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MAINE PUBLIC UTILITIES COMMISSION

A REPORT

TO

THE JOINT STANDING COMMITTEE ON UTILITIES AND ENERGY
ON LONG-TERM E-9-1-1 FUNDING ALTERNATIVES

FEBRUARY 1, 1997

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Thomas L. Welch, Chairman
William M. Nugent, Commissioner
Heather F. Hunt, Commissioner

Recommendations

The Commission recommends:

That the Legislature continue to fund E-9-1-1 with the monthly surcharge on the access lines of local exchange carriers' residence and business subscribers;

That the existing E-9-1-1 legislation be modified to assess a monthly surcharge on the access lines (separately-billed handsets) of residence and business customers of Maine's wireless telephone carriers (primarily cellular and personal communications service carriers), and that the total monthly wireless surcharge be capped at 25 lines per customer billing account;

That the Committee approve the Department of Public Safety's E-9-1-1 legislative proposal (see Attachment 1), which we understand will be offered in the current session to take effect August 1, 1998;

That the Committee direct the Emergency Services Communication Bureau, in consultation with the Public Utilities Commission, to report by February 1, 1999:

(1) On the impacts of local exchange competition, how telephone services are being delivered and marketed, and new switching and network technologies on the stability of the access line charge as an E-9-1-1 funding mechanism, and to recommend, if necessary, an alternative long-term E-9-1-1 funding mechanism that would remain stable under such developments;

(2) On the relative 9-1-1 usage patterns of Maine's LEC and wireless subscribers, and to recommend any necessary changes in the line charge for either group of subscribers; and

(3) On the relative 9-1-1 usage patterns of business and residence subscribers, and to recommend any necessary changes to the 25-line-per-subscriber surcharge caps.

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Attachments:

Attachment 1: The Department of Public Safety's E-9-1-1
Legislative Proposal

Attachment 2: A Summary of State E-9-1-1 Funding Methods

Attachment 3: Letters by PUC Chairs on Multiple Sources of E-9-1-1 Funding

Introduction

The Legislature has used two methods for financing the development of the State's Enhanced 9-1-1 system: a State bond issue and a monthly line charge to customers of Maine's local exchange carriers (LECs).

During the second session of the 117th Legislature, the Commission suggested to the Utilities and Energy Committee an alternative to the line charge that we felt to be more equitable and to be sustainable once the local exchange telephone market becomes competitive.

The Committee decided to continue funding the E-9-1-1 system with the line charge and directed the Commission to report on long-term funding alternatives. Specifically, in section 6 of P.L. 1995, c.672, *An Act to Amend the Laws Concerning Enhanced E-9-1-1*, the Committee directed the Commission to report by February 1, 1997, "on potential alternative funding mechanisms for long-term funding of the 9-1-1 system. The report must include recommendations for legislation to implement an alternate funding mechanism." Our report on those matters follows.

How States Are Funding E-9-1-1

In most states, taxes and bond issues fund the E-9-1-1 system infrastructure and ratepayers fund the ongoing operation and maintenance of the system.

Following is an overview of how states are funding E-9-1-1:

- Thirty-one states fund E-9-1-1 locally, 13 fund it statewide, and six fund it both locally and statewide.
- Forty-seven states use a monthly access line charge or a percentage of the monthly basic LEC service rate, and a few states use an equivalent ratepayer charge. For instance, Delaware's line charge is built into the basic monthly service rate, California charges a percentage surcharge on ratepayers' monthly bill for intrastate calling, and Massachusetts uses revenues from Directory Assistance charges.
- Three states use other funding methods: Nevada funds E-9-1-1 from local property taxes; New Jersey from the General Fund, bond issues, and local taxes; and Vermont from a Universal Service Fund collected from a percentage of all telephone companies' revenues derived from calls originating within the state.
- Twelve states assess a monthly surcharge on the "access lines" of customers of *wireless* telephone companies, which in most states is the same amount as the access line charge to LEC customers. [Exceptions: New York charges 70¢ to wireless, 35¢ to LEC customers; Washington charges 25¢ to wireless, 50¢ to LEC customers.]
- Twenty-five to 30 states will be considering legislative proposals this year for assessing 9-1-1 charges on wireless customers.
- Twenty-eight states allow telephone companies to recover their costs for collecting E-9-1-1 funds. The collection charge ranges from 1% to 3% of the amount collected.
- Thirty-three states have mandated E-9-1-1 services.

Attachment 2 summarizes the states' E-9-1-1 funding methods.

Impacts of National Initiatives on E-9-1-1

The Telecommunications Act. The responses to the Telecommunications Act of 1996 will change the way telephone services will be provided. Thus, to protect the public interest, public policymakers should consider the impacts on E-9-1-1 service reliability of such complex transitions as competition in the local exchange market; cable company entry into voice and high speed data telephony; wireless Personal Communications Service (PCS) providers; wireless private branch exchanges (PBXs); telephone number portability¹ requirements; the bundling of traditional local and in-state toll services with interstate long distance, internet, and video services; and new switching, transport, and local loop technologies.

The FCC's E-9-1-1 Order. On July 26, 1996, the FCC released its Report and Order on Enhanced 9-1-1 Emergency Calling Systems, which mandated the implementation of widespread emergency E-9-1-1 service for wireless communications within five years. (See *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 9-1-1 Emergency Calling Systems*, CC Docket No. 94-102).

The FCC Order requires that wireless companies be capable by April 1, 1998, of delivering E-9-1-1 information to Public Safety Answering Points (PSAPs);

¹The ability to keep the same telephone number when changing from one local telecommunications provider to another.

and by October 1, 2001, of identifying the latitude and longitude of a mobile calling unit to within 125 meters for 67 percent of all calls.

The FCC mandate applies only if PSAPs are capable of receiving and using wireless-based E-9-1-1 information, PSAPs request wireless carriers to provide that information, and a mechanism is available for recovering the costs of providing wireless E-9-1-1 services.

Accordingly, for wireless E-9-1-1 services to be deployed statewide, Maine must act to ensure that wireless carriers and PSAPs will be able to receive and send E-9-1-1 data and that wireless-related E-9-1-1 operations and maintenance costs will be funded.

The Impact of Cellular Customers on E-9-1-1

The Cellular Telecommunications Industry Association in Washington, D.C., estimates there are 38.2 million cellular subscribers in the United States. Applying CTIA's national 14.5% cellular penetration rate estimate to Maine produces an estimate of approximately 177,000 cellular subscribers in Maine. That estimate is probably high; a more likely figure is 120,000.²

²January 17, 1997, telephone conversation with Michael Tracy of Standish Telephone Company; January 24, 1997 conversation with Kenneth LeFebvre of Cellular One.

Here are additional national wireless statistics:³

- 9.6 million persons became new wireless subscribers in 1995;
- most customers gave safety and security as reasons for becoming wireless subscribers;
- wireless subscribers made 18 million 9-1-1 calls in 1994;
- wireless subscribers make 50,000 9-1-1 calls a day;⁴
- wireless subscribers account for 20% to 30% of all 9-1-1 calls⁵

It is these data, the FCC's wireless E-9-1-1 Order, and the first two criteria in the next section that form the basis of our recommendation to add wireless subscribers to Maine's E-9-1-1 funding base.

Criteria for a Long-Term E-9-1-1 Funding Method

A long-term E-9-1-1 funding method should satisfy at least the following criteria:

- (1) It should encompass the principle of "cost causation," so that users that cause the costs of the E-9-1-1 system pay a fair share of those costs;
- (2) It should be competitively neutral, so that it does not give competitive advantages to one telecommunications provider, or to a class of providers, at the expense of other providers;

³From "Wireless E-9-1-1 Model Legislation Analysis" XYPOINT Corp., Seattle, p.2

⁴January 23, 1997 telephone conversation with Catherine Harris, CTIA.

⁵January 10, 1997 telephone conversation with William Stanton, National Emergency Number Association

- (3) It should provide the necessary E-9-1-1 system funds;
- (4) It should be easy to understand, easy to administer, and fair and equitable to telephone users and providers; and
- (5) It should be stable, and therefore not require frequent legislative adjustments because of changes in telecommunications technology, markets, industry structure, the amount of competition, the form of regulation, and especially in how telephone service is provided;

If the Legislature adds a wireless subscriber line charge to the E-9-1-1 funding base, the line charge satisfies all criteria, except possibly the last.

The Stability of the Access Line Charge as a Long-Term E-9-1-1 Funding Alternative

As the voice-data narrowband telephone network evolves into an integrated voice-data-video broadband network, the access line surcharge could become increasingly unstable as an E-9-1-1 funding method.

Eventually, carriers, both incumbent LECs and competitive entrants, will offer bundled services over broadband links, not just to business but to residence customers. Using multiplexing devices, customers will be able to decide how much of their broadband link's capacity they will use for voice and data lines, for video, and for other applications. It is far from clear, even today, that carriers have a means of knowing how *business* customers are using their broadband capacity. The carrier provides the link; the customer decides how they will use it. How the customer does so may be of little interest to the carrier (and those uses may

change from month to month: less capacity dedicated to voice channels, more to data channels, or vice versa).

As competition takes hold and as technology evolves, the problem of measuring the fraction of broadband capacity being used for telephony is sure to become more complicated. For example:

- (1) Changes in technology may make it virtually impossible to determine whether an end user line actually exists. For example, "smart" PBXs will be able to complete calls to many different end users without the need to assign different inward and outward directory numbers.
- (2) In response to the Telecommunications Act of 1996, incumbent LECs will be selling unbundled network elements, not just retail services. The carrier will not know the end use of those functions, and therefore will have no way to determine and verify the correct E-9-1-1 surcharge.

It is for reasons like these that the line charge could become unstable in the long term. They are the basis for our recommendation that the ESCB report back to the Committee in two years about the impacts on the stability of the line charge of competition, new switching and network technology, and how telephone services are delivered and marketed.

The Rationale for Using Multiple Sources of E-9-1-1 Funding

In 1987, the E-9-1-1 Study Commission recommended to the 113th Legislature that a combination of funding mechanisms be employed to fund the statewide enhanced 9-1-1 system. That Commission suggested that capital and development costs of switching and network, databases, and PSAPs be funded through a bond issue; that annual telephone switching and network costs be

recovered from telephone ratepayers; and that PSAP staffing and maintenance costs be borne by the agencies operating those PSAPs. Chairman Welch, in 1994, and former Chairman Kenneth Gordon, in 1992, both explained their support for that rationale to those responsible for developing the statewide E-9-1-1 system. Copies of the two chairmen's letters discussing this issue are included as Attachment 3.

ATTACHMENT 1

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BILL DRAFT SUMMARY

LR #: 423 ITEM #: 1 TYPE: O

TITLE:
An Act to Provide a Funding Mechanism for the E-9-1-1 System

SPONSOR:
COSPONSORS:

LEGEND: Submitted by the Department of Public
Safety pursuant to Joint Rule 204.

AUTHORITY FOR INTRODUCTION: DPT

DRAFTER: JC TECH: TML PROOF: SAL REVIEWER:

DATE/TIME LAST PRINTED: 01/10/97 13:01

LAST ACTION: ROS/DONE 01/09/97

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Be it enacted by the People of the State of Maine as follows:

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4 Sec. 1. 25 MRSA §2927, as amended by PL 1995, c. 672, §§1-4, is further amended to read:

6 §2927. E-9-1-1 funding

8 1-A. Statewide E-9-1-1 surcharge. The activities
10 authorized under this chapter are funded through a special
12 statewide E-9-1-1 surcharge to be levied on each residence and
14 business telephone exchange line, including private branch
16 exchange, or PBX, lines and Centrex lines, ~~trunks--serving~~
18 ~~cellular--communications--providers--in--the--State~~ cellular or
20 wireless telecommunications service subscribers and semipublic
22 coin and public access lines. The statewide E-9-1-1 surcharge
24 may not be imposed on more than 25 lines or numbers per customer
billing account. Through ~~July--31--1996~~ December 31, 1997, the
statewide E-9-1-1 surcharge is ~~20¢~~ 20¢ per month per line or
number. Beginning ~~August--1--1996~~ January 1, 1998, the statewide
E-9-1-1 surcharge is ~~20¢~~ 32¢ per month per line or number. The
statewide E-9-1-1 surcharge must be billed on a monthly basis by
each local exchange telephone utility or cellular or wireless
telecommunications service provider and be shown separately as a
statewide E-9-1-1 surcharge on the customer's bill.

26 2-A. Surcharge remittance. Each local exchange telephone
28 utility and cellular or wireless telecommunications service
30 provider shall remit the statewide E-9-1-1 surcharge revenues
32 collected from its customers pursuant to this section on a
monthly basis to the Treasurer of State for deposit in a separate
account known as the E-9-1-1 fund.

34 3. Expenditure of funds. The bureau may use the revenues
36 in the E-9-1-1 fund to fund staff and to defray costs associated
with the implementation, operation and management of E-9-1-1.

38 4. Unexpended funds; interest. Any amount of the E-9-1-1
40 fund not expended at the end of the fiscal year may not lapse but
42 must be carried forward to be expended for the purposes specified
in this chapter in succeeding fiscal years. The Treasurer of
State shall credit all interest on fund balances to the fund.

44 5. Legislative annual report. The bureau shall report
46 annually, before February 1st, to the joint standing committee of
the Legislature having jurisdiction over public utilities and
energy matters on:

48 A. The bureau's planned expenditures for the year and use
50 of funds for the previous year; and

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2 B. The statewide E-9-1-1 surcharge collected under this section;

4 C. The bureau's recommended statewide E-9-1-1 surcharge for the coming year; and

6 D. The bureau's recommendations for amending existing and
8 enacting new law to improve the E-9-1-1 system.

10 5-A. Committee recommendations; budget. The joint standing
12 committee of the Legislature having jurisdiction over utilities
14 and energy matters shall make recommendations to the joint
16 standing committee of the Legislature having jurisdiction over
appropriations and financial affairs regarding all expenditures
from the E-9-1-1 fund established in subsection 2-A.

18 6. Violations. A telephone utility or a cellular or
wireless telecommunications service provider, subject to this
20 section, that willfully fails to remit the statewide E-9-1-1
22 surcharge revenues collected under this section commits a civil
violation for which a forfeiture of not more than \$500 may be
adjudged for each day that payment is not made after the due date.

24 ~~7. Repeal. Subsections 1 and 2 are repealed 90 days after~~
~~the adjournment of the Second Regular Session of the 17th~~
26 ~~Legislature.~~

28 ~~7-A. Repeal. Subsections 1-A and 2-A are repealed August~~
30 ~~17, 1998.~~

32 SUMMARY

34 The bill adds cellular and wireless communications
36 subscribers to the potential users who must pay the monthly
surcharge that funds the E-9-1-1 system. The bill also raises
38 the monthly surcharge from 20¢ to 32¢ beginning January 1, 1998.
The Emergency Services Communication Bureau will report
40 recommended surcharge adjustments and necessary legislative
changes annually to the Joint Standing Committee on Utilities and
Energy.

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ATTACHMENT 2

Note: The Commission obtained the information in this attachment from XYPOINT, a wireless communications consulting company in Seattle. The Commission Staff conducted a 50-state telephone survey in early January to verify the states that include wireless subscriber surcharges in the 9-1-1 funding base and to check the states' LEC subscriber line surcharge data.

Chart of State 911 Laws

| STATE* | LAND LINE FUNDING** | WIRELESS FUNDING** | INDEMNITY |
|---|---|--|--|
| Alabama - E Code of Ala. §§ 11-98-1 <i>et seq.</i> | Local surcharge: NTE 5% maximum tariff rate; NTE \$2.00 if population < 25,000. | Not specified in statute. | Not specified in statute. |
| Alaska - E Alaska Stat. § 29.35.131 | Local surcharge: NTE \$.50/access line if population > 100,000 and NTE \$.75/access line if population < 100,000. | Not specified in statute. | Service supplier immunity except for intentional acts of misconduct or gross negligence. |
| Arizona ARS § 42-1472, § 12-713 | State tax: NTE 1.50% of provider's gross sales or income derived from providing exchange access services. | Not specified in statute. | Exemption for any person that supplies 911 reporting equipment or services except for willful and wanton conduct. |
| Arkansas - E Ark. Stat. Ann. §§ 12-10-302 <i>et seq.</i> | Local surcharge: NTE 5% or NTE 12% if population < 15,000 of tariff rate. | Not specified in statute. | No service provider or political subdivision liable for release of required information or failure of equipment or procedure. |
| California - E Cal Rev & Tax Code §§ 41001 <i>et seq.</i> ; Cal Gov Code §§ 53100 <i>et seq.</i> | State surcharge: Minimum .50% Maximum .75% | Surcharge amount not specified in statute. | Not specified in statute. |
| Colorado CRS §§ 29-11-101 <i>et seq.</i> | Local surcharge: NTE \$.70. | Not specified in statute. | Not specified in statute. |
| Connecticut - E ¹ Conn. Gen. Stat. §§ 28-24 <i>et seq.</i> | State E-911 Telecom Fund NTE \$.50. | Not specified in statute. | Telephone Co. or agents not liable for release of required information or any failure of equipment or procedure. |
| Delaware - E 16 Del. C. §§ 10001-10005, §§ 10101 <i>et seq.</i> | Local surcharge: NTE \$.50/access line. | Not specified in statute. | Supplier liable NTE \$1,000,000 for each occurrence of an interruption, fault, failure or other deficiency. |
| Florida - E ² Fla. Stat. § 365.171 | Local surcharge: NTE \$.50/access line. | Not specified in statute. | No liability for 911 service absent malicious purpose or wanton and willful disregard of human rights, safety or property. |
| Georgia - E O.C.G.A. §§ 46-5-122 <i>et seq.</i> | Local surcharge: NTE \$1.50/access line. | Surcharge allowed but amount not specified in statute. | No waiver of defense of sovereign and official immunity. ³ |
| Hawaii - E HRS § 269-16-95, § 321-224 ⁴ | Local surcharge: amount not specified. | Not specified in statute. | Not specified in statute. ⁵ |
| Idaho Idaho Code §§ 31-4802 <i>et seq.</i> | Local surcharge: NTE \$1.00/access line. | Not specified in statute. | Telephone company not liable except for malice, criminal intent, or reckless, willful and wanton conduct. |
| Illinois 50 ILCS §§ 750/0.01 <i>et seq.</i> | Local surcharge: NTE \$1.25/access line if population > 500,000. | For the purposes of the Act, "telecommunication carrier" does not include a cellular or other mobile communication carrier. ⁶ | Public agencies not liable for damages except for willful or wanton misconduct; No person who gives emergency instructions to a person rendering services in an emergency at another location, nor any person following such instructions is liable except for |

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| <p>Indiana - E Ind. Code Ann. §§ 36-8-16-1 <i>et seq.</i></p> | <p>Local surcharge: NTE 3% of average monthly access line charge in a county that has a consolidated city or at least one 2nd-class city. NTE 10%/access line in a county that does not have a consolidated city or a 2nd-class city.</p> | <p>Not specified in statute.</p> | <p>willful or wanton misconduct. Supplier not liable for damages except for willful and wanton conduct.</p> |
| <p>Iowa - E Iowa Code § 34A.1</p> | <p>Local surcharge: NTE \$1.00. Local alternative surcharge: NTE \$2.50/access line for 24 months, if approved by voters.</p> | <p>Not specified in statute.</p> | <p>No cause of action unless willful and wanton negligence.</p> |
| <p>Kansas KSA §§ 12-5301 <i>et seq.</i></p> | <p>Local surcharge: NTE \$.75/access line.</p> | <p>Wireless service users shall be exempt from the emergency telephone tax.</p> | <p>Public agencies and wireless carriers not liable for damages from transmission failure.</p> |
| <p>Kentucky KRS §§ 65.750 <i>et seq.</i></p> | <p>Local surcharge: amount not specified in statute.</p> | <p>Not specified in statute.</p> | <p>Not specified in statute.</p> |
| <p>Louisiana - E⁷ La. R.S. §§ 33:9104 <i>et seq.</i>; La. R.S. §§ 46:791, <i>et seq.</i></p> | <p>Local surcharge: NTE \$1.00/wireless access line for residential and NTE \$2.00/access line for business.⁸ Local surcharge: NTE 5%/access line if served by more than one supplier.</p> | <p>Local surcharge: NTE \$1.00/wireless access line for residential and NTE \$2.00/wireless access line for business.⁹ Local surcharge: NTE 5%/wireless access line if served by more than one supplier.¹⁰</p> | <p>Until such time as cellular and other wireless communication service suppliers are capable of providing and do provide automatic number identification (ANI) and automatic location identification (ALI), suppliers of such service shall not be liable for any claim, damages, costs, and expenses, including reasonable attorney fees, with respect to and as a result of any claim or action relating to delivery of or reliance by enhanced 911 or 911 on such information.</p> |
| <p>Maine - E 25 M.R.S. § 2921 <i>et seq.</i></p> | <p>Statewide surcharge: \$^{20¢}2/20¢ access line.</p> | <p>Statewide surcharge: \$^{20¢}2/trunks serving cellular providers.</p> | <p>Not specified in statute.</p> |
| <p>Maryland - E Md. Ann. Code art. 41 §§ 18-101 <i>et seq.</i></p> | <p>State surcharge: \$.10/access line. Local surcharge: NTE \$.50/access line.</p> | <p>State surcharge: \$.10/wireless access line. Local surcharge in addition: \$.50/wireless access line.</p> | <p>Nothing in this subtitle shall be interpreted to extend any liability to a 911 carrier. Cellular companies and personal communication companies that pay or collect 911 fees have the same immunity from liability for transmission failures as that approved by the Public Service Commission for local exchange telephone companies, 1996 MD HB 365, signed by governor May 14, 1996.</p> |
| <p>Massachusetts - E Mass. Ann. Laws ch. 6A § 18A</p> | <p>State surcharge on directory assistance.</p> | <p>Not specified in statute.</p> | <p>Not specified in statute.</p> |
| <p>Michigan MSA §§ 22.1467(101)</p> | <p>Local surcharge: NTE 4% highest monthly flat rate for one-party access line; county may assess up to 16% by ballot.</p> | <p>Not specified in statute.</p> | <p>Supplier not liable for civil damages except for gross negligence or willful and wanton misconduct.</p> |
| <p>Minnesota - E Minn. Stat. § 403.01 <i>et seq.</i></p> | <p>State surcharge: \$.08-\$.30/access line plus for E911 funding: \$.08-\$.30/access line.</p> | <p>State surcharge: \$.08-\$.30/wireless access line for E911 funding. No surcharge on wireless service for E911 pursuant to Minn. Stat. § 403.113 Subd. 1(a).</p> | <p>Not specified in statute.</p> |
| <p>Mississippi - E¹¹</p> | <p>Local surcharges:</p> | <p>Local surcharges:</p> | <p>Not specified in statute.</p> |

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| Miss. Code Ann. §§ 19-5-301 <i>et seq.</i> | \$1.00/residential wireless access line; \$2.00/commercial wireless access line or if current charge is 5% of the tariff rate, the new collection shall be \$.80/residential wireless access and \$1.60/commercial wireless access line. | "Cellular to be treated the same as land line. | |
| Missouri R.S.Mo. §§ 190.300 <i>et seq.</i> | Local tax NTE 15% of tariff local service rate or \$.75/access line whichever is greater or counties may, if approved by voters, impose a 1% sales tax. | Not specified in statute. | Public agencies or agents thereof not liable for damages except for willful and wanton misconduct or gross negligence; no person who gives emergency instructions through 911 system is liable for damages except for willful and wanton misconduct or gross negligence. |
| Montana Mont. Code Ann. §§ 10-4-101 <i>et seq.</i> | State surcharge: \$.25/access line. | Not specified in statute. | Not specified in statute. |
| Nebraska - E R.R.S. Neb. §§ 86-1001 <i>et seq.</i> | Local surcharge: NTE \$.50/access line ¹² ; increase by \$.50/access line if metropolitan city in county. | Not specified in statute. | Supplier not liable for damages except for failure to use reasonable care or for intentional acts. |
| Nevada Nev. Rev. Stat. Ann. §§ 244A.771 <i>et seq.</i> | Local surcharge: County property tax. | Not specified in statute. | Not specified in statute. |
| New Hampshire - E RSA §§ 106-H:1 <i>et seq.</i> | State surcharge: amount not specified in statute. | Not specified in statute. | Not specified in statute. |
| New Jersey - E N.J. Stat. §§ 52:17C-1 <i>et seq.</i> | State: General Fund | Not specified in statute. | No liability for providing user information or for failure of any equipment or procedure. |
| New Mexico - E N.M. Stat. Ann. §§ 63-9D-1 <i>et seq.</i> | State Enhanced 911 Fund. Funds collected by local exchange phone companies at \$.25 for 911 emergency surcharge plus \$.26 for network and database surcharge/access line. Local additional surcharge may be imposed. | Not specified in statute. | Suppliers immune from litigation or the payment of damages (specifically includes cellular companies). |
| New York - E NY CLS County §§ 300 <i>et seq.</i> | Local surcharge NTE \$.35/access line. ¹³ | Statewide \$.70/access line ¹⁴ surcharge collected by local service suppliers to fund special revenue for state police 911-related costs. | Not specified in statute. |
| North Carolina - E N.C. Gen. Stat. §§ 62A-1 <i>et seq.</i> | Local surcharge: amount not specified in statute. | Not specified in statute. | Suppliers not liable for any damages except for willful or wanton conduct. |
| North Dakota - E N.D. Cent. Code §§ 57-40.6-01 <i>et seq.</i> | Local surcharge NTE \$1.00/access line; E911 database charges authorized but amount not specified. | Not specified in statute. | Suppliers not liable for any damages except for willful and wanton misconduct. |
| Ohio ORC Ann. §§ 4931.40 <i>et seq.</i> | Local surcharge NTE \$.50/access line. | Not specified in statute. | Suppliers not liable for damages. |
| Oklahoma 63 Okl. St. §§ 2801 <i>et seq.</i> | Local surcharge NTE 15% of tariff rate/ access line. | Not specified in statute. ¹⁵ | Only for "public agency." |
| Oregon - E ORS §§ 401.710 <i>et seq.</i> | State Emergency Communications Account Fund tax of \$.75/access line. | State Emergency Communications Account Fund tax of \$.75/wireless access line. | Exemption for any person that supplies 911 reporting, equipment or services except for willful and wanton conduct. |

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| Pennsylvania - 35 P.S. §§ 7011 <i>et seq.</i> | Local fee NTE \$1.00-\$1.50/access line depending on county classification. | Not specified in statute. | No telephone company, agent or employee liable except for willful or wanton misconduct. |
| Rhode Island R.I. Gen. Laws §§ 39-21-1 <i>et seq.</i> | State surcharge: \$.47/exchange line. | Not specified in statute. | 911 authority and telephone carrier not liable for damages except for gross negligence or wanton and willful misconduct. |
| South Carolina - E S.C. Code Ann. §§ 23-47-10 | Local surcharge: : \$.75-\$1.50/subscriber for start-up costs; \$.50-\$1.00/subscriber for on-going costs. ¹⁶ | Not specified in statute. ¹⁷ | Public safety agency and agents not liable; service suppliers governed by tariffs. |
| South Dakota - E S.D. Codified Laws §§ 34-45-1 <i>et seq.</i> | State Coordination Fund: \$.01/access line. | Cellular contained in definition of exchange access line. | Service supplier not liable except for willful or wanton negligence or intentional acts; however immunity does not extend to installation or maintenance of system. |
| Tennessee - E Tenn. Code Ann. §§ 7-86-101 | Local emergency communications districts collect levy NTE \$.65/residential user and \$2.00/business user. | Not specified in statute. | Not specified in statute. |
| Texas Tex. Health & Safety Code §§ 771-001 <i>et seq.</i> | State Advisory commission fee NTE \$.50/access line for regional planning district and .013% surcharge per intrastate long-distance customer. | Not specified in statute. | Service providers not liable for any claim, damage or loss except for gross negligence, recklessness or intentional misconduct. |
| Utah Utah Code Ann. §§ 69-2-1 <i>et seq.</i> | Local communications districts fees according to population: Over 2,000,000 NTE 3% Over 860,000 NTE 3%/user Over 20,000 NTE 6%/user. | Local surcharge: NTE \$.50/access line. | Providers not liable for damages except for intent or gross negligence. |
| Vermont - E 30 V.S.A. §§ 7051 <i>et seq.</i> | State enhanced 911 fund. | \$.50/wireless access line. | State enhanced 911 fund. |
| Virginia - E Va. Code Ann. §§ 58.1-3813; Va. Code Ann. §§ 44-146-23 | Local tax. | Local tax. | No person liable for damages except for gross negligence or intentional tort. |
| Washington - E RCW 38.52.500 <i>et seq.</i> RCW 82.14B.020 <i>et seq.</i> | Local tax NTE \$.50/access line. | County tax NTE \$.25/wireless access line. | Public or private emergency services not liable for damages except for willful misconduct. |
| West Virginia - E W. Va. Code §§ 7-1-3cc; W. Va. Code §§ 24-6-1 <i>et seq.</i> | Local fee (amount not specified). | Telecom. companies not liable for damages except for gross negligence or wanton or willful misconduct. ¹⁸ | County tax NTE \$.25/wireless access line. |
| Wisconsin - E Wis. Stat. §§ 146.70 | Local levy of \$.25-\$1.00/access line depending on size of population. | Not specified by statute. ¹⁹ | Public agencies and agents thereof not liable for damages except for willful or wanton misconduct. |
| Wyoming Wyo. Stat. §§ 16-9-102 <i>et seq.</i> | Local charge NTE \$.50/access line. | Not specified in statute. | Telecommunications utilities not liable to any person who uses emergency number system. |
| | | Not specified in statute. | Not specified in statute. |

**E* indicates state has mandated enhanced emergency number service.

**Charges are per month unless otherwise specified.

¹ Note significant 1996 amendment to statute to provide E911 services throughout the state by July 1, 1997 pursuant to SB 483, enacted May 31, 1996.

- ² Statewide "goal" of E911; county expenditures authorized.
- ³ Does not necessarily apply to the supplier.
- ⁴ SB 2781; effective June 17, 1996: Department of Health to assist each county in developing 911 emergency telephone system.
- ⁵ Legislation proposed January 23, 1995 to indemnify 911 telephone operators from liability. 1995 HI HB 766.
- ⁶ Legislation proposed in 1995, 1995 IL HB 124, to impose a monthly surcharge on cellular telephones. See also SB 957 proposed in 1995 to provide monthly surcharge on in-service wireless phones.
- ⁷ E911 service in parishes of Assumption, Caddo and Jefferson only.
- ⁸ Caddo Parish only, pursuant to Louisiana HB 224, approved May 7, 1996.
- ⁹ Caddo Parish only, pursuant to Louisiana HB 224, approved May 7, 1996.
- ¹⁰ Assumption and Jefferson parishes only pursuant to La. R.S. 33:9126 and 33.9131.
- ¹¹ County > 15,000 shall deploy E911 if approved by voters.
- ¹² Pending legislation would eliminate restrictions on additional amount of surcharge, 1995 NE LB 1118.
- ¹³ Legislation proposed in 1995, 1995 NY SB 5206, to authorize municipalities in a county with a population of 100,000 or less to impose a surcharge of \$1.00 per access line.
- ¹⁴ Legislation proposed in 1995, 1995 NY SB 836, to make the monthly 70 cents surcharge on cellular phones payable to a county that operates a cellular 911 emergency system to which the state police do not respond to defray the county's expense of operating such system and exempts such a county from such surcharge, 1995 NY SB 836, Recommitted to Senate Committee on Local Governments, 1995 and 1995 NY AB 1325, recommitted to Assembly Committee on Local Governments.
- ¹⁵ 1995 OK SB 1270 enacted May 20, 1996: "The Statewide Emergency 911 Advisory Committee shall, in developing its recommendations pursuant to Section 2818.3 of Title 63 of the Oklahoma Statutes, consider the presumption that all providers of dial tone [including wireless] are obligated to participate in the provision of 911 service and its funding."
- ¹⁶ Legislation proposed in 1995 to authorize the county to charge subscribers with a maximum of ten local exchange lines a charge which is less than other subscribers, 1995 SC HB 3545, to House Committee on Ways and Means, February 8, 1995.
- ¹⁷ Legislation proposed in 1995 to require that both wire and nonwire telephone subscribers would be equally subject to 911 surcharges, 1995 SC HB 4286, To House Committee on Labor, Commerce and Industry, May 31, 1995.
- ¹⁸ Legislation proposed in 1996 Session to insure long-term funding of the E911 systems and grants immunity from civil liability to emergency communication systems and their employees except for acts or omissions constituting gross negligence or wanton or willful misconduct, 1996 WA HB 2139, to House Committee on Finance, January 8, 1996 and 1995 WA SB 6111, from House Committee on Finance, February 26, 1996. No action taken.
- ¹⁹ Legislation proposed in 1996 to create a wireless enhanced 911 fee, 1996 WV HB 4383, to House Committee on Judiciary, February 1, 1996 and 1996 WV SB 279, to Senate Committee on Finance. No action taken..

ATTACHMENT 3

Thomas L. Welch
Chairman



Elizabeth Hughes
William M. Nugent
Commissioners

PUBLIC UTILITIES COMMISSION

August 23, 1994

Kevin McGinnis, Director
Maine Emergency Medical Services
16 Edison Drive
Augusta, ME 04430

Re: Statewide 9-1-1 Enhanced System Funding

Dear Mr. McGinnis:

An article in the August 17th Kennebec Journal reported on a two-cent increase in monthly Maine telephone bills to fund a new statewide emergency dialing system. That article attributed to you a statement that "the telephone surcharge will be increased to finance the new system once it is in place," and that "the fee is likely to be 'somewhere in the 38- to 43-cent ballpark.'"

I support current efforts to develop a statewide 9-1-1 enhanced response system. I am concerned, however, that we not commit prematurely to specific funding mechanisms for that system, as the article seems to suggest.

As you may recall, the 9-1-1 Study Commission recommended¹ to the 113th Legislature that a combination of funding mechanisms be employed:

The initial costs of establishing the statewide E-9-1-1 system, including switching and network costs, the cost of providing local, regional, county, and/or state PSAP's, and the cost of creating a statewide E-9-1-1

¹ Report to The Joint Standing Committee on Public Utilities of the 113th Maine Legislature (AMENDED), The 9-1-1 Study Commission, December 1, 1987, p. 18

Kevin McGinnis, Director
August 23, 1994
Page 2

Automatic Location Identification data base should be paid through a bond issue in the amount of \$13.2 million. The ongoing costs of operating and maintaining the telephone switching and network equipment will be paid through an increase in rates or fees charged to local telephone customers. This is estimated to be approximately \$ 95,000.00 per month which would add less than \$0.15 per line per month to the average business or residential phone rate. The costs of staffing and maintaining the local, regional, county, and state PSAP's will be the responsibility of the municipalities, counties and or state agencies operating those PSAP's.

Subsequently, a consultant to the successor E-9-1-1 Advisory Committee examined funding alternatives: "In other states with statewide 9-1-1 systems planned or in place, a variety of sources are used as [sic] to fund the systems."² I understand that, during a period when the state's fiscal condition was under severe stress, the Committee on Audit and Program Review subsequently endorsed funding through a subscriber surcharge during this period, and as a result, discussions proceeded under the assumption that ratepayer funding was the only practically available alternative at that time. However, the Commission continued to have concerns about funding issues. The Chairman of the Commission at that time, Kenneth Gordon, responded to questions on some of these issues; the points raised in that letter are still valid today. A copy of Chairman Gordon's letter is attached for your reference.


I believe it imperative that we keep funding alternatives open, and that the new E-9-1-1 Council scrutinize all alternatives before reaching a recommendation on funding system implementation. This review should consider financial accountability of the implementing agency, as well as existing state law which requires that "telephone service shall continue to be universally available, especially to the poor, at affordable rates" (35-A M.R.S.A. § 7101) and directs the Commission to "preserve . . . local telephone service at as low a cost as possible." (35-A M.R.S.A. § 7303)

² Enhanced 9-1-1 Implementation Study, Peter Oliver & Curt Sweet, February 1992, p. 36

Kevin McGinnis, Director
August 23, 1994
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With the state's fiscal condition improving, we believe that the earlier 9-1-1 Study Commission's recommendation of funding this system through a variety of mechanisms may offer the best promise for development of an advanced system which achieves the best results possible without overburdening any particular group of Maine residents. I hope that the E-9-1-1 Council does not foreclose funding options which may offer the greatest future benefit.

Sincerely,



Thomas L. Welch
Chairman

TLW/JDS/bp
Attachment

cc: Elizabeth Hughes, Commissioner
William M. Nugent, Commissioner
E-9-1-1 Council Members

Kenneth Gordon
Chairman



Elizabeth Paine
William M. Nugent
Commissioners

PUBLIC UTILITIES COMMISSION

December 18, 1992

Mr. Curt Sweet
NetWorks
P.O. Box 397
Newcastle, Maine 04553

Dear Curt:

The Commission staff has brought to my attention your letter of August 25, 1992, which provided me and my fellow Commissioners with much useful information regarding costs and funding options for a statewide Enhanced 9-1-1 system, and sought some guidance on how the Advisory Committee should proceed. I regret that this reply has taken so long; we have been extremely busy.

At the most general level, the question of how (and whether) to fund E-9-1-1 is not a regulatory policy question. (Properly, the appropriate legislative body should decide whether or not E-9-1-1 is worth the cost to Maine citizens.) Nevertheless, it may be helpful if I address in some detail each of the five questions you raise at the close of your letter.

1. What general concerns does the Commission have about surcharges and/or excise taxes to fund E-9-1-1? It appears from your list of "Maine Statewide E-9-1-1 Costs" that the majority of those costs would be incurred to provide a public safety function, rather than telephone service. Of the \$6.1 million cost to put the system in place (listed under "One-Time Expenses"), more than \$5 million would go to building the Master Street Address Guide (MSAG) and Automatic Line Identification (ALI) databases, and assisting the towns in collecting valid address data. Of the \$3.1 million estimate of annual operating expense, nearly a million would go to database maintenance and central administration. Other cost elements might also be properly classified as serving a public safety function, as distinct from telephone service. The use of a telephone phone bill surcharge or excise tax to fund such costs could discourage otherwise desirable use of the network.

2. What are the possible benefits/drawbacks of making E-9-1-1 part of universal service? Including the public safety program costs in basic rates would appear to conflict with the statutory provisions that "telephone service shall continue to be universally available, especially to the poor, at affordable rates" (35-A MRSA Sec. 7101) and directing the Commission to "preserve...local telephone service at as low a cost as possible." (35-A MRSA Sec. 7303). The Commission has no current authority to decide whether the costs of public safety programs are just and reasonable, and one can certainly question the wisdom of broadening its influence to include non-public utility activities such as municipal building renovation or map preparation.

3. Which cost elements would the Commission prefer to see funded as a) a surcharge, b.) part of NET's revenue requirement or c.) through some non-regulatory means? Telephone ratepayers should pay only for those costs that are directly related to the public switched telephone network. In your list of statewide costs, these might include the initial network fixed costs of \$500,000 plus annual operating costs totalling \$760,000 (in the network fixed, usage, variable, and E-9-1-1 trunk line items.) How to recover such network costs from ratepayers should be left for the Commission to decide in its rate proceedings, since many of these costs are common or shared with the costs of providing other telephone services. Costs of the public safety function, such as those identified in (1) above, should not be funded by ratepayers. While fiscal principles would suggest bond funding of the one-time start-up costs and general taxpayer funding of the recurring non-utility operating costs, that is a matter for the Legislature, the municipalities, or the voters to decide.

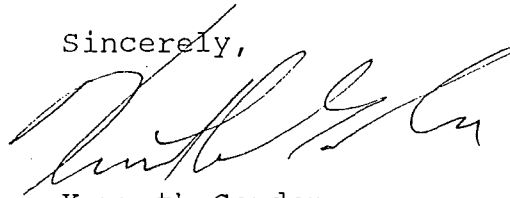
4. What would the Commission suggest as a process for arriving at an agreement with the Utilities Committee, the Governor's Office, the Department of Public Safety, the Public Advocate's Office, etc., on the funding mechanism? Since part of the cost of implementing statewide E-9-1-1 may be considered public utility costs to be borne by ratepayers, the E-9-1-1 Advisory Committee could report its plan and funding proposals to the Joint Standing Committee on Utilities, or perhaps a different legislative committee, as appropriate. The committee receiving the report could then solicit comments from other affected agencies or entities and seek additional public participation through public hearings.

5. What recommendations would the Commission make regarding the best manner in which to negotiate with NET for pricing on a statewide E-9-1-1 system? This question is largely mooted by the discussion in the paragraphs above, which argues for public funding of public safety functions, rather than utility financing and negotiated pricing. The public must approve such funding, whether through bond referendum or legislative appropriation. Furthermore,

the State of Maine, through its tax-exempt bonds, is almost certain to pay interest costs substantially lower than those that would be paid by New England Telephone Company, which would lower the cost of a statewide system for all citizens. In any case, whether NET would provide anything other than network services, in its service area, remains unclear.

As a housekeeping matter, I would also note in passing that the current statute (25 MRSA Sec. 2922 & 2923) requiring utilities and municipalities to comply with certain implementation provisions by July 1, 1993, may need amendment.

Sincerely,



Kenneth Gordon
Chairman

Copies: E-9-1-1 Advisory Committee members

*Curt - As you know, I am
leaving Maine for Mass.
Keep up the good work!*