

**Before the
NEBRASKA PUBLIC SERVICE COMMISSION**

In the Matter of the Nebraska Public Service)
Commission, on its own motion, to consider)
recommendations of the Service System) App. Nos. 911-073 / PI-232
Advisory Committee for creation of a new)
funding system for Next Generation 911)

COMMENTS OF CTIA

CTIA¹ respectfully submits the following statement in response to the Nebraska Public Service Commission’s (“Commission’s”) Order Opening Docket and Seeking Public Comment (“Order”), entered May 5, 2020 in the above-captioned docket.

In the Order, the Commission asks a number of questions regarding recommendations of the 911 Service System Advisory Committee (“SSAC”) for the creation of a new funding system for Next Generation 911 in accordance with LB 993.² CTIA makes the following recommendations with regard to the questions posed in the Order.

First, the Commission should not allow 911 funding to be diverted for non-911 purposes, such as public safety radio systems. The wireless industry is a committed partner to the public safety industry and is sensitive to its communications technology needs, but those needs must be met through lawful funding options. Second, the Commission should continue to disburse funding to wireless providers, as specified by statute. These funds are a valuable resource for wireless providers seeking to making improvements to their enhanced 911 systems. Finally, 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, and suppliers as well as app 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 See Order at 1.

Commission should improve its future process by including wireless carriers earlier. Wireless industry input during the development of recommendations would help ensure that the Commission is receiving balanced suggestions that reflect the input of all stakeholders.

I. THE COMMISSION SHOULD NOT ALLOW 911 SERVICE SYSTEM FUNDING TO BE DIVERTED FOR INELIGIBLE PURPOSES

The Order asks if the Commission should “expand the eligible uses of PSAP [public safety answering point] funding allocations, for example, to include radio equipment or broader coverage of local personnel costs?”³ The Commission must take care to ensure that any allocations supported by 911 surcharges are used for their intended and earmarked purpose: implementation and improvement of “enhanced wireless 911 service.”

Nebraska law limits usage of 911 Service System Funding, as considered in the Order, only to costs “to implement enhanced wireless 911 service”⁴ by wireless providers and PSAPs, including PSAP upgrade, technology, and training costs “used solely to process the data elements of enhanced wireless 911 service,” and equipment and telecommunications services “required for the provision of enhanced wireless 911 service.”⁵ Federal law is also clear that 911 surcharges are to be used solely for 911 systems, not unrelated expenditures. Federal law requires that revenues from any 911 fees be spent only for 911 or E911 purposes. Fees may be collected, “provided that the fee or charge is obligated or expended only in support of 911 and enhanced 911 services, or enhancements of such services.”⁶ The Federal Communications Commission (“FCC”) has indicated that the use of 911 funds on public safety radio systems is

³ *Id.* at Question 2.

⁴ “Enhanced wireless 911 service” consists of the provision of an end user’s numbering and location information alongside a 911 call by a provider to a PSAP. *See* 47 C.F.R. § 9.10.

⁵ Neb. Rev. Stat. §§ 86-465 (2)(a-d) (emphasis added).

⁶ 47 U.S.C. § 615a-1(f)(1).

contrary to law. In a report submitted to Congress, the FCC stated that generally, “funds used to support public safety radio systems, including maintenance, upgrades, and new system acquisitions, are not 911-related within the meaning of the NET 911 Act and therefore constitute a diversion of 911 funds.”⁷

When consumers pay their 911 surcharges, their expectation is that their money is going towards the purpose their bill indicates. Though radio equipment and other technology may help public safety services, it is contrary to law to fund such expenditures through 911 surcharges. Accordingly, the Commission must ensure that it implements eligibility requirements for the 911 Service System Fund that are narrowly tailored to ensure that all disbursements are used only to implement and improve the state’s Next Generation 911 system or compensate wireless carriers for E911 deployment expenses.

II. THE COMMISSION SHOULD CONTINUE TO ALLOCATE WIRELESS SURCHARGE REMITTANCES TO WIRELESS PROVIDERS TO SUPPORT 911 IN NEBRASKA

The Order also asks if it is appropriate “to continue to allocate a proportion of wireless surcharge remittances to wireless service providers.”⁸ Both from a legal and policy perspective, the answer is assuredly yes.

The Nebraska statute is clear that wireless carriers are eligible for funding from the 911 Service System Fund for their costs to implement enhanced 911 service.⁹ Furthermore, this funding is an important source for wireless providers in Nebraska to implement and improve

⁷ FCC, Eleventh Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges for the Period January 1, 2018 to December 31, 2018 (Dec. 19, 2019) at 39 (2019), *available at* <https://www.fcc.gov/files/11thannual911feereport2019pdf> (last accessed May 21, 2020).

⁸ Order at Question 5.

⁹ *See* Neb. Rev. Stat. § 86-465 (1)(e) (“The commission shall, in consultation with the advisory board... Establish a mechanism for determining the level of funding available to each public safety answering point and wireless carrier for costs determined to be eligible by the commission under subsection (2) of this section”) (emphasis added).

their enhanced 911 service capabilities. Given that wireless consumers are by far the largest contributors to the Fund, it is sound policy for the Commission to promote improvements to 911 capabilities both for PSAPs *and* wireless providers.

For those reasons, the Commission should continue to allow wireless carriers to draw from the Fund for the provision of enhanced wireless 911 service.

III. THE SSAC'S RECOMMENDATION, WHICH WOULD HAVE A MATERIAL IMPACT ON WIRELESS PROVIDERS, APPEAR TO HAVE BEEN GENERATED WITHOUT THEIR INPUT

As CTIA has noted on multiple occasions before the Commission, an effective and efficient Next Generation 911 transition plan requires, among other things, feedback from all stakeholders, sufficient transparency, and a concerted effort to minimize the burden on Nebraska ratepayers.¹⁰ The Order puts forward a number of “SSAC Funding Working Group Recommendations” that would have a material impact on wireless providers and consumers.¹¹ Yet though the emphasis of the Order is on wireless surcharges, it does not appear that any wireless provider feedback was gathered prior to the recommendations being issued. To the best of CTIA’s knowledge, no mobile wireless providers were a part of the SSAC, nor were the SSAC’s meetings open to the public, and minutes of the group’s meetings were not made publicly available.

The wireless industry appreciates the opportunity to provide input to the Commission. However, CTIA suggests that the Commission’s processes could be improved by including mobile wireless providers during the proposal development stage in the future. Doing so will

¹⁰ See, e.g., Comments of CTIA, App. Nos. 911-067/PI-208 (Aug. 11, 2017); Comments of CTIA Following October 5, 2017 Hearing, App. Nos. 911-067/PI-208 (Oct. 12, 2017); Comments of CTIA in Response to the Hearing Officer Order Regarding Written Comments, App. No. 911-068/PI-215 (Jul. 13, 2018); Comments of CTIA in Response to the Order Requesting Comments, App. No. 911-042.50 (Sep. 11, 2018).

¹¹ See Order at Appendix A.

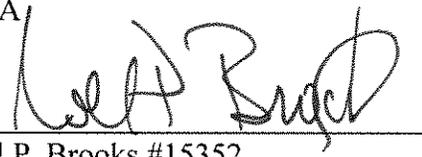
ensure that *all* stakeholders have ample opportunity to be heard throughout the Commission's process rather than limiting certain stakeholders to providing input only towards the end of the process.

IV. CONCLUSION

CTIA looks forward to working collaboratively with the Commission to help ensure an efficient and effective Next Generation 911 funding process.

Respectfully submitted,

CTIA

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CERTIFICATE OF SERVICE

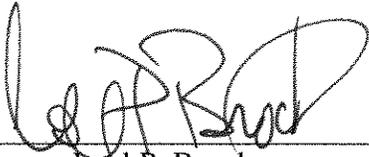
The undersigned hereby certifies that on this 5th day of June, 2020, one original and one electronic copy of the Comments of CTIA in Application No. 911-073/PI-232 were mailed to the Nebraska Public Service Commission, 1200 N Street, Suite 300, Lincoln NE and a copy of the same has been e-mailed to the following:

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