the meaning of MCL 484.1408. Because the CMRS connections in this case do not have “billing addresses,” the 9-1-1 service charge need not be collected on them, as the trial court correctly found.

Nevertheless, the parties do not dispute that as a general matter, no Michigan governmental entity is authorized to refund taxes unless expressly permitted to do so by enactment of the Legislature, see *F.M. Sibley Lumber Co v Dep’t of Revenue*, 311 Mich 654, 661; 19 NW2d 132 (1945), and the ETSEA does not expressly provide for a refund of plaintiff’s tax payments here. However, plaintiff’s refund claim is based on equity. “It is a well settled rule that “money got through imposition” may be recovered back; and, as this court has said on several occasions, “the obligation to do justice rests upon all persons, natural and artificial, and if a county obtains the money or property of others without authority, the law, independent of any statute, will compel restitution or compensation.” *Blanchard v Detroit*, 253 Mich 491, 495; 235

NW 230 (1931), quoting *Ward v Love Co*, 253 US 17, 24; 40 S Ct 419 (1920) and cases cited therein.

In *Spoon-Shacket v Oakland Co*, 356 Mich 151, 168; 97 NW2d 25 (1959), our Supreme Court upheld “the right of taxpayers to equitable relief from the unconscionable effect of crass mistakes of public officials in the field of taxation; mistakes gross enough to constitute fraud.” More than sixty years previously, “[t]he right of a party, from whom has been exacted payment of rates of carriage in excess of those fixed by charter or statute, to recover the overcharge, [was] no longer open to serious question.” *Pingree v Mut Gas Co*, 107 Mich 156, 158; 65 NW2d 6 (1895). However, the parties do not actually dispute that plaintiff would be entitled to a refund of any taxes or fees paid due to fraud or coercion by defendants. Rather, defendants contend that plaintiff’s payments are not recoverable because they were voluntarily made, with full actual or constructive knowledge of the facts and applicable law.

Some of Michigan’s earliest published cases regarded it as a settled, even presumptive, issue that voluntarily-paid monies were simply not recoverable. See *First Nat’l Bank v Watkins*, 21 Mich 483, 488-490 (1870); see also, generally, *Thompson v Detroit*, 114 Mich 502; 72 NW 320 (1897). At common law, actual duress was necessary for a payment to be considered involuntary. *General Discount Corp v Detroit*, 306 Mich 458, 465; 11 NW2d 203 (1943). But the rule evolved to permit recovery of unnecessary payments in the absence of duress and even without protest, if the payor made those payments “by reason of a mistake or ignorance of a material fact;” ignorance of a fact is equivalent to a mistake of fact, and either will make the payment effectively involuntary. *Pingree, supra* at 159-160. The same may be true even if the payor was negligent in failing to ascertain the true facts, “subject to the qualification that the payment cannot be recalled when the situation of the party receiving the money has changed in consequence of the payment, and it would be inequitable to allow a recovery.” *Id.*, 160; *Walker v Conat*, 65 Mich 194, 197-198; 31 NW 786 (1887).

Nevertheless, a party with “full knowledge of the facts,” or even merely on notice of the facts and therefore “chargeable with the knowledge,” cannot recover voluntarily-paid money by claiming a mistake. *Montgomery Ward & Co v Williams*, 330 Mich 275, 284-285; 47 NW2d 607 (1951); see also *Farm Bureau Mut Ins Co of Michigan v Buckallew*, 471 Mich 940, 940-941; 690 NW2d 93 (2004) (“[p]laintiff had access to all the necessary information, and its error is not excused by its own carelessness or lack of due diligence.”). Where a party is not ignorant of the law, the party’s rights under the law, and the facts of the party’s situation; and where the recipient of the monies has not infringed on the payor’s free will by action, inaction, or mere possession of exclusive knowledge; payment will not be considered to have been made under duress. *Beachlawn Corp v St Clair Shores*, 370 Mich 128, 131-133; 121 NW2d 427 (1963).

There is no contention or evidence that the payments plaintiff remitted were because of any “artifice, fraud, or deception on the part of the payee, or duress of the person or goods of the person making the payment.” *Pingree, supra* at 157. Plaintiff repeatedly emphasizes that the payments were made solely because its tax administration firm made a unilateral mistake, not because of any conduct by defendants. Furthermore, neither party had exclusive knowledge of the applicable law, nor did defendants know anything about plaintiff’s factual situation that plaintiff did not also know. Most importantly, it is apparent that the tax administration firm was plaintiff’s agent. See *St Clair Intermediate School Dist v Intermediate Ed Ass’n/Michigan Ed Ass’n*, 458 Mich 540, 557-558; 581 NW2d 707 (1998). “A party is responsible for any action or

inaction by the party or the party's agent." *Alken-Ziegler, Inc v Waterbury Headers Corp*, 461 Mich 219, 224; 600 NW2d 638 (1999). As a consequence, the payments made by plaintiff's tax administration firm are attributable to plaintiff.

We find that plaintiff – through its agent – therefore knowingly remitted the 9-1-1 fees. Moreover, plaintiff did so under “the mistaken factual premise that [plaintiff] was a monthly billing wireless provider instead of a provider that sold prepaid wireless telephones and minutes to customers through retail outlets.” In other words, plaintiff asserts that it was under a mistake of fact about *the nature of itself*. But plaintiff must have had full knowledge of the nature of its services at the time it made those payments, and as a consequence, we conclude that its payments were voluntary. See *Farm Bureau Mut Ins Co of Michigan v Buckallew, supra* at 940-941. This is not analogous to the case of a person inadvertently putting the decimal point in the wrong place on a check, where that person might indeed pay under a misapprehension of fact as to how much he or she was paying. Plaintiff was aware of all of the material facts – the amount and fact of payment, and the nature of itself – at the time it paid. We therefore agree with defendants that, because plaintiff remitted them voluntarily, plaintiff cannot recover the fees.

We affirm the trial court's holding that providers of prepaid wireless telecommunications services like plaintiff are not required to collect or remit the 9-1-1 fees under the ETSEA. However, we reverse the trial court's award of \$231,432.76 in plaintiff's favor. In light of our determinations of those issues, we need not address the issues pertaining to the trial court's award of fees, the statute of limitations, or the notice provisions of the Court of Claims Act.

/s/ Alton T. Davis
/s/ Christopher M. Murray
/s/ Jane M. Beckering

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Petition of)	
Michigan State 9-1-1 Committee for an order)	
finding that TracFone Wireless, Inc., is not)	
properly accounting for or paying into State)	Case No. U-17108
Emergency 9-1-1 fund the proper amount based)	
<u>upon its prepaid wireless sales.</u>)	

TRACFONE WIRELESS, INC.'S

MOTION TO DISMISS AND BRIEF IN SUPPORT

EXHIBIT C

Michigan Department of Treasury Form 4652 – State 9-1-1 and Emergency 9-1-1 Charges

State 9-1-1 and Emergency 9-1-1 Charges

Issued under authority of Public Act 32 of 1986, as amended.

Return completed form to:
Michigan Department of Treasury
P.O. Box 30427
Lansing, Michigan 48909-7927

INSTRUCTIONS: State 9-1-1 and Emergency 9-1-1 Charges collected are due to Treasury within 30 days of the close of each quarter. Use Part 2 of this form to report monthly State 9-1-1 Charges collected from service users during the quarter. Use Part 3 to report Emergency 9-1-1 Charges collected from prepaid customers during the quarter. For questions regarding the State 9-1-1 and/or Emergency 9-1-1 Charges, call (517) 636-4730.

PART 1: ACCOUNT INFORMATION

Business Name		► Federal Employer Identification Number (FEIN)	
Business Address (Street Number, P.O. Box)		City, State, ZIP Code	
► Filing period	<input type="checkbox"/> 1. JAN-FEB-MAR <input type="checkbox"/> 2. APR-MAY-JUN <input type="checkbox"/> 3. JUL-AUG-SEP <input type="checkbox"/> 4. OCT-NOV-DEC	► Year	Contact Person Contact Telephone Number

PART 2: STATE 9-1-1 CHARGES

Section A: First 10 access points or lines for each service user's account. Calculate the total charges collected on each access point or line billed at the full State 9-1-1 charge. This rate applies to each of the first 10 access points or lines of a service user's account.

	Month	Number of access points or lines billed at the full rate		Charge (Rate)	Total
► 1.			X		
► 2.			X		
► 3.			X		
TOTAL 4.					

Section B: Additional access points or lines for each service user's account. Calculate the total charges collected on each access point or line in excess of 10 on each service user's account billed at the applicable State 9-1-1 charge. The applicable charge for each access point or line after the first 10 is 1/10 of the per line State 9-1-1 charge used in Section A.

	Month	Number of access points or lines (exclude those reported in Section A)		Charge (Rate)	Total
► 5.			X		
► 6.			X		
► 7.			X		
TOTAL 8.					

- | | | |
|--|-------|--|
| 9. Total State 9-1-1 Charges collected. Add line 4 and line 8 | 9. | |
| 10. Multiply line 9 by 2% (0.02). This is the allowable amount the service supplier may retain. | ► 10. | |
| 11. Total State 9-1-1 Charges due. Subtract line 10 from line 9. | ► 11. | |

PART 3: EMERGENCY 9-1-1 CHARGES

Commercial Mobile Radio Service (CMRS) suppliers or resellers must collect Emergency 9-1-1 Charges from their prepaid customers. CMRS suppliers or resellers must select either the Type I or Type II method for calculating the portion of the Emergency 9-1-1 Charges that represent the State 9-1-1 Charges. Once a CMRS supplier or reseller has filed using either the Type I or Type II method, all future filings must be completed using that same calculation method. Two percent (0.02) of the Emergency 9-1-1 Charges may be retained if electing to use the Type II calculation method.

Type I Calculation

- | | | |
|---|-------|--|
| 12. Enter total earned prepaid revenue for the period..... | ► 12. | |
| 13. Divide Line 12 by \$50 | 13. | |
| 14. Total Emergency 9-1-1 Charges due. Multiply line 13 by the Emergency 9-1-1 (prepaid surcharge) charge | ► 14. | |

Type II Calculation

- | | | |
|---|-------|--|
| 15. Enter total number of active prepaid accounts for each month during the period. | ► 15. | |
| 16. Total Emergency 9-1-1 Charges. Multiply line 15 by the Emergency 9-1-1 (prepaid surcharge) charge | ► 16. | |
| 17. Multiply Line 16 by 2% (0.02). This is the allowable amount the CMRS supplier or reseller may retain..... | ► 17. | |
| 18. Total Emergency 9-1-1 Charges due. Subtract line 17 from Line 16..... | ► 18. | |

SUMMARY

- | | | |
|---|-------|--|
| 19. Total State 9-1-1 and Emergency 9-1-1 Charges. Add lines 11, 14 and 18. PAY THIS AMOUNT. | ► 19. | |
|---|-------|--|
- Payments may be made by Electronic Funds Transfer (EFT). Visit www.michigan.gov/biztaxpayments for additional EFT information. Make check payable to the **State of Michigan**. Write your **FEIN and "911 Charges"** on front of your check.

PART 4: CERTIFICATION

I declare under penalty of perjury that the information on this form is true and complete to the best of my knowledge.

Signature	Telephone Number	Date
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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Petition of)
Michigan State 9-1-1 Committee for an order)
finding that TracFone Wireless, Inc., is not)
properly accounting for or paying into State)
Emergency 9-1-1 fund the proper amount based)
upon its prepaid wireless sales.)

Case No. U-17108

TRACFONE WIRELESS, INC.'S

MOTION TO DISMISS AND BRIEF IN SUPPORT

EXHIBIT D

Selected Minutes of the State 9-1-1 Committee



RICK SNYDER
GOVERNOR

State of Michigan
STATE 9-1-1 COMMITTEE
LANSING

SHERIFF DALE GRIBLER
CHAIR

State 9-1-1 Committee Meeting

Held at: Department of Military and Veterans Affairs
Tuesday, March 15, 2011
10:00 a.m.

Meeting Minutes

MEMBERS PRESENT	REPRESENTING
Mr. Rich Feole	Association of Public Safety Comm. Officials
Ms. Yvette Collins	Commercial Mobile Radio Service
Ms. Karen Towne	Dept. of Energy, Labor, and Economic Growth
Mr. Shawn Sible	Department of State Police
Lt. Frank Baker	Deputy Sheriff's Association
Mr. John Hunt	Governor's Appointee, Public Member
Chief Kay Hoffman	Michigan Association of Chiefs of Police
Mr. Jon Campbell	Michigan Association of Counties
Mr. James Fyvie, Vice Chair	Michigan Communications Directors Association
Chief Paul Trinka	Michigan Association of Fire Chiefs
Mr. Susana Woolcock	Michigan Public Service Commission
Sheriff Dale Gribler, Chair	Michigan Sheriffs' Association
Mr. Andy Goldberger	National Emergency Number Association
Mr. Lloyd Fayling	Senate Appointee, Public Member
Mr. James Loeper	UP Emergency Medical Services Corporation
STAFF SUPPORT PRESENT (Non Voting)	REPRESENTING
Ms. Harriet Miller-Brown	State 9-1-1 Administrator's Office
Ms. Mary Jo Hovey	State 9-1-1 Administrator's Office
Mr. Hal Martin	Attorney General's Office
MEMBERS ABSENT	REPRESENTING
Mr. John Buczek	Fraternal Order of Police
Mr. Dan Kuhn	House Appointee, Public Member
Mr. Dale Berry	Michigan Association of Ambulance Services
Mr. Mark Docherty	Michigan Professional Firefighters Union
Mr. Christopher Luty	Michigan State Police Troopers Association
Ms. Jennifer Greenburg	Telecommunications Association of Michigan

Association of Public Safety Communications Officials • Commercial Mobile Radio Service • Department of Licensing and Regulatory Affairs
Department of State Police • Deputy Sheriff's Association • Fraternal Order of Police • Michigan Association of Ambulance Services
Michigan Association of Chiefs of Police • Michigan Association of Counties • Michigan Communications Directors Association
Michigan Association of Fire Chiefs • Michigan Professional Firefighters Union • Michigan Public Service Commission • Michigan Sheriff's
Association Michigan State Police Troopers Association • National Emergency Number Association • Telecommunications Association of
Michigan • Upper Peninsula Emergency Medical Services • Members of the general public appointed by the Governor, Speaker of the House,
and Majority Leader of the Senate

ROLL CALL

The State 9-1-1 Committee (SNC) meeting was called to order by Sheriff Dale Gribler, Chair, at 10 a.m.

APPROVAL OF PAST MEETING MINUTES

A **MOTION** was made by Chief Paul Trinko to approve the meeting minutes of the December 7, 2010, State 9-1-1 Committee meeting. Supported by Mr. Lloyd Fayling, the **MOTION** carried.

CORRESPONDENCE

Chair Gribler welcomed new members to the SNC: Mr. Jon Campbell, Ms. Karen Towne, and Ms. Susana Woolcock.

This was to have been Major Charles Bush's last meeting; however, he was unable to attend today. Mr. Shawn Sible is replacing Major Bush on the SNC.

Congratulations were extended to Mr. Joe Van Oosterhout who retired from Marquette County Central Dispatch. A letter of appreciation is being forwarded to Mr. Van Oosterhout for his many years of involvement on 9-1-1 subcommittees, most recently the Legislative Action and Dispatcher Training.

Ms. Janet Hengesbach, secretary to the State 9-1-1 Administrator and the SNC, has taken a promotion and moved to the Office of Highway Safety Planning. Ms. Mary Jo Hovey from the State 9-1-1 Office will be assisting until a new secretary can be placed. A **MOTION** was made by Mr. John Hunt to send a letter of appreciation to Ms. Hengesbach for her years of support to the SNC and 9-1-1 community. Supported by Mr. James Loeper, the **MOTION** carried.

National Telecommunicators Week is scheduled for April 11-15, 2011. A **MOTION** was made by Mr. John Hunt to forward a Certificate of Appreciation to each PSAP (Public Safety Answering Point) in the State of Michigan to express the State 9-1-1 Committee's gratitude for their commitment to public safety. Supported by Mr. James Fyvie, the **MOTION** carried.

OLD BUSINESS

None

NEW BUSINESS

None

9-1-1 EFFICIENCIES SUBCOMMITTEE UPDATE

The 9-1-1 Efficiencies Subcommittee (NES) met December 7, 2010; January 10, 2011; January 31, 2011; and February 23, 2011. The last subcommittee meeting was held via teleconference; however interaction via telephone between the subcommittee members was found to be difficult and future meetings will be

planned as face to face meetings as much as possible. There is a meeting scheduled directly after today's SNC meeting. The NES is moving forward with its charge. Surveys were recently sent to PSAPs and will be discussed later today at the NES meeting.

CERTIFICATION SUBCOMMITTEE REPORT

A. County Compliance Review Updates

Mr. James Fyvie reported that the Benzie County review is waiting for paperwork relative to the county's dispatcher training fund portion of the review. The acting center director has indicated the materials will be sent shortly.

The Chippewa County review is scheduled for an on-site visit on March 22, 2011.

B. Approval of Compliance Review Reports

There are three county reviews for approval today. Each will be voted on independently.

A **MOTION** was made by Mr. James Fyvie to approve the final Lenawee County compliance review report as presented. Supported by Mr. Andy Goldberger, the **MOTION** carried.

A **MOTION** was made by Mr. James Fyvie to approve the final Montmorency County compliance review report as presented. Supported by Mr. James Loeper, the **MOTION** carried.

A **MOTION** was made by Mr. James Fyvie to approve the final Van Buren County compliance review report as presented. Supported by Mr. Jon Campbell, the **MOTION** carried. (Sheriff Dale Gribler abstained from this vote.)

C. Annual Report

The information packets were forwarded to the PSAPs in January and are due back on May 16, 2011. If anyone would like to view the forms sent to the counties, they are available on the SNC web site.

D. Definition for Compliance Reviews

A question was raised by Mr. Lloyd Fayling as to if a request is still into the Attorney General's Office for a definition of what is required on the compliance reviews? Mr. Hal Martin noted that he was aware of the request but thought the issue had been resolved by consensus at the time and the committee felt comfortable with the process without having to take further action. He did not feel he was asked to do anything beyond that.

Mr. Fyvie noted that some centers have considered the compliance reviews to be quite subjective in the past and if we are in fact following the law than the reviews should be more objective. To that end, the subcommittee has decided to look at other formats in the industry that do reviews of PSAPs (i.e., the ISO for fire insurances). The intent of the subcommittee is to streamline the process. When a review is done, a more narrow focus can be made of following the requirements of the law and not subjective opinions, providing a more standard format.

Mr. Andy Goldberger noted that originally the purpose of the reviews was to insure funds going to the counties were being spent correctly. Some reports are now including additional issues such as comments from local chiefs/sheriffs on the running of the dispatch center, what types of operating systems a center has, etc. which are felt by some to be outside the preview of this committee.

Sheriff Gribler noted that the compliance reviews are not just financial. He believes the law is very clear to say what is reasonable and necessary and the subcommittee should be tasked to look at the operational part also. Mr. Fyvie noted that the subcommittee has a very good discussion going regarding the reviews and he will report back at the next SNC meeting.

(Mr. Sible arrived at 10:20 a.m.)

DISPATCHER TRAINING SUBCOMMITTEE REPORT

A. Appeals

Sheriff Gribler stated that the subcommittee met to review the applications. A few centers were asked for additional information, some were denied, and all but two have been resolved.

(Chief Kay Hoffman arrived at 10:25 a.m.)

1. Milan Police Department

Ms. Gina Saucedo noted that the Milan Police Department e-mailed her yesterday and withdrew their appeal.

2. Detroit Regional Communication Center (DRCC) - Michigan State Police (MSP)

Discussion at the Dispatcher Training Subcommittee (DTS) meeting surrounded whether DRCC meets the definition of a primary PSAP, there are no direct 9-1-1 trunks going into the DRCC, and the center is not Phase 2 compliant. Ms. Pam Matelski, MSP Communications Section Commander, noted that DRCC primarily operates at a Phase 0 level and the majority of the calls which come directly from the public come in as default wireless calls. They receive default 9-1-1 calls from the southeast Michigan area, transfer calls, and overflow calls on the 10 digit line into the center. There are also calls that appear to come direct from the public which she believes qualifies DRCC to meet the terms of a primary PSAP. In 2010, DRCC received 61,790 9-1-1 calls, but are unable to identify how the calls came into the center (i.e., default or direct). DRCC has a total of 28 dispatchers and 3 shift supervisors.

It is Ms. Matelski's understanding that the county needs to be Phase 2 compliant and not the individual PSAPs. As an example, in Kent County MSP was the wireless 9-1-1 center for all calls outside the city of Grand Rapids. The remainder of the PSAPs in Kent County that were receiving landline calls were receiving the landline component of the funding and MSP was receiving a portion of the Kent County funding because they were taking the wireless calls. In that respect, there was no requirement for the other PSAPs to be Phase 2 compliant because the county was Phase 2 compliant.

Mr. Hunt noted that in the original 9-1-1 legislation, in addition to the requirement that PSAPs be identified in the county or emergency service district's final plan, those PSAPs needed to formally file a notice of intent to function as a PSAP. He does not know if that is currently a requirement, but suspects that it has not changed. Ms. Matelski questioned where in the current legislation it is identified for the purposes of receiving training funds that a PSAP has to be identified in the county plan. She feels that when the definition of a primary PSAP is reviewed, the legislation lists all the things that need to be done and it is her feeling that DRCC meets all of those terms in the definition.

Ms. Marsha Bianconi from the Conference of Western Wayne (CWW) noted that DRCC is not included in the Wayne County 9-1-1 plan. Ms. Pat Coates noted that DRCC is also not in the Oakland County plan. Ms. Matelski is aware of that, but stated that there is not anywhere she has found that says they would have to be included in the plan to receive training funds. Mr. Hunt noted that the legislation allowed Wayne County to create separate emergency telephone districts. Each one of the four districts that was established created their own tentative and final plans. They went through the process just like any other county did for their county plans, but they did four separate plans for Wayne County. That may have contributed to something falling through the cracks, but that is not a certainty.

Mr. Hunt noted that he feels strictly from a functional perspective it does not matter that the calls are default. A primary PSAP is the first answering point that receives the call, answers the call, and talks to the person on the other end. So from a functional perspective DRCC is a primary PSAP. It seems to him the matter is more legal as to whether or not DRCC is officially recognized as a primary PSAP or secondary PSAP by the legislation and would DRCC be required to be included in final plans and have filed a notice to be a PSAP. Sheriff Gribler believes the SNC needs to frame questions for Mr. Hal Martin to get an official opinion on this.

Does DRCC have money outside of the dispatcher training surcharge money coming in for training? Ms. Matelski replied no, this is the only funding available specifically to train DRCC dispatchers. The DRCC does follow all of the SNC recommended training guidelines and classes on the approved training list.

Mr. Fayling questioned if DRCC has the ability to send the closest car to a call? Not just an MSP car, but the closest car. Ms. Matelski replied that they would not know what the closest car was since police departments do not check in and out with DRCC unless it is a MSP car.

Sheriff Gribler feels there are two routes that need to be taken. First, the SNC has heard Ms. Matelski's appeal and the SNC needs a motion to sustain what the Dispatcher Training Subcommittee voted on or deny that and uphold the training funds going to DRCC. And second, the SNC Executive Committee will need to framework questions for Mr. Martin to look into for definitive answers.

A **MOTION** was made by Mr. James Fyvie to uphold the Dispatcher Training Subcommittee's determination of denial to the MSP Detroit Regional Communication Center based upon the default status and that DRCC is not recognized in either of the 9-1-1 plans in the area which it services. The **MOTION** was supported by Mr. James Loeper.

Mr. Hunt commented as a resident of Wayne County that when he or his friends or family dial 9-1-1 he wants that call to go to an answering point where the dispatchers receive training. The fact that DRCC is receiving calls today provides justification to him to give them the training funds. The details should be worked out afterward. They are obviously providing the service and they did not assume that responsibility in a vacuum. There may not be intent to function as a PSAP, but that's not something DRCC unilaterally decided to do.

Mr. Shawn Sible stated he did not know Ms. Matelski was going to be here today for the appeal, so he is not here solely to support her. It seems DRCC is doing the work, however, there are some legal issues that need to be resolved, and he thinks there are some questions that were raised as to whether they qualify or don't. It would make sense to continue on with the funding until the issues are resolved, instead of making a preliminary decision that DRCC does not qualify and then try to figure out whether they really do or don't after the fact.

Mr. Loeper noted that if the SNC takes Ms. Matelski's opinion that DRCC qualifies for the funds, Gogebic County as a back-up PSAP and an overflow would also be eligible for funds on the training side. A legal opinion is needed to resolve this as it may affect other centers also.

Ms. Harriet Miller-Brown noted that this meeting each year is when the dispatcher count is set for distribution (FTEs determined). Funds are distributed twice a year and in the past adjustments have been made during the course of the second distribution. Normally any adjustments that are made have been downward, meaning not to give money back but to approve it and make an adjustment. The certification could be withdrawn if there was a legal opinion which did not coincide with the vote.

The Dispatcher Training funds come from 6 percent of the state 9-1-1 surcharge. Last year approximately \$1.6 million was distributed. The funds are replenished every year. The fund balance will go out regardless of the outcome of this vote.

A roll call vote was taken:

Yes	No	Abstain	Absent
Deputy Sheriff's Assoc.	Assoc. of Public Safety Commun. Officials	MI Public Service Commission	Fraternal Order of Police
MI Communications Directors Assoc.	Commercial Mobile Radio Service		House Appointee, Public Member
MI Assoc. of Fire Chiefs	Dept. of Energy, Labor, and Economic Growth		MI Professional Firefighters Union
National Emergency Number Assoc.	Dept. of State Police		MI State Police Tprs. Assoc.
Senate Appointee, Public Member	Governor's Appointee, Public Member		Telecommunications Assoc. of MI
UP Emergency Medical Services Corp.	MI Assoc. of Chiefs of Police		MI Assoc. of Ambulance Services
	MI Assoc. of Counties		
	MI Sheriffs' Assoc.		

The **MOTION** failed.

B. Definition of Eligible PSAP for Training Funds

Sheriff Gribler directed the SNC Executive Committee to form questions by March 25, 2011, to Mr. Martin for providing a legal opinion regarding who is an eligible PSAP to receive Dispatcher Training funds. The goal is to have the issues discussed here today resolved by October's fund distribution.

C. Approval of Training Monies

A **MOTION** was made by Sheriff Dale Gribler to approve training monies for 1,790 telecommunicators representing 129 PSAPs in the State of Michigan for the May 2011 distribution. Supported by Chief Paul Trinko, the **MOTION** carried.

EMERGING TECHNOLOGY SUBCOMMITTEE REPORT

Mr. John Hunt noted the subcommittee has been busy since the December 2010 SNC meeting and held two formal meetings by conference call and one face to face meeting.

A. 2011 Spring Technology Forum

The forum is scheduled for April 20, 2011, at the Michigan State Police Training Academy in Lansing. The invitations were mailed out on March 8 and information also posted on the SNC web site. The agenda, speakers, and topics were reviewed.

B. Frontier and AT&T Presentations

On February 17, 2011, two Next Generation 9-1-1 presentations were made by the primary legacy 9-1-1 providers in the state: Frontier (formerly Verizon) and AT&T. The meeting minutes will be posted on the SNC web site, as well as both of the presentations (under Current Issues and Ongoing Activity).

C. Public Service Announcement (PSA) Update

The subcommittee has put together a PSA which is intended to be posted on the SNC web site taking a look at some of the current technology related issues from a general public perspective. The information provides the current status in Michigan of how these technologies affect 9-1-1, such as non-service initialized phones and texting to 9-1-1.

A **MOTION** was made by Mr. Lloyd Fayling for the State 9-1-1 Committee to adopt the Public Service Announcement and post it to the SNC web site for public use. Supported by Mr. James Loeper, the **MOTION** carried.

Ms. Karen Towne believes that the Department of Energy, Labor, and Economic Growth (DELEG) will link to it, especially with their disability work that will stay with them when the department branches off. The Public Information Officer (PIO) for MSP may want to get with DELEG to make the necessary arrangements. Mr. Fyvie noted that the Michigan Communications Directors Association (MCDA) has signed an agreement with one of the broadcasting companies that services all of Michigan to do some spot PSAs as well.

D. H. B. 4314

The bill is the Michigan Telecommunications Act rewrite. The subcommittee looked at it from the perspective of emerging technologies. At the end of their review, they came to the conclusion that from a technology perspective there weren't a lot of issues that the subcommittee would be concerned about or make any type of a recommendation to the SNC on. They do, however, recommend the SNC refer it to the Legislative Action Subcommittee (LAS) because this particular bill as written today could have serious impact to the operational capabilities of the PSAPs in the state. The Emerging Technology Subcommittee (ETS) would be willing to work with the LAS to review, analyze, and make a report to the SNC. Consensus of the SNC was for the ETS and LAS to work together on this project.

LEGISLATIVE ACTION SUBCOMMITTEE REPORT

A. Next Gen 9-1-1 Update

Ms. Miller-Brown stated that based on the Kimball report that was received by the SNC at the last meeting, the Legislative Action Subcommittee (LAS) invited Ms. Evelyn Bailey from Kimball to attend the January LAS meeting. Ms. Bailey developed a decision and action plan checklist for the LAS to put together its recommendations to bring back to the SNC. The LAS will address the funding issue first. The subcommittee will be meeting regularly until they have worked through the checklist.

B. D-Block

The LAS made a recommendation in the last legislative session to support D-Block, which is the preservation of a portion of the public safety frequency. Those bills did not pass in the 111th Congress and have been re-introduced. Both bills are substantially the same (the House and the Senate bills), with a minor exception in the House bill. The House bill has a give back provision in it. The give back for the funding on the D-Block is to take another portion of the public safety spectrum (UHF and VHF) and those entities that hold those frequencies would have to give that back for sale to offset the cost. The Senate bill does not have a similar give back provision and leaves Congress to figure out where to find those funds for D-Block.

A **MOTION** was made by Chief Paul Trinka to forward a letter to Michigan's U. S. Senators and Representatives asking for their support of Senate Bill S. 28 as written, and non support of House Bill H.R. 607 as it contains give backs which may be devastating to other public safety entities within Michigan. Supported by Mr. Jon Campbell, the **MOTION** carried. (Ms. Yvette Collins, Ms. Susana Woolcock, and Ms. Karen Towne abstained from the vote.)

C. Surcharge Enforcement

Ms. Miller-Brown and Mr. Martin have met with the Michigan Public Service Commission (MPSC), the Michigan Department of Treasury, and have done research through the statute and found there are not a lot of provisions within the statute for surcharge enforcement. They have spoken to the LAS and asked to pursue opening a single section of the Act to address the issue. The LAS has not yet made a recommendation. It is being mentioned today as an update on the fact that there is discussion on looking at a single section amendment to the current Act to allow for enforcement provisions of the surcharge.

D. MLTS/Training Rulemaking Update

Ms. Miller-Brown stated that a rulemaking has been opened. Ms. Woolcock noted a meeting is scheduled for April 19, 2011, for verbal comments. Written comments will also be accepted. The Training Standards need more approvals before it can be moved forward with a hearing. There is no timeline available as of yet and one will not be known until the reorganization of the Department of Energy, Labor, and Economic Growth has occurred. Ms. Karen Towne noted that the department will not officially become the Department of Licensing and Regulatory Affairs until April 24, 2011. At this point the Executive Office is completely reorganizing the structure within the department and what the final structure is will not be known until then.

E. Addition Issues

A few other items will be added to the next LAS agenda:

1. Michigan Telecommunications Act (MTA)
2. Ms. Bianconi brought attention to another piece of Federal legislation which is a re-introduction of an old bill about telephone surcharges on cellular provisions. NENA National has it and is also evaluating it. It has been introduced as H. B. 1002, a Federal bill not a state bill. It prohibits any new discriminatory cell phone taxes from being placed by state or local government. It includes a subsection that excludes 9-1-1 surcharges.

POLICY SUBCOMMITTEE REPORT

No report

STATE 9-1-1 ADMINISTRATOR'S REPORT

A. Report Update

Enhanced 9-1-1 Grant – The matching funds were approved. Ms. Miller-Brown has been working with the Center for Shared Solution (CSS) on the implementation of the grant project. The CSS has put together a technical advisory group to assist with the technical aspects of the grant project through stakeholders to reach out to the local communities to help build the database. The advisory group includes several PSAP directors, IT departments, and GIS departments so that different aspects are involved in collecting the data that is needed. There is an upcoming webinar which information was shared previously with the SNC members.

IP 9-1-1 Report/Kimball Contract – This was covered previously during today's meeting.

Annual CMRS Fund Audit – Will start again soon. One of the recommendations during the last audit was for the SNC to continue to pursue some legislative course for enforcing the surcharge. Although it's not going as quickly as hoped because it has required a lot of background research, it is moving forward. Ms. Miller-Brown will be able to document and show that a sincere effort has been made.

NENA Goes to Washington – A list was provided to the SNC of who will be attending. Appointments have been set with legislative offices for visitations. It is anticipated there will be a lot of interesting activity with the new Legislature in place in Congress and a significant change at NENA with a new legislative affairs director who will be working with the group. The issues to be addressed include the preservation of D-Block, promotion of NG 9-1-1, reauthorization of the National Implementation and Coordination Office, and granting the FCC authority to create a special long term do not call list for PSAP circuits.

Other Activity – Ms. Miller-Brown has been working with the SNC subcommittees on various activities and also attended NENA TDC in Nashville last month. She and Ms. Cheri Bartrum have been working together in a group on a program for the National Center for Missing and Exploited Children (NCMEC) to start coordinating a statewide voluntary program to help bring together the 9-1-1 centers and responders to implement the NCMEC standards for call taking and dispatching calls involving lost and missing children.

B. Additional Topic

Mr. Andy Goldberger inquired about the \$1.7 million which was appropriated by the State of Michigan for the Next Gen 9-1-1 grant; has the federal money been appropriated? Ms. Miller-Brown stated that this is a reimbursement grant and as the money is spent, money is reimbursed.

PUBLIC COMMENT

Ms. Bianconi stated she would be happy to provide any assistance she can to the Executive Committee on the issue of the dispatcher training funds regarding the Detroit Regional Communication Center - Michigan State Police.

Mr. Rich Feole noted that Michigan APCO, Michigan NENA, and the MCDA have formed a workgroup to look at consolidation issues. Ms. Pat Coates and Mr. Jeff Troyer are the APCO representatives.

NEXT MEETING

The next meeting is scheduled for June 14, 2011, 10 a.m., at the MSP headquarters in Lansing. Sheriff Gribler noted that on behalf of this committee and the 9-1-1 Administration staff, he would like to thank Col. Kriste Kibbey Etue for allowing committee members to park in the secured parking area.

ADJOURN

The meeting was adjourned at 11:45 a.m.

Approved,



SHERIFF DALE GRIBLER, CHAIR



RICK SNYDER
GOVERNOR

State of Michigan
STATE 9-1-1 COMMITTEE
LANSING

SHERIFF DALE GRIBLER
CHAIR

State 9-1-1 Committee Meeting

Held at: Michigan State Police, Training Academy
Tuesday, June 14, 2011
10:00 a.m.

Meeting Minutes

MEMBERS PRESENT	REPRESENTING
Mr. Rich Feole	Association of Public Safety Comm. Officials
Ms. Yvette Collins	Commercial Mobile Radio Service
Ms. Karen Towne	Dept. of Licensing & Regulatory Affairs
Mr. Shawn Sible	Department of State Police
Lt. Frank Baker	Deputy Sheriff's Association
Mr. John Buczek	Fraternal Order of Police
Mr. John Hunt	Governor's Appointee, Public Member
Mr. Dale Berry	Michigan Association of Ambulance Services
Chief Kay Hoffman	Michigan Association of Chiefs of Police
Mr. Jon Campbell	Michigan Association of Counties
Mr. James Fyvie, Vice Chair	Michigan Communications Directors Association
Mr. Susana Woolcock	Michigan Public Service Commission
Mr. Andy Goldberger	National Emergency Number Association
Ms. Jennifer Greenburg	Telecommunications Association of Michigan
STAFF SUPPORT PRESENT (Non Voting)	REPRESENTING
Ms. Harriet Miller-Brown	State 9-1-1 Administrator's Office
Ms. Mary Jo Hovey	State 9-1-1 Administrator's Office
MEMBERS ABSENT	REPRESENTING
Mr. Dan Kuhn	House Appointee, Public Member
Chief Paul Trinka	Michigan Association of Fire Chiefs
Mr. Mark Docherty	Michigan Professional Firefighters Union
Sheriff Dale Gribler, Chair	Michigan Sheriffs' Association
Mr. Christopher Luty	Michigan State Police Troopers Association
Mr. Lloyd Fayling	Senate Appointee, Public Member
Mr. James Loeper	UP Emergency Medical Services Corporation

Association of Public Safety Communications Officials • Commercial Mobile Radio Service • Department of Licensing and Regulatory Affairs
Department of State Police • Deputy Sheriff's Association • Fraternal Order of Police • Michigan Association of Ambulance Services
Michigan Association of Chiefs of Police • Michigan Association of Counties • Michigan Communications Directors Association
Michigan Association of Fire Chiefs • Michigan Professional Firefighters Union • Michigan Public Service Commission • Michigan Sheriff's
Association Michigan State Police Troopers Association • National Emergency Number Association • Telecommunications Association of
Michigan • Upper Peninsula Emergency Medical Services • Members of the general public appointed by the Governor, Speaker of the House,
and Majority Leader of the Senate

ROLL CALL

The State 9-1-1 Committee (SNC) meeting was called to order by Mr. James Fyvie, Vice Chair, at 10 a.m.

APPROVAL OF PAST MEETING MINUTES

A **MOTION** was made by Mr. John Hunt to approve the meeting minutes of the March 15, 2011, State 9-1-1 Committee meeting. Supported by Mr. Andy Goldberger, the **MOTION** carried.

CORRESPONDENCE

Vice Chair Fyvie reported that the Department of Energy, Labor and Economic Growth has gone through a name change and is now the Department of Licensing and Regulatory Affairs.

Notice was received from Mr. Dan Kuhn, House Appointee, Public Member, to appoint his own alternate to the State 9-1-1 Committee (SNC). Ms. Harriet Miller-Brown has advised Mr. Kuhn that his appointment to the SNC or alternates must be named by the House Speaker's office. Contact has been made with Speaker Jase Bolger's office; however, no appointee has been named as of this time.

Vice Chair Fyvie reminded SNC members that, as in past years, they need to go on-line and review the ethics information. The links have been provided via e-mail to all SNC members. A reply back to Ms. Mary Jo Hovey is needed indicating a member has reviewed the link and does/does not have a conflict.

OLD BUSINESS

Ms. Miller-Brown provided an update on D-Block. Correspondence was sent on behalf of the SNC by Chair Dale Gribler to Michigan's U.S. Congressional delegation asking for their support of S.28, the Public Safety Spectrum and Wireless Innovation Act, which supports the allocation of an additional 10 megahertz (MHz) of spectrum within the 700 MHz frequency spectrum for public safety, known as D-Block. The letter also noted the SNC's non-support of H. R. 607 as introduced, as it contains provisions for "give-back" of other existing public safety radio spectrum from other MHz ranges to offset the cost of the build-out of D-Block. These give-back provisions may have devastating affects, both operationally and financially, on existing local public safety systems including police, fire, EMS, and warning sirens activation in Michigan.

NEW BUSINESS

Vice Chair Fyvie noted that the State 9-1-1 Office received notice dated May 24, 2011, of a financial audit by the Office of the Auditor General to cover the period of October 1, 2008, through September 30, 2010. Ms. Miller-Brown added that the Legislative Action Subcommittee is looking at possible enforcement provisions of providers to be included in the statute.

9-1-1 EFFICIENCIES SUBCOMMITTEE UPDATE

A. Correspondence from Rep. Richard LeBlanc

Representative LeBlanc forwarded correspondence dated April 14, 2011, to Speaker Bolger requesting the formation of a legislative commission to determine the most efficient structure of Michigan's E-911 system and associated dispatch centers. Ms. Miller-Brown advised the SNC that a letter was previously sent to Speaker Bolger regarding the SNC's 9-1-1 Efficiencies Subcommittee (NES) and the white paper targeted for December 2011 to address this issue. The NES is making progress and is on target for the December date.

CERTIFICATION SUBCOMMITTEE REPORT

A. Subcommittee Membership

Vice Chair Fyvie stated that Mr. Chris Luty from the Michigan State Police Troopers Association had resigned from the subcommittee. Two new members have been added and begun participation in the meetings. They are Mr. Greg Clark from CCE (Charlevoix-Cheboygan-Emmet Counties) and Mr. Barry Nelson from the Saginaw County 9-1-1 Communications Center Authority

B. County Compliance Review Updates

The reviews have been placed on a temporary hold until the new 9-1-1 Administrative Section secretary is hired. Ms. Hovey has been filling in with those duties to keep the SNC's activities moving forward until the new secretary is in place. A brief update of the pending reviews follows.

1. Benzie County – The report is in the final drafting stage.
2. Chippewa County – An on-site review was held on March 22, 2011, and the report drafting will begin soon.
3. Eaton County – Pre-review materials have been received and it is anticipated this review will take place in the late fall.
4. Baraga County – This is the most recent randomly selected county for review. Notification to the county has not yet taken place.

D. Allowable and Disallowable Expenses

A request was received from a county to allow 9-1-1 surcharge funds to be used for signage of roads and trails. A conference call was held to discuss the issue and the subcommittee upheld its previous decision that this is a disallowable expense. The county had the option to appeal the decision at today's SNC meeting, but chose not to.

E. State of Compliance Review Pre On-Site Visit Questionnaire

The draft check off list to be used as part of the information gathering for compliance reviews is still a work in progress. It is hoped to be ready for the SNC's review at the September 2011 meeting.

DISPATCHER TRAINING SUBCOMMITTEE REPORT

A. Questions for Attorney General's Office Interpretation

Ms. Miller-Brown stated that Mr. Hal Martin from the Attorney General's Office is ill today and he apologizes for his absence. He is still doing research on the questions posed to him by the SNC Executive Committee in regards to PSAP status.

B. Distribution

The May dispatcher training fund distribution has been delayed from the Department of Treasury due to a glitch in their system. Payments will be made as soon as possible. The distribution is due to be \$859,279.00 for 1,790 FTEs at \$480.05 each.

C. Status of Rulemaking

Decisions on rulemaking are still pending. Ms. Susana Woolcock noted that there are two steps to the rulemaking. Comments were due in May on MLTS. There are training standards forms that need to be redone and the MPSC is waiting for SOAHR (State Office of Administrative Hearings and Rules) to approve them. No anticipated date of when yet.

Ms. Gina Saucedo is continuing to work with the Department of Technology, Management, and Budget regarding the tracking of telecommunicators. Testing of the electronic system is expected soon. Once in place, tracking will be required electronically.

EMERGING TECHNOLOGY SUBCOMMITTEE REPORT

A. Update on Technology Forum

Mr. John Hunt reported that 112 registrations were received for the forum held on April 20, 2011, with approximately 90 of those registrants actually in attendance. The subcommittee plans to offer this event annually with the same time period targeted for each year.

B.. Establishment of Work Groups

The subcommittee is setting up two workgroups; (1) to review and update the State 9-1-1 Plan, and (2) to look at RFPs (Request for Proposals) for the statewide Kimball project.

The State 9-1-1 Plan was presented to the SNC in 2009 and at that time a guideline was established to update it every two years. The different sections of the plan have been assigned to subcommittee members to work on and then the changes will come together for the final update. The plan is included as a part of the Annual Report to the Legislature. This year a notation will be made in the annual report that the plan is in the process of being updated and will be submitted later as an amendment. The goal of the subcommittee is to have the plan ready for the SNC to review at the September 20, 2011, meeting.

As part of the statewide project for NG 9-1-1 as noted in the Kimball Report, RFPs from other states will be reviewed as possible examples for establishing guidelines for Michigan proposal submissions. The subcommittee is still considering if a sample RFP will be provided or a checklist of what to include in an RFP.

LEGISLATIVE ACTION SUBCOMMITTEE REPORT

A. H.B. 4314 and H.B. 4683

Mr. Shawn Sible reported that since the last SNC meeting H.B. 4314, which is the Michigan Telecommunications Act, passed both the House and Senate and is awaiting the Governor's signature. The LAS did not have ample time to make a full evaluation, but some of the issues discussed by the group were addressed in the final version; (1) provider of last resort notice to its customers when it withdraws service from a service area, and (2) number of alternative providers (at least two rather than one wireless or VoIP) be available in that area before withdrawing.

H.B. 4683, Multi-line Telephone Service, was introduced to extend the statutory deadline on MLTS to 12 months beyond the MPSC's final rulemaking, which would extend it past the statutory deadline of December 31, 2011, as the rulemaking is not yet complete. A hearing of the House Energy and Technology Committee is scheduled for June 15, 2011.

B. Project Plan

At the last LAS meeting, Ms. Evelyn Bailey from Kimball reported she is continuing to work with the subcommittee to develop the project plan to address the legislative/regulatory issues affecting NG 9-1-1 that Kimball has identified in their recommendation.

Mr. Sible noted that funding issues for Michigan with NG 9-1-1 were also discussed. The LAS met with representatives from the Department of Technology, Budget, and Management to ask questions about the viability of using the Michigan Capital Outlay fund for the costs to establish an NG 9-1-1 network. It was found the project would not be suitable for capital outlay; however, there were other options discussed.

C. Enforcement

Ms. Miller-Brown has worked on an initial draft for the LAS to begin discussions and work towards a recommendation to the SNC regarding both state and local surcharge enforcement with providers. Mr. Sible reminded the group that there currently is no enforcement included in the Act against provider(s) who do not pay the state 9-1-1 fees in Michigan. Ms. Miller-Brown and Mr. Hal Martin have met with the Department of Treasury and the MPSC, reviewed the Revenue Act, and concluded that there's virtually no ability to enforce the revenue portion of the statute. Mr. Sible reported that based on their work, a recommendation has been made to the LAS that a single section amendment to the statute be pursued to support compliance enforcement. The Office of the Auditor General's report from the annual fund audit also supports the pursuit of compliance provisions in the statute.

POLICY SUBCOMMITTEE REPORT

No report.

STATE 9-1-1 ADMINISTRATOR'S REPORT

A. Technical Advisory Committee (TAC)

Ms. Miller-Brown reported that a survey to collect data for a snapshot on the current status of the Enhanced 9-1-1 GIS project in Michigan was sent by the TAC to PSAPs in the state, with more than 100 PSAPs responding. The

information will be important in targeting resources. The TAC has been meeting regularly through either conference calls or in person.

B. NENA Goes to Washington

Ms. Miller-Brown felt this was one of the best trips made to date and was very productive. A white paper and drop off letter were provided to members of the Michigan delegation if an appointment for a personal visit could not be arranged with Michigan's Congressional delegation.

C. Pre-Paid Surcharge

Notice to providers about the local, state, and new prepaid (\$0.96) surcharges has been sent to all providers via U.S. mail and available e-mail addresses, as well as posted on the SNC web site.

PUBLIC COMMENT

Ms. Marsha Bianconi noted she has reached out to have one of the GIS sessions held in Wayne County and when held inquired if other counties would be invited. Ms. Miller-Brown indicated a session will be held in Wayne County and participation will be made available to neighboring counties. She will get with Ms. Bianconi regarding the details of the meeting.

NEXT MEETING

The next meeting is scheduled for September 20, 2011, 10 a.m., with the location to be announced.

ADJOURN

The meeting was adjourned at 11:00 a.m.

Approved,



MR. JAMES FYVIE, VICE CHAIR



RICK SNYDER
GOVERNOR

State of Michigan
STATE 9-1-1 COMMITTEE
LANSING

SHERIFF DALE GRIBLER
CHAIR

State 9-1-1 Committee Meeting

MSP Training Academy
Tuesday, December 13, 2011
10 a.m.

Meeting Minutes

MEMBERS PRESENT	REPRESENTING
Sheriff Dale Gribler, Chair	Michigan Sheriffs' Association
Mr. Rich Feole	Association of Public Safety Comm. Officials
Ms. Yvette Collins	Commercial Mobile Radio Service
Ms. Karen Towne	Dept. of Licensing & Regulatory Affairs
Sgt. Dwayne Gill	Michigan State Police
Mr. John Buczek	Fraternal Order of Police
Mr. John Hunt	Governor's Appointee, Public Member
Mr. Dale Berry	Michigan Association of Ambulance Services
Chief Kay Hoffman	Michigan Association of Chiefs of Police
Mr. Jon Campbell	Michigan Association of Counties
Ms. Cherie Bartram	Michigan Communication Directors Association
Chief Paul Trinka	Michigan Association of Fire Chiefs
Mr. Andy Goldberger	National Emergency Number Association
Ms. Susan Woolcock	Michigan Public Service Commission
Mr. Lloyd Fayling	Senate Appointee, Public Member
STAFF SUPPORT PRESENT (Non Voting)	REPRESENTING
Ms. Harriet Miller-Brown	State 9-1-1 Administrator's Office
Ms. Mary Jo Weigel	State 9-1-1 Administrator's Office
Ms. Lori Howard	State 9-1-1 Administrator's Office
MEMBERS ABSENT	REPRESENTING
Lt. Frank Baker	Deputy Sheriff's Association
Mr. Mark Docherty	Michigan Professional Firefighters Union
Mr. Jeff Troyer	House Appointee, Public Member
Sgt. Christopher Luty	Michigan State Police Troopers Association
Ms. Jennifer Greenburg	Telecommunications Association of Michigan
Mr. Robert Struck	UP Emergency Medical Service Corp.

Association of Public Safety Communications Officials • Commercial Mobile Radio Service • Department of Licensing and Regulatory Affairs
Department of State Police • Deputy Sheriff's Association • Fraternal Order of Police • Michigan Association of Ambulance Services
Michigan Association of Chiefs of Police • Michigan Association of Counties • Michigan Communications Directors Association
Michigan Association of Fire Chiefs • Michigan Professional Firefighters Union • Michigan Public Service Commission • Michigan Sheriff's
Association Michigan State Police Troopers Association • National Emergency Number Association • Telecommunications Association of
Michigan • Upper Peninsula Emergency Medical Services • Members of the general public appointed by the Governor, Speaker of the House,
and Majority Leader of the Senate

ROLL CALL

Sheriff Dale Gribler called the State 9-1-1 Committee (SNC) meeting to order at 10 a.m.

APPROVAL OF PAST MEETING MINUTES

Mr. Jon Campbell made a **MOTION** to approve the September 20, 2011, minutes of the State 9-1-1 Committee meeting. Supported by Chief Paul Trinka, the **MOTION** carried.

CORRESPONDENCE

- A. Mr. Jim Fyvie is leaving the SNC as he is not seeking or accepting the nomination as the MCDA representative for next year. He will not be in attendance for today's meeting due to the Board of Commissioners' subcommittee meeting. He plans to attend future SNC meetings and will remain on the Dispatcher Training, Compliance Review, Policy, Legislative Action, and 9-1-1 Efficiencies subcommittees.
- B. A letter from Senator Carl Levin was received regarding D-block. The letter stated he will keep the SNC's views in mind.
- C. Mr. Andy Goldberger is retiring from St. Joseph County, but will remain a member of NENA.
- D. Mr. Jim Loeper and Mr. Jeff Troyer could not attend due to medical reasons.

OLD BUSINESS

None.

NEW BUSINESS

- A. Sheriff Gribler discussed the quarterly disbursement of funds to counties.

Ms. Yvette Collins made a **MOTION** to disburse October quarterly funds to counties. Supported by Mr. John Hunt, the **MOTION** carried.

- B. Sheriff Gribler began the process for elections of the 2012 SNC's officers.

Mr. Dale Berry made a **MOTION** to nominate Sheriff Dale Gribler for the chair position. Supported by Mr. John Hunt, the **MOTION** carried.

Ms. Cherie Bartram made a **MOTION** to nominate Mr. Tim Smith for the vice chair position. Supported by Mr. Rich Feole, the **MOTION** carried.

- C. Request for GIS project update and presentation to be moved to up in the agenda granted for GIS, Technical Advisory Committee (TAC) presentation of the developmental pilot program. Ms. Harriet Miller-Brown reviewed sub grant program. She gave a brief introduction of the TAC members in attendance, and a review of the sub grant for counties. More than 50% of the counties have put in their notice of project participation in the GIS project.

DTMB representative, Mr. John Clark, began a demonstration of a single sign-on process of log in, and the area that will be administered. It is designed to capture data from local partners and it will be stored in a repository. It will also allow users to be able to import and update the GIS data. The program will allow for detailed reports which can be sorted by address. When a user is logged into the system, they will have visibility of work flow surrounding their counties and alerted to any changes. Users will be able to update and import information into the repository. There are also search options built into the system which can be filtered by address or county.

Ms. Harriet Miller-Brown discussed the systems standards and the required approval process for changes of PSAPs boundaries. Each district will have training and access to make changes for each own jurisdictions. Ms. Harriet Miller-Brown discussed the Memorandum of Agreements in place under the Enhanced Data Act creates a relationship between DTMB and local entity for their information. There will not be a generic public access and it will require login and a password to browse information. The state can not release information to VoIP providers or any other provider without prior approval from the PSAPs.

Ms. Harriet Miller-Brown asked the committee about the allowable and disallowable use for BING imagery. A DTMB representative discussed combined efforts with BING imagery and Microsoft that would allow imagery collection for up to 3 years. Individual counties have also hired other companies to handle their imagery as well. Mapping and GIS as attributable to 9-1-1 are allowable expenses for the 9-1-1 funds on the allowable/disallowable list.

Ms. Harriet Miller-Brown asked the TAC for input on the discussion. Ms. Phyllis Fuller questioned for those counties that have already paid for the imagery, and those that will be funded in the future, how would it be justified to the counties that already paid for it on their own. Mr. Michael Muskovin expressed concern of this jeopardizing future federal funding. However, it is critical for counties to develop their data. Ms. Harriet Miller-Brown addressed the question of who would "own the data." Local entities apply for the sub grant to develop their data, and as a participant of the project, the information then becomes theirs. The information will also be placed in the state GIS repository.

Mr. Andy Goldberger brought up the issue of supplanting- paying for something that has already been paid for. Ms. Laura Blastic explained that DTMB has received funds to pay for part of the imagery, but carries the rest of it as a negative fund. Mr. Andy Goldberger suggested taking this to the federal level first and then getting the approval of the committee, but Ms. Harriet Miller-Brown explained there is a tight time frame which would not allow for that to happen. Ms. Phyllis Fuller discussed how the Bing imagery was a State funded project and now there are other funds available and would be used for the same project. Reimbursements would not be given on previously completed projects.

Mr. Jon Campbell made a **MOTION** to have the project be an allowable expense subject to federal approval. Chief Paul Trinko and Mr. Andy Goldberger moved to table the **MOTION** and have a short recess. Meeting resumed and Sheriff Gribler opened discussion.

Mr. Jon Campbell asked for clarification of the concerns moving forward so he may refer the information to the Michigan Association of Counties. Mr. Andy Goldberger explained for counties that have already spent their money on an imaging project, prior to the grant, the concern is if the funds are used in this way, it may be considered a misuse of 9-1-1 funds. This could keep counties from qualifying for federal funds in the future. Mr. Andy Goldberger expressed that the committee he represents, NENA, will be voting NO on the current **MOTION**.

Ms. Harriet Miller-Brown clarified the purpose of the motion made. If the motion is approved, then it will go to the federal level for approval, and if it does not get an approval, the funds will not be used for imagery.

Sheriff Gribler asked for the **MOTION** to be put to a Roll Call Vote.

Yes	No	Abstain	Absent
Michigan Sheriff's Association	Association of Public Safety Communications Officials	Michigan Public Service Commission	Deputy Sheriff's Association
Michigan Association of Fire Chiefs	Commercial Mobile Radio Service		House Appointee, Public Member
Michigan Association of Counties	Department of Licensing & Regulatory Affairs		Michigan Professional Firefighters Union
Michigan Association of Chiefs of Police	National Emergency Number Association		Michigan State Police Troopers Association
Michigan Association of Ambulance Services	Senate Appointee, Public Member		Telecommunications Association of Michigan
Governor's Appointee, Public Member Fraternal Order of Police	Michigan Communications Directors Association		UP Emergency Medical Services Corporation
Department of State Police			

The **MOTION** carried. Ms. Miller-Brown will take the question to NHTSA. If they say no, the request will be denied.

9-1-1 EFFICIENCIES SUBCOMMITTEE REPORT

A. Draft White Paper

Sheriff Gribler explained the first draft of the paper is complete, but the committee has received some comments to update the white paper. He asked the committee allow more time for editing and it will be presented at the next SNC meeting on March 13, 2012. The Efficiencies Subcommittee will be disbanded after the white paper is approved.

Sheriff Gribler asked for Mr. Jon Campbell to update the committee on the meeting with Representative LeBlanc in October. Mr. Jon Campbell reported Representative LeBlanc is interested in encouraging more PSAPs to consolidate in southeast Michigan. Representative LeBlanc had indicated he was going to introduce the bill and let individuals "pick it apart." Mr. Jon Campbell's association (MAC) has delivered a three page letter of things to consider.

Ms. Marsha Bianconi has scheduled a meeting with Representative LeBlanc on December 23, 2011. Representative LeBlanc has sent approximately 2,000 copies of the draft legislation to select individuals and asked that it not be shared. She expressed to Representative LeBlanc at the October meeting that the bill is not considering some vital services. Sheriff Gribler stated he felt the exchange was fair. Sheriff Gribler believes the white paper produced by the Efficiencies Subcommittee will help clarify. He also suggested Ms. Harriet Miller-Brown create a letter to Representative LeBlanc and Bolger, with a copy to the Governor's office alerting them the white paper will be released in March 2012.

CERTIFICATION SUBCOMMITTEE REPORT

A. Status of Compliance Review

Sheriff Gribler provided the update of the latest Compliance review: Benzie County is in the editing stage, Chippewa county is in the draft stage, and Eaton County is up next for a review in late February or early March. Baraga County was selected at random, and Sheriff Gribler received a letter from Mr. Jim Fyvie requesting a compliance review for Clinton County.

Sheriff Gribler made a **MOTION** to have a Compliance Review completed of Clinton County in June of 2012. Supported, the **MOTION** carried.

Return to Montmorency County for a follow up visit will take place January 9, 2012. Ms. Harriet Miller-Brown updated the committee of the progress they have made for the county and efficient use of their 9-1-1 funds.

B. 2012 Annual Reporting Packet

Ms. Harriet Miller-Brown updated the group on the joint mailing packets to the county 9-1-1 coordinators for the data collection for the Annual Report. The only changes implemented were to the SNC-301 form regarding VoIP and IP networks in place.

DISPATCHER TRAINING SUBCOMMITTEE REPORT

A. 2012 Dispatcher Training Fund Application Packet

Ms. Harriet Miller-Brown is gave the report on behalf of Mr. Jeff Troyer. Ms. Harriet Miller-Brown addressed the changes made in the eligibility section. Ms. Marcia Bianconi pointed out MSP is not in the Wayne County Plan. Mr. Andy Goldberger inquired about the paragraph that was unanimously decided at the Dispatcher Training Subcommittee meeting. Ms. Cherie Bartram, from SERESA, mentioned Macomb County did not open up their plan, and being a PSAP center with 24 employees, they will lose their training funding under this change. The committee discussed changing and opening the county plans. Mr. Dale Berry questioned why the committee would want to approve the change right now, and suggested waiting a year or so to implement changes. Mr. Jon Campbell suggested clarification from the Attorney Generals office.

Sheriff Gribler made a **MOTION** to use the existing language without requirement of a PSAP being in a County 9-1-1 Plan and to ask for clarification from the attorney general's office and then referred back to the committee. Supported by Chief Kay Hoffman, the **MOTION** carried.

Mr. Andy Goldberger made a **MOTION** to allow administrative staff to receive training as recommended by the committee. Supported by Mr. Jon Campbell, the **MOTION** carried.

Ms. Harriet Miller-Brown discussed that distribution for November from Treasury has been delayed and each FTE qualified for \$484.99.

EMERGING TECHNOLOGY SUBCOMMITTEE REPORT

Mr. John Hunt discussed the follow up session held on October 4, 2011. There were presentations from Intrado, TCS, and Motorola. Each of the companies discussed their interpretation of what Next Generation 9-1-1 will be and their service offerings. The subcommittee has considered the possibility of future sessions in 2012, but it will not replace the technology forum.

LEGISLATIVE ACTION SUBCOMMITTEE REPORT

A. MLTS- HB 4683 Status

The bill, which extends the deadline for MLTS implementation from December 31, 2011, to December 31, 2016, has recently moved to the senate and is expected to pass. Ms. Harriet Miller-Brown put in a card reflecting the SNC support of HB 4683 at the Senate Energy and Technology Committee on November 29, 2011. There is discussion of creating an FAQ guideline to serve as a guide to providers and system owners. I would be posted on the Public Service Commission website along with the SNC website. The workgroup for MLTS Implementation Guideline will consist of Ms. Harriet Miller-Brown, Mr. Bob Currier, Ms. Marsha Bianconi, Ms. Patricia Coates, and Ms. Pat Anderson.

- B. Enforcement provisions - LAS will support provisions if case at MPSC does not work. Mr. Hal Martin had reported to the LAS cases could be presented to the Public Service Commission to see if an action through the MPSC could be sustained. Ms. Lori Howard has prepared some information for two companies that could be the basis for information to be taken to the Public Service Commission.

Providers failing to submit total surcharge remittance- Ms. Lori Howard provided the handouts of X Company that is a wireless provider and Y Company that is a VOIP provider and explained some of the shortages and conflicting information provided from these companies. Mr. Hal Martin maintains the SNC is not the one within the current statute who could file a complaint and would hesitate to move forward. However, MSP can act on behalf of the SNC to file the complaint. Ms. Harriet Miller-Brown has requested information from Company Y to provide documentation, but it still has not been received, so she is hesitant to move forward with Company Y until additional documentation is provided.

Mr. Jon Campbell made a **MOTION** to move forward in pursuit of Company X through the Public Service Commission under the Michigan State Police. Support by Mr. Dale Berry, put to a roll call vote:

Yes	No	Abstain	Absent
Association of Public Safety Communications Officials		Commercial Mobile Radio Service	Deputy Sheriff's Association
Department of State Police		Department of Licensing & Regulatory Affairs	House Appointee, Public Member
Fraternal Order of Police		Michigan Public Service Commission	Michigan Professional Firefighters Union
Governor's Appointee, Public Member			Michigan State Police Troopers Association
Michigan Association of Ambulance Services			Telecommunications Association of Michigan
Michigan Association of Chiefs of Police			UP Emergency Medical Services Corporation
Michigan Association of Counties			
Michigan Communications Directors Association			
Michigan Association of Fire Chiefs			
Michigan Sheriff's Association			
National Emergency Number Association			

The **MOTION** carried.

POLICY SUBCOMMITTEE REPORT

No report.

STATE 9-1-1 ADMINISTRATOR'S REPORT

A. GIS Project Update Presentation

Ms. Harriet Miller-Brown presented earlier in the meeting.

Ms. Harriet Miller-Brown discussed the collection and oversight from the Auditor General's Office. Also discussed was calculation of the prepaid fee that will likely go to the Attorney General's office for an opinion. A written report on other 9-1-1 activities has been provided within the packets.

PUBLIC COMMENT

None

NEXT MEETING

The next meeting is scheduled for March 13, 2012, at 10 a.m., at the Horatio S. Earle Learning Center, Lansing. (Note: this meeting location was later moved to MSP Headquarters).

ADJOURN

The meeting adjourned.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Petition of)	
Michigan State 9-1-1 Committee for an order)	
finding that TracFone Wireless, Inc., is not)	
properly accounting for or paying into State)	Case No. U-17108
Emergency 9-1-1 fund the proper amount based)	
<u>upon its prepaid wireless sales.</u>)	

TRACFONE WIRELESS, INC.'S

MOTION TO DISMISS AND BRIEF IN SUPPORT

EXHIBIT E

Selected Minutes of the State 9-1-1 Committee Legislative Action Subcommittee

STATE 9-1-1 COMMITTEE
Legislative Action Subcommittee
Michigan State Police Training Academy
Monday, August 16, 2010
Meeting Minutes

PRESENT: Pat Anderson, Marsha Bianconi, Pat Coates, Yvette Collins, Bob Currier, Lloyd Fayling, Jim Fyvie, Dan Kuhn, Mary Roehr (representing TAM), Sheriff Dale Gribler, Steve Leese, Jim Loeper, Dave Vehslage, Joe VanOosterhout

OTHERS PRESENT: Sgt. Chris Hawkins, Sgt Aimee Maike, Hal Martin

ABSENT: Dale Berry (w/notice), Lt. Col. Kriste Etue (w/notice), Chris Luty (w/notice), Pam Matelski, Andy Goldberger (w/notice), Dave Piasecki

A. Roll Call: A quorum was present for today's meeting.

B. Approval of May 20, 2010, meeting minutes:

Mr. Loeper made a **MOTION** to approve the minutes of May 20, 2010. Ms. Bianconi supported. The **MOTION** carries.

Mr. Vehslage reported that Frontier Communications purchased Verizon's landline side of their Michigan customers thus Mr. Bob Stewart is now with Frontier Communications, Mr. Vehslage remains with Verizon.

Sgt. Chris Hawkins updated the members on current legislative activity. There is no movement regarding HB 5622 (matching funds grant for the GIS project). He will keep speaking to the legislators regarding this bill. They have been in recess the last 6 weeks and are returning for just a few days until the November elections.

Sgt. Hawkins introduced Sgt. Aimee Maike. She works in the MSP Governmental Relations Section.

Ms. Bianconi inquired if there would be movement on any of the pending 9-1-1 legislation prior to the upcoming election. Members briefly discussed the upcoming changes with the current legislators as most are term-limited.

Pat Coates arrived at the meeting at 1:15 p.m.

C. D-Block Position

Mr. Fayling reported there are currently 500 MHz of frequencies that the FCC originally stated was going to be auctioned off commercially. National APCO representatives looked at this and determined that some of this is needed for future public safety communications and information sharing via high-speed video, voice and data. A Public Safety Alliance was developed which includes police chiefs, county sheriffs, etc. National APCO representatives are asking for 10 MHz of the 500 MHz to be dedicated to public safety for future technology.

Mr. Fayling and Ms. Miller-Brown explained to the members that individuals and agencies are submitting letters to Congress in favor of this legislation. Ms. Miller-Brown feels as though it would be a good idea if the LAS members make a recommendation to the State 9-1-1 Committee (SNC) in favor of this legislation.

Mr. Fayling made a **MOTION** that the LAS make a recommendation to the SNC that they develop a letter of support to our members of Congress and Senators in Michigan for D-Block allocation for public safety. Ms. Coates supported.

Ms. Coates explained to the members that some 700 MHz has been set aside for public safety. Oakland County tried to license the MHz in their county but found out they are not eligible due to the border with Canada.

Mr. Fyvie inquired what the other issues are related to this? These are issues of non support as there are carriers who want to buy the frequencies.

Ms. Mary Roehr noted that she does not anticipate the TAM membership having an issue with this, but would like to bring this to the members prior to any action being taken. Sheriff Gribler suggested that she do that and bring any comments to the next SNC meeting on September 21.

Sheriff Gribler called for a hand vote: 10 yes, no opposed, and 4 abstained which included Pat Anderson, Yvette Collins, Mary Roehr, and Dave Vehslage.

The **MOTION** carries.

Sheriff Gribler reminded that any organization wishing to make comments on this topic will need to do so at the September 21 SNC meeting.

D. Discussion of Future Legislative Issues

Ms. Miller-Brown explained the issues on the handout are not new. She sent an e-mail previously to the members requesting they send items to her that they would like identified in future legislation.

Elimination of Telephone Surcharges as a Funding Mechanism for 9-1-1 – this item was submitted by TAM. Ms. Roehr explained that as technology is continuing to evolve, they want to make sure that when their customers receive their phone bill the 9-1-1 surcharges don't price them out of the marketplace.

Ms. Anderson requested that the definition of a PSAP should note they are 24 x 7 facilities. If a secondary PSAP is connected to the 9-1-1 network they need to be 24 x 7. It is not currently defined in this manner. Members discussed what classifies a 24 x 7 PSAP.

There was some discussion regarding the letter that Rep. Richard LeBlanc sent to Speaker Andy Dillon discussing PSAP consolidation. The Michigan Communications Director's Association (MCDA) received a copy of this recent letter. Mr. Leese reminded the members that the Michigan State Police Troopers Association (MSPTA) supports PSAP consolidation. What should this subcommittee do regarding this item? Sheriff Gribler noted that in speaking recently with Rep. LeBlanc, the Representative thinks that one single task force should be developed because the SNC has too many vested interests to look at this issue objectively.

Sheriff Gribler made a **MOTION** that a letter be sent to Speaker Dillon with a copy to Rep. LeBlanc explaining the SNC is available and would be willing to work on this task force. Mr. Fayling supported.

Ms. Miller-Brown also thinks a recommendation should go to the SNC that a task force be developed out of the LAS.

The **MOTION** carries.

Update on Status of State 9-1-1 Office Funds and Earmarked Allocations – this was submitted by Ms. Bianconi who inquired why the State 9-1-1 Office couldn't absorb the reimbursement request by Treasury. Ms. Miller-Brown explained that her budget pays for wages and benefits for her staff, the annual CMRS audit done by the Office of the Auditor General (OAG) which is approximately \$50,000, monthly charges for Attorney General support, and other administrative expenses such as office supplies, computers, etc. Ms. Miller-Brown explained that OAG wants better tracking of the checks submitted from providers.

The bullet point relating to identifying barriers needs to be moved under TAM.

Update on Kimball Contract i.e. Status of IP-Based 9-1-1 - Ms. Miller-Brown stated the contract extension has been approved and she has been working with Kimball in getting the Statement of Work complete. She will start to identify meeting dates and schedule stakeholder meetings (engagement sessions). One session will be held following the SNC meeting on Tuesday, September 21, with another possibly in Frankenmuth to be held the morning of Thursday, October 28. She does not want there to be conflict with other meetings so the sessions can be well attended. Ms. Miller-Brown is working with the Executive Committee and Emerging Technology Subcommittee to develop the project plan, and to identify the technical, operational, and policy plans.

Sheriff Gribler left the meeting at 2:30 p.m.

Issues to be Addressed the next time Statute is Revised

Time Limit on Ballot Proposals – A ballot proposal could pass in 2010 and be left in place indefinitely as long as it is allowed by law. Why not have a date attached to proposals? Millages are typically for twenty years. Members discussed pros/cons of time limits on proposals and how these items affect their individual county/jurisdiction.

Clear Language to Compel Compliance with Surcharge Contribution – Mr. Hal Martin reported that clear language speaking to this is not included in the current statute even though mechanisms to collect the money are included. It leaves it up to the MPSC to flush out the offenders. Can the MPSC enforce the statute as it reads now? There is nothing that states any penalties if the statute is not followed. He also discussed who would resolve a complaint – Treasury, MSP, etc. This is not clear either.

The members requested that Mr. Martin and Ms. Miller-Brown develop a list of sections in the Act which do not give penalties if not upheld and what recommendations might be for those penalties.

Language for Prepaid Surcharge for all Providers, not just CMRS - the Members discussed prepaid language for all providers. A number of states have enacted prepaid surcharges on retailers (point of sale). The processes and accounting mechanisms are there for retail point of sale. It shouldn't be just the 9-1-1 community, the industry and retailers should be supporting this also. Even the states who have draft prepaid language pending are going to retail point of sale. In some states, the fees vary by technology in some cases, some are local units of government. The trend is going toward prepaid phones. Within two years, the majority of wireless customers will be using prepaid phones without contracts.

E. Call to the Public – None

F. Next Meeting – The meeting is tentatively scheduled for Friday, October 22, 2010 at 10:00 a.m. Mr. Leese offered his facility in Eaton County.

G. Adjourn – the meeting was adjourned at 2:55 p.m.

STATE 9-1-1 COMMITTEE
Legislative Action Subcommittee
Michigan State Police Headquarters
1917/Millennium Conference Rooms
Tuesday, November 9, 2010
Meeting Minutes

A. ROLL CALL: A quorum was present for today's meeting.

MEMBERS

Ms. Pat Anderson
Mr. Dale Berry
Major Charles Bush
Ms. Pat Coates
Ms. Yvette Collins
Mr. Bob Currier
Mr. Lloyd Fayling
Mr. Jim Fyvie
Ms. Jennifer Greenburg
Sheriff Dale Gribler
Mr. Steve Leese
Ms. Jim Loeper
Mr. Dave Piasecki

REPRESENTING

AT&T
Huron Valley Ambulance Service
Department of State Police
CLEMIS
AT&T
Intrado
Genesee County 9-1-1 Authority
Clinton County Central Dispatch
TAM
Van Buren County Sheriff Dept.
Eaton County Central Dispatch
Gogebic County 9-1-1
A T & T

NON-VOTING MEMBERS

Ms. Harriet Miller-Brown
Ms. Janet Hengesbach

Department of State Police
Department of State Police

OTHERS PRESENT

Mr. Hal Martin
Mr. Larry Steckelberg
Ms. Evah Cole

Attorney General's Office
Department of Treasury
Department of Treasury

ABSENT

Ms. Marsha Bianconi (w/notice)
Mr. Dan Kuhn
Mr. Dave Vehslage (w/notice)
Mr. Joe VanOosterhout (w/notice)
Mr. Chris Luty
Ms. Pam Matelski (w/notice)
Mr. Andy Goldberger (w/notice)

CWW
House Appointee, Public Member
Frontier Communications
Marquette County Central Dispatch
Michigan State Police Troopers Association
Department of State Police
St. Joseph County Central Dispatch

Major Bush opened the meeting by explaining the recent reorganization and as a result, the State 9-1-1 Office is now under the Office of Emergency and Specialized Services (OESS) of which he is the Commander. He also requested that the members present introduce themselves and give some background information.

B. APPROVAL OF AUGUST 16, 2010, MEETING MINUTES

Mr. Fyvie made a **MOTION** to approve the minutes of August 16, 2010. Mr. Currier supported. The **MOTION** carries.

C. DISCUSSION OF FUTURE LEGISLATIVE ISSUES

Major Bush inquired of any outstanding items from the August 16, 2010 meeting. Ms. Miller-Brown briefly explained the D-block issue and that this subcommittee made a recommendation the State 9-1-1 Committee send a letter of support to the Michigan Delegation. This letter was sent out September 22, 2010.

Mr. Currier gave an update regarding the D-Block issue on a national level. The committee assignments are currently being made for the next Legislative year. Many of the Legislators who supported 9-1-1 on a national level did not run again or lost their respective elections. Much work will have to be done to educate the incoming Congress.

This subcommittee also made a recommendation that the State 9-1-1 Committee send a letter to Speaker Andy Dillon indicating their willingness to assist in discussions, evaluations, and recommendations regarding efficiencies in 9-1-1 services in Michigan. A letter was sent to Speaker Dillon on September 30, 2010. Thus far, there has been no response to this correspondence.

A 9-1-1 Efficiencies Subcommittee has been developed. Sheriff Gribler indicated that he would like to meet sometime in late November. Members of the SNC will be the core members of this group and others will be added as work groups will be developed.

Ms. Miller-Brown briefly discussed the new incoming Michigan Legislature. Out of 110 in the Michigan House of Representatives, she believes that between 69/70 of them are new members due to term limits and election turn-over. Many have moved from the House to Senate so they are familiar with current 9-1-1 issues. Much education will have to come at the House level.

HB 5622 is currently in lame duck session. This is the bill for matching \$1.7 million for the ENHANCE 9-1-1 grant. Sheriff Gribler noted that Rep. Schuitmaker said no bills will be discussed unless it is in Appropriations Committee. Sheriff Gribler will contact Sen. Jelinek to further discuss this issue.

If HB 5622 does not get passed this year, the bill will have to be re-introduced next year and there may not be enough time to get the project finished as one of the criteria for the receipt of grant monies it is to be used before September 30, 2012. Several states have already had to return their grant monies as the projects were not completed by the deadlines established.

During the August 16 LAS meeting, Mr. Hal Martin and Ms. Miller-Brown were asked by the subcommittee members to identify shortcomings in the 9-1-1 statute. Mr. Martin noted that through his research regarding the funding compliance, all enforcement was up to rulemaking. There are currently two rulemakings in progress (Training and MLTS). Some ideas to gain compliance on surcharge contribution would be through the authority of the Treasurer.

It is a challenge to find what providers are out there. The State 9-1-1 Office developed a data base for this data but letters come back with unknown addresses, and inquiries are received regarding providers submitting monies to millage counties, etc. The problem is two-fold – first, knowing who is paying into the fund, but not knowing if everyone who should be paying into the fund, *is actually* paying into the fund and second, are the providers that are subject to our 9-1-1 surcharge actually paying into the fund in a proper manner.

Ms. Miller-Brown discussed prepaid being applicable across the board. The surcharge currently applies to only to CMRS providers and does not apply to services like Magic Jack, VoIP, etc. There will be more and more prepaid services. The prepaid industry is becoming stronger.

Ms. Greenburg indicated there are other answers/ways out there to fund 9-1-1, but just have to be careful how to approach it politically. There is a decrease in revenue and much of it has to do with the changes in technology. Major Bush suggested looking at a long-term funding committee or work group. This would have to support the current network as the system has changed. Need to be ahead of the solutions and issues.

Action items for the next meeting:

- 1) Review the Vermont white paper and other national white papers regarding 9-1-1 funding.
- 2) Discuss the potential of starting a funding committee/subcommittee/work group.

Mr. Loeper discussed an issue that has been going on in Gogebic County and Iron County, Wisconsin regarding an AT&T tower.

The AT&T tower is located in Iron County, Wisconsin and has only Basic 9-1-1. It is a multi-face tower which serves the majority of subscribers in Iron County, Wisconsin. It also serves Gogebic County, Michigan. The tower is not set up for E 9-1-1 so it is not able to pull stats or numbers like E 9-1-1 would.

Iron County, Wisconsin officials tell Mr. Loeper they are in discussions regarding all Wisconsin counties going to E 9-1-1 in the next two years.

Sheriff Gribler noted there was a criminal incident recently where someone was assaulted and the call did not go through E 9-1-1 so there was a huge delay because of this. The victim says that she pays for E 9-1-1 through surcharge and is not getting the service she is paying for. Ms. Anderson from AT&T explained the AT&T routing system.

D. CALL TO THE PUBLIC

Mr. Larry Steckelberg and Ms. Evah Cole from the Department of Treasury discussed acquiring \$150,000.00 to administer the 9-1-1 Fund. They currently do not receive any resources to do this work.

Mr. Steckelberg requested support to make an amendment to HB 5622 seeking a one-time amount of \$150,000.00. Ms. Miller-Brown explained that HB 5622 is for a one time amount of \$1.7 million dollars in matching funds for the ENHANCE 9-1-1 grant. To change it now could jeopardize the support of these monies. She is not opposed to the concept of receipt of monies; she is opposed to anything that could drag down HB 5622. There was inquiry if this amount could come from the State 9-1-1 Office budget. Ms. Miller-Brown indicated that this would place a significant burden on her office budget.

The members present today representing their individual organizations support this concept as long as it does not have a negative impact on the federal dollars available, nor have a negative impact on any agency.

E. NEXT MEETING

The next meeting is scheduled for Tuesday, January 25, 2010 at 10:00 a.m.

F. ADJOURN

Mr. Loeper made a **MOTION** to adjourn the meeting, Mr. Berry supported. The **MOTION** carries. The meeting was adjourned at 12:20 p.m.

STATE 9-1-1 COMMITTEE
Legislative Action Subcommittee
Michigan State Police Headquarters
1920 Conference Room
Thursday, February 24, 2011
Meeting Minutes

A. ROLL CALL

Roll call was taken and a quorum was present for today's meeting.

MEMBERS

Ms. Pat Anderson
Ms. Marsha Bianconi
Major Charles Bush
Ms. Pat Coates
Ms. Yvette Collins
Mr. Bob Currier
Mr. Lloyd Fayling
Mr. Jim Fyvie
Mr. Andy Goldberger
Sheriff Dale Gribler
Mr. Steve Leese
Ms. Jim Loeper
Mr. Joe VanOosterhout
Mr. Dave Piasecki
Mr. Dave Vehslage

REPRESENTING

AT&T
CWW
Department of State Police
CLEMIS
AT&T
Intrado
Genesee County 9-1-1 Authority
Clinton County Central Dispatch
St. Joseph County Central Dispatch
Van Buren County Sheriff Dept.
Eaton County Central Dispatch
Gogebic County 9-1-1
Marquette County Central Dispatch
A T & T
Verizon

GUESTS

Ms. Evelyn Bailey (conference call)
Mr. Shawn Sible
Sgt. Brady Boucher

Kimball Corp.
Department of State Police
Department of State Police

NON-VOTING MEMBERS

Ms. Harriet Miller-Brown
Ms. Janet Hengesbach

Department of State Police
Department of State Police

ABSENT

Mr. Dale Berry
Ms. Jennifer Greenburg (w/notice)
Mr. Dan Kuhn
Mr. Chris Luty (w/notice)
Ms. Pam Matelski

Huron Valley Ambulance Service
TAM
House Appointee, Public Member
Michigan State Police Troopers Association
Department of State Police

Major Bush announced that Mr. Jon Campbell, representing MAC and Mr. John Hunt, Governor's Appointee, will be the newest additions to this subcommittee.

Major Bush asked that Sgt. Brady Boucher provide this group with an overview of his responsibilities with MSP. Sgt. Boucher represents the Government Relations Section of MSP and gave a brief discussion of the current trend at the capital with the current Legislature. There are many new faces in the house and senate. The new administration is very interested in efficiencies. Governor Snyder does not want another budget with structural deficits, last minute deals, or fees. Mr. Sible added that one of the things the Governor has done is removed all boilerplate language from his proposed budget. This will further enforce efficiencies in all levels of government.

B. APPROVAL OF JANUARY 25, 2011, MEETING MINUTES

Mr. Leese made a **MOTION** to approve the minutes of January 25, 2011. Mr. Loeper supported. The **MOTION** carries.

C. OLD BUSINESS

1. Start work on Legislative Issues re: NG-9-1-1 Project Plan

Ms. Miller-Brown began by updating the members of the changes that will be taking place within MSP. Major Bush will be retiring the end of March 2011. Because of these changes, the State 9-1-1 Office will be under the command of Mr. Shawn Sible.

Ms. Miller-Brown suggested this subcommittee should spend a minimum of one hour during each LAS meeting discussing the initial issues. Ms. Evelyn Bailey, from L. Robert Kimball and Associates, who participated via conference call, discussed the Decision and Action Plan document provided to the LAS members in advance of today's meeting.

Subcommittee members agreed that funding should be the first place to start as it is the more important and logical piece of this project.

The Regulatory Review is one piece of the planning process. The first question is who will be in charge. Ms. Bailey provided statutes that should be reviewed. It is important to look at the statutes affecting this, and then look at Kimball's recommendations. It is also important to consider the items if Michigan were to take no action.

Responsibility and Authority – what kind of authority will the SNC or 9-1-1 Office have? This piece needs to be looked at in the context of what NG-91-1 really is, what Kimball has prepared, and what is coming from the 9-1-1 associations; i.e. APCO, NENA.

How will this be funded? Need to determine if the current funding provisions should be modified and what are eligible expenses? The elements of an NG 9-1-1 system may be different – need to make sure the current funding provision will allow for this.

Establishing statewide ESI Nets – need to ensure regional state level and interstate ESI nets are legally possible. Are there un-served areas that aren't part of any regional system? There would need to be a legal way to make it possible on a statewide basis.

Ms. Bianconi inquired about Ms. Bailey's statute notations. There is other legislation that could be barriers to consolidation. Ms. Miller-Brown reminded her that this is not about consolidation. Kimball Corp was not contracted to work on any consolidation issues. Ms. Bianconi asked if Kimball Corp be handling any issues or legal constraints that could be barriers to consolidation? These things could impact the ability to do things that need to be done at this stage. Major Bush reminded the members this is about NG-9-1-1 and if, through the process, there are other things that need to be considered, and those will be discussed at another time. The inquiry about consolidation is not within the purview of this subcommittee at this time.

There was a question regarding time frames – is there a date that this project is to be completed? There is not a mandated time to complete this project. The Kimball contract expires in 2012 and the 9-1-1 statute sunsets in 2014.

Legacy Regulation – modify existing legislation, regulation, and tariffs. This effort would be more toward the end of the process.

Members discussed the need for a statewide GIS map before NG-9-1-1 can be put into place. GIS mapping will be needed at some point as the ultimate vision is the routing of 9-1-1 calls that will depend on a good, current GIS system. The counties will ultimately need it for seamless coverage. The functionality in NG will do the routing. The final functionality, design, ownership or placement of that element has not been fully determined yet. Major Bush reminded the members that funding has been established for a mapping system already. There is a small workgroup within the Center for Shared Solutions. It includes Mike Szor, Mike Muskovin and Phyllis Fuller as members. They are assisting with the implementation of the ENHANCE 9-1-1 grant project. This grant has to be used by September 2012. Ms. Bailey will take the GIS mapping question to the GIS staff at Kimball for their input.

There was inquiry if Kimball assisted with the Texas master plan? No, but assisted with other aspects of implementing the plan.

Major Bush said at the next meeting, the group would have more in-depth discussions regarding funding. He suggests reading the statutes that Evelyn suggested. He reminded the members that no other state is facing the same issues that Michigan is currently facing.

2. D-Block

This was introduced last year at the federal level, but failed at the end of the legislative session. It has been re-introduced this year by the members of Congress who introduced it originally. The bills listed are under S 28 and HR 607.

Ms. Miller-Brown reminded the members that the SNC previously supported this effort and would like this subcommittee to consider making a recommendation to the SNC to again support the measure.

Mr. Faying made a **MOTION** to recommend to the SNC support of D-Block legislation, Mr. Leese supported. The **MOTION** carries. Ms. Collins abstained. Mr. Vehslage noted that Verizon does support his legislation.

3. Updates on FCC

Ms. Miller-Brown reported that NASNA would be taking a position regarding the NENA NOI. NASNA is not going to file comments on the initial NOI. They have been actively participating in input of this NOI, but NENA national plans on supporting the NOI regarding NG-9-1-1. The FCC is only taking comments at this time. THE NOI comments are due by midnight Monday, February 28, 2011.

D. NEW BUSINESS

1. Surcharge Enforcement

Ms. Miller-Brown discussed an effort that she and Mr. Hal Martin are working on regarding the provider surcharge enforcement. There is a belief that a significant amount of money is being missed out on because of the lack of enforcement. Currently, there is no enforcement against provider(s) who do not pay 9-1-1 fees in Michigan.

Ms. Miller-Brown and Mr. Martin have met with Treasury and the MPSC, and have reviewed the Revenue Act. Those providers have been identified by the Office of the Auditor General. There is nothing in the statute that gives the ability to compel providers to supply information to confirm there is a problem regarding the revenue.

She would like the subcommittee to support her continuing efforts in this project. She would like to open a single section of the Act (MCL 484.1403) to place enforcement language to collect and compel providers to give information to ascertain what revenue that is being or not being received. Ms. Bianconi expressed her

concerns with opening the Act. Ms. Miller-Brown advised the group that a single section amendment of legislation can be

opened and that it would be the only section that can be changed, it wouldn't subject the full act to being open. This particular section currently talks about surcharge. Following discussion, the members are in support of Ms. Miller-Brown and Mr. Martin's efforts in this project. Ms. Miller-Brown will keep this subcommittee updated of her progress.

D. CALL TO THE PUBLIC

Bob Currier mentioned that HB 4314 has been submitted to amend the Michigan Telecommunications Act. He is recommending that all present at today's meeting read and become familiar with this amendment.

E. NEXT MEETING

The next meeting is scheduled for Friday, March 18, 2011, at 10:30 a.m. Janet will secure a conference room and advise the members.

F. ADJOURN

The meeting was adjourned at 4:03 p.m.

STATE 9-1-1 COMMITTEE
Legislative Action Subcommittee
Michigan State Police Headquarters
1917 Conference Room
October 4, 2011

Meeting Minutes

A. ROLL CALL

MEMBERS

Mr. Shawn Sible (Chair)
Ms. Pat Anderson
Ms. Marsha Bianconi
Mr. Jon Campbell
Ms. Patricia Coates
Ms. Yvette Collins
Mr. Bob Currier
Mr. Lloyd Fayling
Mr. James Fyvie
Ms. Jennifer Greenburg
Sheriff Dale Gribler (conference call)
Mr. John Hunt
Mr. Steve Leese
Mr. Jeffery Troyer
Mr. David Piasecki
Mr. David Vehslage

REPRESENTING

Michigan Department of State Police
AT&T
Conference of Western Wayne
Michigan Association of Counties
CLEMIS
AT&T
Intrado
Genesee County 9-1-1 Authority
Clinton County Central Dispatch
Telecommunications Association of Michigan
Van Buren County Sheriff Department
Telecommunications Systems
Eaton County Central Dispatch
Appointee, Speaker of the House of Representatives
AT&T
Verizon

GUESTS

Ms. Evelyn Bailey (conference call)

Kimball Representative

NON-VOTING MEMBERS

Ms. Harriet Miller-Brown
Ms. Celia I. Lowe
Sgt. Dwayne L. Gill

Michigan Department of State Police
Michigan Department of State Police
Michigan Department of State Police

ABSENT

Mr. Dale Berry
Mr. Andy Goldberger
Mr. James Loeper
Ms. Pam Matelski

Huron Valley Ambulance
St. Joseph County Central Dispatch
Gogebic County 9-1-1
Michigan Department of State Police

A. ROLL CALL

Roll call was taken and a quorum was present for the meeting.

B. APPROVAL OF JUNE 1, 2011, MEETING MINUTES

A **MOTION** was made by Mr. Lloyd Fayling to approve the minutes of the June 1, 2011, Legislative Action Subcommittee meeting. Supported by Mr. John Hunt, the **MOTION** carries.

C. LEGISLATIVE UPDATE

Sgt. Dwayne Gill gave an update on H. B. 4683. H. B. 4683 is the substitute bill that would amend the 9-1-1- service enabling Act to delay the implementation of the Public Service Commission's rules requiring a multi-line telephone system to be able to provide a specific location of callers dialing 9-1-1. The bill did pass in the House on September 15, 2011, 108-0. The bill is currently in the Senate. Sergeant Gill will make Mr. Sible aware of the date and time when H.B. 4683 will be on the agenda. H. B. 4683's MLTS implementation requirement was pushed back to December 31, 2016.

Ms. Harriet Miller-Brown reported comments from U-16439 were posted on the internet and sent to the State Office of Administrative Rules and Hearings (SOAHR) and from there to the Joint Committee on Administrative Rules (JCAR) for final approval.

After discussion on promulgation, language, and deadlines, Mr. Fyvie stated that the Public Service Commission needs to look at the language the LAS, SNC, and industries have used over the last decade. A question was asked how the five-year extension was determined. Ms. Miller-Brown reported the SNC made a recommendation in 2006, and an 84 month implementation period was recommended by the SNC to the Legislature. The then Legislature put the December 31, 2011, deadline in place. H. B. 4683 is more in keeping with that timeframe. The bill was actually targeted for the implementation deadline. Ms. Miller-Brown reported the Commission has met its requirements to put the rules in place to meet the 2011 deadline in the statute. It is now the owners of MLTS that have a small window of time to implement.

Mr. Sible suggested that the LAS defer with the Commission's rule making process as opposed to making recommendations to the Senate to approve H.B. 4683. Mr. Dave Piasecki stated that the law says to turn rule making processes over to the Commission in consultation with the SNC. Mr. Piasecki stated the intent of the HB 4683 bill is to delay the implementation, not specifically delay the 2011 due date to have the rules written.

Mr. Steve Leese asked Sergeant Gill if he contacted Representative LeBlanc's office regarding response or movement of the Legislature on 9-1-1 efficiencies. Sergeant Gill reported that Representative LeBlanc's office was contacted. Mr. Sible stated a small group of individuals from the SNC would meet with Representative LeBlanc to discuss concerns regarding 9-1-1 consolidation.

D. OLD BUSINESS

1. NG 9-1-1 Project Plan

Ms. Miller-Brown provided extra working copies of the decision and action plan recommendations from L.R. Kimball's representative, Ms. Evelyn Bailey, for discussion. Ms. Bailey reminded the group that they initially started with funding and had worked their way back around to state level leadership and coordination, which is where she suggests they consider as a starting point.

Ms. Evelyn Bailey indicated that the first issue established must be leadership and coordination along with the associated statutory issues. Mr. Sible indicated that a possible funding source is revenue bonds, but there must be a legal authority for these bonds and that is how the cycle ended back at establishing leadership. Ms. Bailey stated the decision and action plan intent is to distill all recommendations and points that Kimball made in its feasibility study report. This single actionable document will guide the subcommittees and ultimately the SNC through each of the decisions that it would need to accomplish for the finalization of the NG9-1-1 project. This includes all policy, statutes, and Kimball's recommendations so the subcommittees and SNC can make a decision on authority as well as coordinate and provide support for regional ESNets to achieve statewide NG9-1-1 coverage.

Mr. Sible asked Ms. Bailey to elaborate on how other states have determined the authority in NG9-1-1. Ms. Bailey reported the decisions are dependant upon how the states are organized. Texas is most likely to have regional ESNets set up at the convenience of clusters of counties and local jurisdictions that band together. They will also have a state level mechanism for interconnecting them so there would be coverage. This approach seems to be what Michigan would want.

Ms. Bailey stated Vermont has a single independent network with a number of PSAPs. The Vermont State 9-1-1 Board has authority. Ms. Bailey stated the ultimate question is how the process toward achieving statewide coverage is going to be facilitated. The state of Kansas has had a recent change in legislation, deciding a 9-1-1 authority was needed at the state level, and is now fully empowered. The new Kansas legislation was passed specifically with a NG9-1-1 focus.

Mr. Fyvie reported that currently there are independent authorities that exist in the State of Michigan, for example the Mackinaw Bridge Authority. There is a misconception by many of State Police controls, but

there is also the factual perception that the state also runs dispatch centers that some can interpret to be competitive. The SNC needs to move the control of the NG9-1-1 out of any existing public safety entity to take away the perceptions of interference by obtaining an independent authority. If that recommendation is taken as a parallel in looking at the seven districts in the state under the Emergency Management Division, and use the district provisions concept, within each district, the PSAPs will have public safety representation by statute through state police, sheriff, fire fighters, EMS and civilians. The PSAPs would recommend an individual to represent the division and that region would vote upon those recommendations from the various PSAPs. That region would then select an individual to represent the region of the state as the authority board member.

Ms. Marsha Bianconi asked Ms. Bailey to explain an E9-1-1 Authority empowered. Ms. Bailey shared an overall philosophy about the E9-1-1 Authority empowered. The E9-1-1 Authority empowered would have the ability to coordinate and facilitate the roll out of NG9-1-1 statewide. Ms. Bailey also indicated this authority would have the ability to enter contracts, promulgate rules, and set standards for the interconnectivity between the regional ESInets.

2. Surcharge Enforcement

Mr. Sible reported that there is evidence that vendors are not paying surcharges. Ms. Yvette Collins indicated there is enforcement opportunity that already exists. Mr. Piasecki indicated this issue has been addressed many times during meetings in the past. Mr. Piasecki reiterated that Section 602 of Public Act 32 gives the LAS authority to take action toward vendors. Mr. Piasecki suggested bringing action through the MPSC to hold the vendors accountable for payment. If there is evidence or suspicion of vendors not paying, a complaint could be filed through discovery in the Commission's process.

Mr. Sible asked if the State of Michigan has ever held a vendor accountable for non-payment of surcharges and if so what happened. Ms. Miller-Brown and Mr. Hal Martin met with staff at the Public Service Commission and they were advised that there was little to enforce the statute.

Ms. Collins indicated an actual complaint needs to be filed before a decision on changing language in legislation should be considered. Some members present indicated that the time it would take to run a case through the Public Service Commission than through a single section amendment in the statute with clear delineation would be much more time effective.

A **MOTION** was made by Mr. Lloyd Fayling to forward a recommendation to the SNC to bring action against identified providers with evidence indicating their failure to submit total surcharge remittance to the State of Michigan. Supported by Mr. Steve Leese, the **MOTION** carried.

E. NEW BUSINESS: None

F. CALL TO THE PUBLIC: None

G. NEXT MEETING

The next meeting date will be announced prior to the SNC meeting on December 13, 2011.

H. ADJOURN

A **MOTION** was made by Mr. Lloyd Fayling to adjourn today's meeting. Supported by Mr. Steve Leese, the **MOTION** carried.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Petition of)
Michigan State 9-1-1 Committee for an order)
finding that TracFone Wireless, Inc., is not)
properly accounting for or paying into State)
Emergency 9-1-1 fund the proper amount based)
upon its prepaid wireless sales.)

Case No. U-17108

TRACFONE WIRELESS, INC.'S

MOTION TO DISMISS AND BRIEF IN SUPPORT

EXHIBIT F

E-Mail Exchange between Harriet Miller-Brown and Lori Howard

From: Howard, Lori (MSP)
Sent: Thursday, May 24, 2012 10:31 AM
To: Miller-Brown, Harriet
Subject: Re: Briefing

1) The problem is that checks and EFTs are not due until the end of the month following the quarter. If I do a query for checks and EFTs received during the quarter, it is not truly the payments for that quarter so the payments on the quarterly report will never match the actual money received. However, the distribution appears to be done by what is actually received during that quarter.

2) I can't look into remittances unless they remit. There are companies who are registered to do business (where type is not listed, just "communications") and may be doing business, but they are not registered with Treasury or MPSC. There are companies who are paying and not registered to do business, and every combination of these situations. MPSC does not require VoIP providers to register, but many are registered.

3) Nobody has contacted me, except for the cc that I received when Robin Ancona sent you a message that this should be facilitated through Susana.

4) I will be glad to show you what this report entails, but COB Wednesday is not a realistic goal. This is going to take weeks if you want this much detail. This task is only 25% of my duties, so really I should be able to do everything in about 2 hours a day. I would have to work on nothing else for at least a week to get all of this information. I compile it; it is not readily available and ready to be analyzed. I need to prepare for the call with Hal tomorrow and I have to have the Provider database updated by Tuesday. I have 5 compliance reviews in various stages of action (Benzie and Chippewa - to be finalized and approved by Cert Sub/SNC; Eaton - almost done writing; Clinton - paperwork received and copies of that to be made (hopefully tomorrow); Baraga - waiting for paperwork and getting a team). I also have my comments to add to my Annual Review so that can be certified, and I don't know if there is a deadline for that.

>>> Harriet Miller-Brown 5/24/2012 9:33 AM >>>
I hope these help.

1) Do you want the revenue as reported from actual checks/EFTs received, or from Treasury's quarterly report? They are not the same amount. **What is the amount that is actually going into the fund for distribution? That is the amount we need. If the amount that is actually being received is different than the amount that is going into the fund, this needs to be brought to light and addressed as well.**

2) For providers not paying into the fund, I do not know their types unless they are registered with MPSC. Chances are good that if they are not paying, they are not registered. **If you are looking into their individual remittances, we should know what the types are. I'm presuming this is an ongoing process. What provisions in the MPSC require the VoIP providers to register with them? Aren't there providers who are not registered that are paying into the fund?**

3) On that same bullet, I do not know if they are "paying what they should." With self-reporting, they can claim whatever they want and report any random number. I do not receive the 4652 forms, which are only available if I request them; Al faxes only what I request. I typically look at providers that show up as not paying anything or pay a different amount than is claimed to be owed, and request their forms so I can figure out why the amounts are not the same. I also pull Tracfone and Virgin Mobile, no matter what is reported. Although the Treasury report shows that they pay what they owe, the amounts are almost always wrong when I get the 4652 and do the math. My point is that we can not know overall if the providers are "paying what they should" because we do not have access to all of those forms and nobody at Treasury actually does the math to see if what is reported is correct. **Some direct inquiries to the providers should assist with this or by looking at what they have in their (self reported) line count. Once you've got those numbers, perhaps you can see how many they are reporting to the FCC.**

On that same subject, have you had any contacts in follow-up to the meeting that you suggested and I had requested to discuss this issue with LARA and Treasury?

3) Is this considered my quarterly report, and is this what you expect for all future quarterly reports? **There may be things that change, but this is good starting point.**

4) When would you like this? Please keep in mind that I am trying to get all of the provider updates into the database so we can get the mailing out by the 1st. I might be able to finish those today and I can start working on this, but I also need to get some things prepared for a scheduled call with Hal tomorrow regarding our newest offender, Nextel. **COB next Wednesday.**

- Lori

Harriet Miller-Brown, ENP
911 State Administrator
Michigan State Police
333 Grand Avenue
P. O. Box 30634
Lansing, MI 48909-0634
(517) 241-0080 (o)

(517) 241-0387 (f)
www.michigan.gov/snc

>>> Lori Howard 5/24/2012 9:00 AM >>>

I have a few questions before I start:

- 1) Do you want the revenue as reported from actual checks/EFTs received, or from Treasury's quarterly report? They are not the same amount.
- 2) For providers not paying into the fund, I do not know their types unless they are registered with MPSC. Chances are good that if they are not paying, they are not registered.
- 3) On that same bullet, I do not know if they are "paying what they should." With self-reporting, they can claim whatever they want and report any random number. I do not receive the 4652 forms, which are only available if I request them; Al faxes only what I request. I typically look at providers that show up as not paying anything or pay a different amount than is claimed to be owed, and request their forms so I can figure out why the amounts are not the same. I also pull Tracfone and Virgin Mobile, no matter what is reported. Although the Treasury report shows that they pay what they owe, the amounts are almost always wrong when I get the 4652 and do the math. My point is that we can not know overall if the providers are "paying what they should" because we do not have access to all of those forms and nobody at Treasury actually does the math to see if what is reported is correct.
- 3) Is this considered my quarterly report, and is this what you expect for all future quarterly reports?
- 4) When would you like this? Please keep in mind that I am trying to get all of the provider updates into the database so we can get the mailing out by the 1st. I might be able to finish those today and I can start working on this, but I also need to get some things prepared for a scheduled call with Hal tomorrow regarding our newest offender, Nextel.

- Lori

>>> Miller-Brown, Harriet(Harriet Miller-Brown) 5/23/2012 6:17 PM >>>
Lori,

I would like a bullet point report on your current review of the 9-1-1 fund. I'd like the report to include;

* Current revenues for this past quarter (1st quarter of calendar year).

* Comparison to last quarter's revenue.

*Comparison to the 1st quarter of the last calendar year.

* The number of providers that are paying into the fund.

* The number and type (names not necessary) of providers that are probably not paying what they should be paying into the fund.

* Any other key information that should be included.

Thank you. HMB

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Petition of)
Michigan State 9-1-1 Committee for an order)
finding that TracFone Wireless, Inc., is not) Case No. U-17108
properly accounting for or paying into State)
Emergency 9-1-1 fund the proper amount based)
upon its prepaid wireless sales.)

NOTICE OF HEARING

TO PARTIES OF RECORD:

PLEASE TAKE NOTICE that TracFone Wireless, Inc.'s Motion to Dismiss and Motion for Summary Disposition will be heard before the Michigan Public Service Commission or its designee, the Honorable Sharon L. Feldman, Administrative Law Judge, at a place and time to be determined by the Michigan Public Service Commission.

Respectfully Submitted,

By: _____
Roderick S. Coy (P12290)
CLARK HILL PLC
212 East Grand River Avenue
Lansing, Michigan 48906
(517) 318-3100
(517) 318-3099 Fax

Date: January 11, 2013

Attorney For:
TracFone Wireless, Inc.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the Matter of the petition of)	
MICHIGAN STATE 9-1-1 COMMITTEE)	Case No. U-17108
for an order finding the Tracfone Wireless, Inc.)	(e-file/paperless)
is not properly accounting for or paying into)	
State Emergency 9-1-1 fund the proper amount)	
<u>based upon its prepaid wireless sales.</u>)	

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS.
COUNTY OF INGHAM)

Janice M. Wilbrink, being first duly sworn, deposes and says that on January 11, 2013, she served a copy of Tracfone Wireless, Inc.'s Motion to Dismiss and Motion for Summary Disposition and Brief in Support, in the above-captioned proceeding upon the persons indicated on the attached service list via United States First Class Mail and via Electronic Mail.

Janice M. Wilbrink

Subscribed and sworn to before me
this 11th day of January, 2013.

Tema L. Crowell, Notary Public
Gratiot County, Michigan
Acting In Ingham County, Michigan
My Commission expires: November 16, 2019

SERVICE LIST
MPSC Case No. U-17108

Administrative Law Judge

Hon. Sharon L. Feldman
Michigan Public Service Commission
6545 Mercantile Way, Ste. 14
P.O. Box 30221
Lansing, Michigan 48909
feldmans@michigan.gov

Emergency 9-1-1 Service Committee

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Assistant Attorney General
Environment, Natural Resources, and
Agriculture Division
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