

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

In the Matter of: )  
 )  
Information Collection )  
Mandated By The New and ) PS Docket No. 09-14  
Emerging Technologies )  
Improvement Act of 2008 )  
By The State of South Dakota )

**Answers and Comments of the  
State of South Dakota**

Introduction

This information is provided at the request of David Furth, Acting Chief, Public Safety and Homeland Security Bureau. The request was made in a letter dated February 12, 2009, to Governor M. Michael Rounds, South Dakota.

Information collected will be reviewed by the Public Safety and Homeland Security Bureau for the purpose of disseminating to Congress a report detailing the status in each State of the collection and distribution of 911 and E911 fees.

Specific Information Requests and Answers

- 1. A statement as to whether or not your State, or any political subdivision, Indian tribe, village or regional corporation therein as defined by Section 6(f)(1) of the NET 911 Act, has established a funding mechanism designated for or imposed for the purposes of 911 or E911 support or implementation (including a citation to the legal authority for such mechanism).*

South Dakota requires that any service user<sup>(1)</sup> in the state is liable for the applicable 911 emergency surcharge pursuant to

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(1) SDCL 34-45-1(18) defines service user as any person who purchases telecommunications service, wireless telecommunications service, prepaid wireless telecommunications service, or Interconnected Voice over Internet Protocol service in this state.

SDCL 34-45-4.<sup>(2)</sup> Any telecommunications service provider, wireless telecommunications service provider, or Interconnected Voice over Internet Protocol service provider shall collect and remit to the governing body<sup>(3)</sup> the applicable 911 emergency surcharge which shall be stated separately in any billing statement, invoice, or receipt.

With respect to tribal entities, nine of which are located within South Dakota corporate boundaries, the collection and usage of emergency surcharge monies by sovereign nations remains outside the legal scope of the state.

All prepaid wireless telecommunications service providers shall remit the applicable 911 emergency surcharge for each active prepaid wireless telecommunication service user account in the state to the South Dakota 911 coordination fund. The prepaid wireless telecommunications service provider may seek reimbursement from their service user through whatever means are available to the provider.

2. *The amount of the fees or charges imposed for the implementation and support of 911 and E911 services, and the total amount collected pursuant to the assessed fees or charges, for the annual period ending December 31, 2008. A statement describing how the funds collected are made available to localities, and whether your state has established written criteria regarding the allowable uses of the collected funds, including the legal citation to such criteria.*

South Dakota statute (34-45-4) permits certain governing bodies to assess a monthly uniform charge in an amount not to exceed seventy-five cents per service user line. South Dakota statute, therefore, permits governing bodies to set the surcharge amount

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(2) SDCL 34-45-4 defines the monthly uniform charge and use of proceeds. "...the governing body may assess a monthly uniform charge in an amount not to exceed seventy-five cents per service user line..."

(3) SDCL 34-45-1(5) defines a governing body as "...the board of county commissioners of a county or the city council or other governing body of a county or municipality or the board of directors of a special district..."

and collect the same fees as is applicable to their constituents. With the exception of prepaid wireless telecommunications service surcharges which are collected by the State of South Dakota, all other 911/E911 surcharges are collected and disbursed by local governing bodies.

The allowed use of these monies is covered by SDCL 34-45-3 which states that “any governing body may incur any nonrecurring or recurring costs for the installation, maintenance, or operation of a 911 system and may pay such costs in whole or in part from a 911 emergency surcharge. If the 911 system is to be provided for any territory included in the jurisdiction of the governing bodies of two or more public agencies the public agencies may enter into a joint agreement for such service.”

Because non-prepaid wireless telecommunications service surcharges flow directly to local governing bodies, the State of South Dakota cannot easily ascertain the amount collected in the time period requested by the Commission.

The newly created South Dakota 9-1-1 Coordination Board<sup>(4)</sup>, which first met in October 2008, is charged in statute with setting minimum standards for operation of public safety answering points, determining criteria for reimbursement for nonrecurring costs and the amount of reimbursement, and oversee the coordination of 911 services within the state. Determining how much money is collected statewide is a priority of the South Dakota 911 Coordination Board.

3. *A statement identifying any entity in your State that has the authority to approve the expenditure of funds collected for 911 or E911 purposes, and a description of any oversight procedures established to determine that collected funds have been made available or used for the purposes designated by the funding mechanism, or otherwise used to implement or support 911 or E911.*

The authority to approve the expenditure of funds collected for 911 or E911 purposes rests with the governing entity receiving such surcharge monies.

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(4) SDCL 34-45-18 established the 911 Coordination Board. “...The board shall set minimum standards for operation of public safety answering points, determine criteria for reimbursement for nonrecurring costs and the amount of reimbursement, over oversee the coordination of 911 services within the state.”

The South Dakota 9-1-1 Coordination Board, first convened in October, 2008, will be establishing statewide PSAP technical, operational and funding standards.

4. *A statement whether all the funds collected for 911 or E911 purposes were made available or used for any purposes other than the ones designated by the funding mechanism, or otherwise used for the implementation or support of 911 or E911.*

The South Dakota 9-1-1 Coordination Board has statutory authority to collect such information<sup>(5)</sup> as requested in this section. The board, however, has not yet investigated whether funds collected for 911 or E911 were used for any purposes other than those allowed in statute<sup>(6)</sup>.

5. *A statement identifying what amount of funds collected for 911 or E911 purposes were made available or used for any purposes other than the ones designated by the funding mechanism or used for purposes otherwise unrelated to 911 or E911 implementation or support, including a statement identifying the unrelated purposes for which the funds collected for 911 or E911 purposes were made available or used.*

It is difficult at this time to determine if the South Dakota governing bodies collecting 911/E911 surcharge monies used the funds as allowed in statute.

Audit results from the various entities (governing bodies) are not yet available, which precludes us from providing this information.

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(5) SDCL 34-45-20(6) states that the [coordination] board shall "...Develop criteria for the implementation of performance audits of the use of the 911 fees utilized in the operation of the 911 system. The audit shall be conducted by the Department of Legislative Audit and shall be presented to the board and the Legislature;..."

(6) SDCL 34-45-20(5) states that the [coordination] board shall "...Develop criteria for the eligibility and amount of reimbursement of recurring and nonrecurring costs of public safety answering points or systems..."

6. *Any other comments you may wish to provide regarding the applicable funding mechanism for 911 or E911.*

South Dakota recognizes the need to collect and analyze information as it relates to the emergency reporting system. Further, the state is cognizant of the importance of funding, technical and operational standards.

The South Dakota 9-1-1 Coordination Board was established to accomplish at least seven goals, including:

- (1) Evaluate all of the current public safety answering points and systems throughout the State of South Dakota for the capability to adequately and efficiently administer systems;
- (2) Develop plans for the implementation for a uniform statewide 911 system covering the entire state or so much as is practicable;
- (3) Monitor the number and location of public safety answering points or systems and the use of 911 emergency surcharge funds in their administrative and operational budgets;
- (4) Develop criteria and minimum standards for operating and financing public safety answering points or systems;
- (5) Develop criteria for the eligibility and amount of reimbursement of recurring and nonrecurring costs of public safety answering points or systems;
- (6) Develop criteria for the implementation of performance audits of the use of the 911 fees utilized in the operation of the 911 system. The audit shall be conducted by the Department of Legislative Audit and shall be presented to the board and the Legislature; and
- (7) Report annually to the Governor and the Legislature about the operations and findings the board and any recommendations for changes to 911 services in the state.

### Summary

It should be noted that much of the information sought in this request from the Federal Communications Commission is identical to the information the State of South Dakota seeks to obtain from local PSAPs and governing entities.

South Dakota officials also realize some of the specific 2008 information requested by the Commission is either currently unavailable or unattainable as in the case of tribal sovereignty.

A significantly deeper understanding of the information will evolve as the South Dakota 9-1-1 Coordination Board progresses with its duties in the months and years to come.

Respectfully Submitted,

SOUTH DAKOTA 9-1-1 COORDINATION BOARD

A handwritten signature in black ink that reads "Ted Ruffedt, Jr." in a cursive style.

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Ted Ruffedt, Jr.  
Chairperson  
118 West Capitol Avenue  
Pierre SD 57501

March 20, 2009