



State 9-1-1 Coordination Board

Department of Public Safety - Office of Emergency Management

118 West Capitol Avenue
Pierre, South Dakota 57501-2000

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NENA*

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*SD Department of
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State Coordinator:

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March 16, 2010

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **PS Docket No. 09-14**
Information Collection Mandated By
The New and Emerging Technologies (NET)
Improvement Act of 2008

Dear Ms. Dortch,

My office received a copy of the letter directed to Governor M. Michael Rounds from James Arden Barnett, Jr., Chief of the Public Safety and Homeland Security Bureau, requesting specific information relating to the Commission's obligations under Section 6(f)(2) of the NET 911 Act.

Enclosed herewith is an original and four copies of South Dakota's response to each specific information request. A copy also has been served on the Commission's copy contractor.

We request that a copy of the final report compiled for Congress be sent to us for our records at the address shown above.

Please contact me for any clarification on South Dakota's information.

Sincerely,

Lee Axdahl
9-1-1 Coordinator

c: Governor M. Michael Rounds
Neil Fulton, Chief of Staff to Governor
Tom Dravland, Secretary – Department of Public Safety
Kristi Turman, Director – Office of Emergency Management
Ted Ruffedt, Jr., Chairperson – 9-1-1 Coordination Board

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

In the Matter of:)
)
Information Collection)
Mandated By The New and Emerging) OMB Control Number 3060-1122
Technologies Improvement Act of 2008)
By The State of South Dakota)

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

Introduction

The information provided herein is consistent with Section 101 of the New and Emerging Technologies 911 Improvement Act of 2008 {hereinafter "NET 911 Act"} which became law on July 23, 2008.

Section 101 of the NET 911 Act requires the Federal Communications Commission {hereinafter "Commission"} to collect information regarding any fees collected by the states or other jurisdictions in connection with 911/E911 services, specifically, information "detailing the status in each State of the collection and distribution of such fees or charges, and including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any such fees or charges are specified."

Pursuant to OMB authorization, and a written request prepared and delivered to the Office of the Governor of South Dakota, the Tribal Government of each South Dakota Native American Reservation and copied to the South Dakota Secretary of State, the South Dakota Public Utilities Chairperson, and the South Dakota 911 Coordinator, the following responses are offered by the State of South Dakota.

Specific Information Requests and Answers

1. *A statement as to whether or not the state or other entity 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⁽¹⁾ in the state is liable for the applicable 911 emergency surcharge pursuant to

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

All prepaid wireless telecommunications service providers shall remit the applicable 911 emergency surcharge for each active prepaid wireless telecommunications 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 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, 2009.*

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 establish their surcharge amount up to the maximum permitted by 34-45-4. With the exception of prepaid wireless service fees, which are collected by the State of South Dakota and not the counties, all other 911/E911 surcharges are collected and disbursed by local governing bodies.

The total amount collected for the period ending December 31, 2009, will not likely be available for review until sometime in late 2010.

The State of South Dakota respectfully suggests to the Commission that a data request made in February and due for return in March does not allow for the accurate collection and compilation of fees and surcharges collected through the end of December in the previous calendar year.

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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 centers 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..."

3. *A statement describing how the funds collected are made available to localities, and whether the state has established written criteria regarding the allowable uses of the collected funds, including the legal citation to such criteria.*

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

Written criteria regarding allowable uses of the funds can be found in Chapter 50:02:04 of South Dakota Administrative Rules. This chapter contains administrative rules for public safety answering points.

4. *A statement identifying any entity in the 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 South Dakota 9-1-1 Coordination Board has the statutory authority in 34-45-20(6) to collect such information⁽⁴⁾ as outlined by this request.

5. *A statement whether all the funds collected for 911 or E911 purposes were made available or used for the purposes 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 will make this determination after reviewing financial information it has yet to collect. A determination will be made in late 2010 with regard to financial information gathered from 2009.

6. *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.*

The South Dakota 9-1-1 Coordination Board cannot provide this information for the requested financial period as it has not yet collected that data.

(4) 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. *Any other comments the respondent may wish to provide regarding the applicable funding mechanism for 911 and E911.*

The State of South Dakota recognizes the need to collect and analyze financial information as it relates to the emergency reporting system. That recognition created the South Dakota 9-1-1 Coordination Board in 2008.

However, much of the information requested by the Commission is for a reporting period from which the Coordination Board has little or no data. Unlike many states, South Dakota allows its counties to collect the emergency surcharge which slows down the data collection process.

With these facts in mind, South Dakota is taking the necessary steps to ensure 911 and E911 funds are collected and spent in the manner intended by statute.

Summary

Should you need further information or clarification of the facts presented herein, please contact me or our South Dakota 9-1-1 Coordinator, Lee Axdahl, at the address shown below.

Respectfully Submitted,

SOUTH DAKOTA 9-1-1 COORDINATION BOARD



Ted Ruffedt, Jr.
Chairperson
South Dakota 9-1-1 Coordination Board
118 West Capitol Avenue
Pierre SD 57501

March 5, 2010