



January 26, 2017

Cliff Lippard, Ph.D. Executive Director
Tennessee Advisory Commission
on Intergovernmental Relations (TACIR)

Jennifer Barrie, M.S.
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RE: Tennessee E911 Funding Modernization

Dear Dr. Lippard and Ms. Barrie:

On behalf of CTIA – The Wireless Association¹ we write to you to provide information as the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) studies funding mechanisms for 911 in Tennessee. We urge Tennessee to incorporate the attached policy considerations into practice as it transitions 911 fees toward NG911.

As you know, effective January 1, 2015, a 911 surcharge of \$1.16 is imposed on wireline, wireless and prepaid wireless service. This current rate ranks Tennessee as having the 10th highest 911 fee in the country.² It is important to note that taxes and fees on wireless consumers increased to a record high 18.6% of the

¹ CTIA- The Wireless Association® ("CTIA") (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association's members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry's voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry's leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

² 9-1-1 Surcharge - User Fees by State," The National Emergency Number Association (NENA), <http://www.nena.org/?page=911RateByState>, last accessed 1/25/2017.



average U.S. customer's monthly bill. Tennessee ranks 19th in the country with a combined federal, state and local tax and fee rate of 18.74 percent.³ Looking at the average state and local rates, without including federal impositions, Tennessee ranks 18th with a burden of 12.1% and the current 911 tax amounting to 2.6% of this burden.⁴ Further increasing this burden on wireless consumers will harm Tennesseans.

As stated in the attached, Tennessee should examine whether the existing funding mechanism is still viable. Since emergency communications service is an essential government service and provides a common benefit for all citizens, a strong public policy argument exists that these services should be funded through the broad-based taxes that finance general fund expenditures. Tennessee should establish a long-term goal of phasing-out 911 fees on communications services and using general fund revenues for 911 programs. This will likely prove to be a more stable funding mechanism than depending on fees from an industry that is changing more rapidly than policymakers ever anticipated when 911 fees were first implemented.

Additionally, in order to maintain accountability and transparency we urge oversight through audits and continued legislative control with the rate of the statewide 911 fee set by the state legislature in statute.

As the TACIR continues to explore issues related to 911 fee collection and use and Tennessee works toward implementing NG911, we hope the principles outlined in the attached document will be adopted by Tennessee for the continued benefit of wireless consumers and Tennesseans overall.

Sincerely,

Director, State Legislative Affairs

³ "Wireless Tax Burdens Rise for the Second Straight Year in 2016" By Scott Mackey & Joseph Henschman, October 2016, <https://taxfoundation.org/wireless-tax-burdens-rise-second-straight-year-2016>, last accessed 1/25/17.

⁴ "Wireless Tax Burdens Rise for the Second Straight Year in 2016" By Scott Mackey & Joseph Henschman, October 2016, https://files.taxfoundation.org/legacy/docs/TaxFoundation_FF530-2.pdf, page 19, Appendix A, last accessed 1/25/17.

Policy Considerations As States Transition 9-1-1 Fees Toward NG911

The majority of states impose a wireless 9-1-1 fee to help defray the cost of emergency communications systems. Some states impose this fee at the state-level, others impose this fee at the local level, and some do both. At its inception, the Enhanced 911 ("E911") fee supported two phases. In Phase I, the Public Safety Answering Point ("PSAP") automatically receives the caller's wireless phone number. In Phase II, the PSAP receives both the caller's wireless phone number and location information. According to the National Emergency Number Association (NENA), as of October 2013 98.2% of the US population has Phase II capability.

The next "phase" of 9-1-1 will be the roll-out of Next Generation 9-1-1 ("NG911"). NG911 is intended to expand E911's current circuit-switch voice capability to a broader Internet Protocol-based ("IP") system. This system will accommodate voice, data and video transmission. As the federal government determines the national policy framework and standards for the NG911 ecosystem, it is inevitable that the states will also begin embarking on a similar examination of their 9-1-1 statutes, particularly with an eye toward funding NG911. In doing so, the goal should be to provide citizens with efficient emergency communications services, but to do so in a way that does not exacerbate further the current tax and fee burden on wireless consumers. As such, the wireless industry endorses the following policy considerations as states seek to update their 9-1-1 statutes with an eye toward NG911:

- **Fees Should be Imposed on End-user**

For billed wireless service, the fee should be imposed on the consumer and collected as part of the normal billing process. For prepaid wireless service, the fee should be imposed on the end-user and collected from the customer at the time of the retail purchase.

- **Single, Statewide Rate Administered at State-level**

Collection of a single, statewide fee reduces administrative burdens for providers and allows states and localities to utilize scarce public funds to leverage economies of scale and share resources when appropriate.

Any efforts to establish a federal 9-1-1 fee should be strongly discouraged. Wireless consumers bear a tax burden more than two times the tax burden on regular goods and services. Imposing a federal 9-1-1 fee in addition to a state-level 9-1-1 fee is not only egregious, but severely violates the principles of rational tax policy and exacerbates further the discriminatory tax regime on wireless consumers.

- **State Legislature Should Set the 9-1-1 Rate in the Statute**

The state legislature should set the rate of the statewide 9-1-1 fee in statute. If the state 9-1-1 agency believes the amount of the 9-1-1 fee is no longer appropriate, they should come before the legislature and justify the reason for an increase or decrease in the rate.

- **Funds Should be Spent on 9-1-1 systems**

Wireless carriers annually collect over \$2 billion dollars of dedicated taxes, fees and surcharges from wireless consumers. The intent of 9-1-1 fees is to specifically support the costs to establish and maintain the emergency communications systems so that PSAPs have the ability to call back wireless 9-1-1 callers and pinpoint their location within FCC prescribed guidelines. As PSAPs begin

to examine and transition to NG911, it is very important that clearly-defined, uniform statewide definitions pertaining to "allowable costs" be administered across the state. 9-1-1 funding must be limited to "allowable costs" and should not be a funding source for the agencies' general budgets. "Allowable costs" could include the nonrecurring costs of establishing a 9-1-1 system, the cost of emergency telephone and dispatch equipment and costs for training for maintenance and operation of the 9-1-1 system. Conversely, "allowable costs" should not include the cost for leasing real estate, cosmetic remodeling of facilities, salaries or benefits or emergency vehicles. States should be prohibited from using the 9-1-1 fund to pay for other unrelated expenses.

- **Need for Accountability and Audits**

9-1-1 operations and expenditures should not only be efficient, but also transparent and accountable to an oversight board and to the public through annual reports to the legislature and/or Governor. Annual reports should contain information regarding collections and expenditures and progress toward the goal of statewide deployment.

- **Justify Costs or Reduce Imposition**

As with any system implementation involving significant capital expenditures, costs should decrease once states implement their NG911 system. Accordingly, states should carefully examine whether new technologies can decrease PSAP costs and adjust 9-1-1 fees accordingly.

- **PSAP Efficiencies**

State-level coordination is practical from a technical and financial perspective. Consolidation of PSAPs into regional PSAPs covering as large a number of local jurisdictions as can be efficiently served should be encouraged.

- **Funding Should Ultimately be from General Revenue**

States have historically funded some or all 9-1-1 costs from user fees on telecommunications service customers. However, as communications services evolve from traditional telecommunications services using the publicly switched telephone network (PSTN) to a host of Internet-protocol based services, states should examine whether the existing funding mechanism is still viable. Since emergency communications service is an essential government service and provides a common benefit for all citizens, a strong public policy argument exists that these services should be funded through the broad-based taxes that finance general fund expenditures. States should establish a long-term goal of phasing-out 9-1-1 fees on communications services and using general fund revenues for 9-1-1 programs. This will likely prove to be a more stable funding mechanism than depending on fees from an industry that is changing more rapidly than policymakers ever anticipated when 9-1-1 fees were first implemented.