STATE 9-1-1 COORDINATION BOARD
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State 9-1-1 Coordinator
Shawnie Rechtenbaugh
SD Department of Public Safety

July 27, 2012

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 Dennis Daugaard 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.

Attached hereto is South Dakota's response to each specific information request.

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,

Shawnie Rechtenbaugh

Shawnie Rechtenbaugh
State 9-1-1 Coordinator

cc: Governor Dennis Daugaard
Trevor Jones, Secretary – Department of Public Safety
Ted Rufledt, 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	)	PS Docket No. 09-14
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 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[1] in the state be 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, 2011.*

SDCL 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. State law, therefore, permits governing bodies to establish a 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, 2011, is approximately $8.2 million. This figure is based on financial reports provided by the counties which have not been audited as of the dates of this submission. The exact amount of surcharge collections for calendar year 2011 will not be known until an audit of all 66 counties is conducted.

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.

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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..."

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; and a statement describing enforcement or other corrective actions undertaken in connection with such oversight, for the annual period ending December 31. 2011.*

   The South Dakota 9-1-1 Coordination Board ("Board") has the statutory authority in 34-45-20(6) to collect information such as that outlined by this request. Moreover, pursuant to administrative rule, all counties/municipalities that collect the 911 surcharge must report annually to the Board regarding revenues and expenditures of the 911 surcharge.

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, in conjunction with the Department of Legislative Audit review the expenditures of each entity that collects the 9-1-1 surcharge. SDCL 34-45-4 outlines the use of the 9-1-1 surcharge as being restricted to the implementation and support of the 9-1-1 system.

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 State of South Dakota did not expend any funds collected for 911 or E911 for purposes other than the ones designated by the funding mechanism or otherwise allowable pursuant to state law. Additionally, the state is not aware of any political subdivisions expending 911 or E911 funds for purposes unrelated to 911 or E911 implementation or support.

7. *A statement identifying with specificity all activities, programs, and organizations for whose benefit the state, or political subdivision thereof, has obligated or expended funds collected for 911 or D911 purposes and how these activities, programs, and organizations support 911 and E911 services or enhancements of such services.*

   SDCL 34-45-18 established the South Dakota 911 Coordination Board. The 911 Coordination Board is charged with, among other things, setting the allowable expenditures of the 911 emergency surcharge proceeds

collected pursuant to 34-45-4. SDCL 34-45-4 states that "Any prepaid wireless telecommunications service provider shall remit the 911 emergency surcharge for each active prepaid wireless telecommunication service user account to the South Dakota 911 coordination fund. The proceeds of the South Dakota 911 coordination fund are continuously appropriated for reimbursement of allowable nonrecurring and recurring costs of 911 service and operating expenses of the board." To distribute the proceeds collected in the 911 coordination fund, the Board created a grant program to provide financial assistance to PSAPs that need help in funding non-recurring costs necessary to achieve or maintain compliance with the standards set out in Administrative Rules of South Dakota related to General Operational Standards, Call Taking Standards, Communication with Field Units, Facilities and Equipment, and Technical Standards.

8. *A statement regarding whether the state classifies expenditures on Next Generation 911 as within the scope of permissible expenditures of funds for 911 or E911 purposes, whether the state has expended such funds on Next Generation 911 programs, and if so, how much the state has expended in the annual period ending December 31, 2011 on Next Generation 911 programs.*

The 911 Coordination Board is working to move 911 in South Dakota to a Next Generation 911 system. SDCL 34-45-20 outlines the Board duties, which includes, "(2) Develop plans for the implementation for a uniform statewide 911 system covering the entire state or so much as is practicable;" and "(4) Develop criteria and minimum standards for operating and financing public safety answering points or systems." During 2011 the Board did not expend funds on Next Generation 911 programs, but the board has plans to develop and release a NG911 Request for Proposals in latter 2012 or 2013.

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

None at this time.

Summary

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

Respectfully Submitted,

SOUTH DAKOTA 9-1-1 COORDINATION BOARD

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

July 27, 2012