

MAINE STATE LEGISLATURE

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JANET T. MILLS
ATTORNEY GENERAL



STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

TEL: (207) 626-8800
TTY: 1-888-577-6690

REGIONAL OFFICES
84 HARLOW ST., 2ND FLOOR
BANGOR, MAINE 04401
TEL: (207) 941-3070
FAX: (207) 941-3075

44 OAK STREET, 4TH FLOOR
PORTLAND, MAINE 04101-3014
TEL: (207) 822-0260
FAX: (207) 822-0259
TDD: (877) 428-8800

14 ACCESS HIGHWAY, STE. 1
CARIBOU, MAINE 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

March 26, 2009

Representative H. David Cotta
Maine House of Representatives
State House Station #2
Augusta, ME 04333-0002

Dear Representative Cotta:

This letter will confirm the information provided to you in a recent phone conversation with Chief Deputy Linda Pistner, in response to your question concerning the authority of the Public Utilities Commission (PUC) to refuse a request by a municipal or county government to change its Public Safety Answering Point (PSAP) service provider. The governing statute does not expressly address this issue. However, the broad responsibility imposed on the PUC for the statewide E-9-1-1 system, together with the specific authority to establish appropriate PSAP sites provide a sufficient legal basis for the PUC's decision to require approval for a change of PSAP.

The Emergency Services Communication Bureau ("Bureau") within the PUC has broad authority to implement and manage a statewide E-9-1-1 system. See 25 M.R.S.A. § 2926. In consultation with the E-9-1-1 Council, the Bureau is responsible for developing standards, specifications and procedures by which the system operates, as detailed in § 2926(2), including the following:

C. After consultation with the affected public and private safety agency officials, identification of appropriate public safety answering point sites based on consideration of the existing dispatching capabilities of public and private safety agencies, the expressed preferences of municipalities throughout the State and overall system cost...

25 M.R.S.A. § 2926(2)(C). This language requires the Bureau to consult with affected public and private safety agency officials, and to consider both existing dispatching capabilities and expressed preferences of municipalities. However, the authority over "identification of appropriate" PSAPs is given to the Bureau. Moreover, the Bureau also has responsibility for exercising this authority in a manner that moves toward reducing the total number of PSAPs.

2-A. Goal. To the extent possible, the bureau shall establish a total of between 16 and 24 public service answering points. The bureau shall seek to coordinate any reduction in the number of public service answering points to achieve this goal with any contractual obligations it may have or may enter into that are or could be affected by that reduction.

25 MRSA § 2926(2-A).

As the agency charged with enforcement of this statute, the PUC's interpretation is entitled to deference by a reviewing court. *Town of Madison, Dep't of Elec. Works v. PUC*, 682 A.2d 231 (Me. 1996). While Maine courts have not addressed the issue raised in your letter, I believe that it is likely that a court would uphold the PUC's interpretation of the current statute if such a challenge were to be brought.

I hope this information is helpful.

Sincerely,


JANET T. MILLS
Attorney General

cc: Sen. Barry Hobbins, Utilities Committee
Rep. Jon Hinck, Utilities Committee
Joanne Steneck, General Counsel, Public Utilities Commission

25 §2926. EMERGENCY SERVICES COMMUNICATION BUREAU
25 §2926. EMERGENCY SERVICES COMMUNICATION BUREAU

1. Bureau established. The Emergency Services Communication Bureau is established within the Public Utilities Commission to implement and manage E-9-1-1.

[2003, c. 359, §2 (AMD) .]

2. System design. In consultation with the E-9-1-1 Council, the bureau shall develop all necessary system elements, standards and cost estimates necessary to provide for the installation and operation of a statewide E-9-1-1 system, including, but not limited to, the following:

A. Development of network design specifications; [1993, c. 566, §9 (NEW) .]

B. Development of minimum public safety answering point requirements including 24-hour operation; emergency backup power; secured communication areas; separate administrative phone lines for nonemergency calls; call recording and playback equipment; TDD equipment, as defined in Title 35-A, section 8702, subsection 6; maximum call handling times; and minimum mandatory staff training requirements for E-9-1-1 call answering and dispatching; [2001, c. 439, Pt. EEEE, §3 (AMD) .]

C. After consultation with the affected public and private safety agency officials, identification of appropriate public safety answering point sites based on consideration of the existing dispatching capabilities of public and private safety agencies, the expressed preferences of municipalities throughout the State and overall system cost; [1993, c. 566, §9 (NEW) .]

D. Identification of appropriate technology for system networks, public safety answering point equipment and data base requirements; [1993, c. 566, §9 (NEW) .]

E. Procedures for developing and maintaining address and routing data bases; [1993, c. 566, §9 (NEW) .]

F. Procedures for cooperation and coordination with telephone utilities and municipalities for implementation and maintenance; [2001, c. 439, Pt. EEEE, §3 (AMD) .]

G. Standards and procedures to establish the confidentiality and prevent the dissemination of reports and records handled by public safety answering points and of the bureau; [1993, c. 566, §9 (NEW) .]

H. Estimates of the cost of establishing an operational E-9-1-1 system; [2001, c. 439, Pt. EEEE, §3 (AMD) .]

I. Procedures for collecting and administering the necessary funds for E-9-1-1; and [2001, c. 439, Pt. EEEE, §3 (AMD) .]

J. Standards and procedures for developing and maintaining the system databases and for ensuring the confidentiality of those databases pursuant to section 2929. [2001, c. 439, Pt. EEEE, §4 (NEW) .]

[2001, c. 439, Pt. EEEE, §§3, 4 (AMD) .]

2-A. Goal. To the extent possible, the bureau shall establish a total of between 16 and 24 public service answering points. The bureau shall seek to coordinate any reduction in the number of public service answering points to achieve this goal with any contractual obligations it may have or may enter into that are or could be affected by that reduction.

[2003, c. 359, §3 (NEW) .]

3. Rulemaking. The bureau shall adopt by rule its standards, specifications and procedures developed under subsection 2, paragraphs A to F after consultation with the E-9-1-1 Council and following at least 3

public hearings geographically dispersed throughout the State.

[1993, c. 566, §9 (NEW) .]

4. Technical assistance. The bureau may provide support for the development of street address information sufficient to support E-9-1-1 services. The bureau shall provide technical assistance to any municipality in the development of street address information at the request of the interested municipality.

[1993, c. 566, §9 (NEW) .]

5. Call answering coverage. The bureau is not required to provide call answering coverage in counties or municipalities that choose not to participate in the E-9-1-1 system.

[2001, c. 439, Pt. EEEE, §5 (NEW) .]

6. System databases. The system databases, wherever located or stored, are the property of the bureau and their confidentiality is governed by section 2929.

[2001, c. 439, Pt. EEEE, §5 (NEW) .]

SECTION HISTORY

1993, c. 566, §9 (NEW). 2001, c. 439, §§EEEE3-5 (AMD). 2003, c. 359, §§2,3 (AMD).

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