

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
911 Fee Diversion)	PS Docket No. 20-291
)	
New and Emerging Technologies 911 Improvement Act of 2008)	PS Docket No. 09-14
)	

COMMENTS OF APCO INTERNATIONAL

The Association of Public-Safety Communications Officials-International, Inc. (APCO),¹ offers the following comments in response to the Notice of Proposed Rulemaking in the above-captioned proceeding.² The Commission seeks comment on proposals to implement section 902 of the Consolidated Appropriations Act which requires the Commission, among other things, to issue final rules designating the acceptable uses of 9-1-1 fees by states and other jurisdictions that support the provision of 9-1-1 services and to establish an interagency strike force to study how the federal government can end the diversion of 9-1-1 fees.³ As the Commission works to incorporate this congressional directive and take action to address fee diversion, APCO encourages the Commission to focus on the overall sufficiency of 9-1-1 funding and ensuring that emergency communications centers (ECCs) have the resources they need.

As APCO has explained, 9-1-1 fee diversion is a harmful practice that exacerbates significant challenges facing ECCs.⁴ When funding is designated to support 9-1-1, it should be

¹ Founded in 1935, APCO is the nation’s oldest and largest organization of public safety communications professionals. APCO is a non-profit association with over 35,000 members, primarily consisting of state and local government employees who manage and operate public safety communications systems – including 9-1-1 Emergency Communications Centers (ECCs), emergency operations centers, radio networks, and information technology – for law enforcement, fire, emergency medical, and other public safety agencies.

² 911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008, PS Docket Nos. 20-291, 09-14, *Notice of Proposed Rulemaking*, FCC 21-25 (Feb. 17, 2021) (“NPRM”).

³ *Id.* at paras. 1, 8 (citing Consolidated Appropriations Act of 2021 § 902).

⁴ *See e.g.*, Comments of APCO International, PS Docket Nos. 20-291, 09-14 (filed Jan. 7, 2021).

expended in support of 9-1-1. However, the most important goal in addressing fee diversion, from a public safety perspective, is ensuring that 9-1-1 has the funding it needs.

The Commission seeks comment on how to effectively gather information on the impact of any underfunding of 9-1-1 services.⁵ The law requires the Commission, for submission to the strike force and in future annual reports, to include “any information regarding the impact of any underfunding of 9-1-1 services.”⁶ This language demonstrates Congress’s intent to understand how *any* underfunding, not just underfunding as a result of diversion, is impacting 9-1-1 service across the country. Therefore, to satisfy Congress’s intent, the Commission should take a broad approach to investigating and analyzing the extent to which 9-1-1 is underfunded and the impacts of underfunding on emergency response.

Sufficient funding is needed to keep agencies fully staffed and trained, keep equipment and technology up to date and secure, and help public safety telecommunicators best meet the public’s expectations when carrying out their life-saving missions. Using the strike force and annual reports to better understand the relationship between funding for 9-1-1 and emergency response will produce helpful information for public safety agencies and serve the Commission’s and Congress’s goal of discouraging fee diversion while looking at the bigger picture of the extent of underfunding regardless of the source.

The Commission seeks comment on its proposed lists of acceptable and not acceptable purposes and functions for the obligation or expenditure of 9-1-1 fees or charges.⁷ While important, evaluating whether expenditures fit a particular definition of acceptable purposes and functions and labeling states as diverters if their expenditure was not included in a pre-approved

⁵ NPRM at para. 34 (noting that sections 902(d)(1) and 902(d)(2) require such information be provided to the strike force and included in future annual reports, respectively).

⁶ Sections 902(d)(1-2).

⁷ NPRM at paras. 22-25.

list does not necessarily align with the broader goal of ensuring the adequacy of funding for 9-1-1 because:

- The total cost of providing 9-1-1 service far exceeds the revenue collected from phone bill fees.⁸
- Not all states have established a dedicated funding mechanism for 9-1-1⁹ which means they could not be labeled as a “diverter” regardless of whether governance and funding mechanisms are in place to adequately support 9-1-1.
- State-level reports might not accurately reflect expenditures at the local level.¹⁰
- State legislative reforms might eliminate “diversion” without altering funding levels for 9-1-1. For example, if fee diversion is eliminated but contributions to 9-1-1 from a state’s general revenue fund or other sources are commensurately decreased, legislative reform might not be the panacea it seems.

APCO appreciates the Commission’s quick work to implement the statutory mandate and looks forward to supporting its ongoing efforts to address 9-1-1 funding.

Respectfully submitted,

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⁸ Twelfth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges, PS Docket No. 09-14, paras. 2, 12 (Dec. 8, 2020) (“Twelfth Report”) (noting that for the states and territories that provided data, the total cost of providing 9-1-1 service exceeded \$5 billion while approximately \$3 billion was collected in 9-1-1 fees). This difference is particularly stark when considering the cost to transition ECCs to Next Generation 9-1-1 is \$15 billion. According to the Public Safety Next Generation 9-1-1 Coalition, funding in the amount of \$15 billion is needed to “ensure NG9-1-1 is deployed throughout the country in an effective, innovative, and secure manner and to enable NG9-1-1 implementation training nationwide.” *See* First Principles of the Public Safety NG9-1-1 Coalition, Public Safety Next Generation 9-1-1 Coalition, <https://ng-911coalition.org/> (last visited Mar. 16, 2021).

⁹ *See, e.g.*, Twelfth Report at para. 4 n.11 (explaining that American Samoa does not collect any 9-1-1 fees on phone service, and instead funds 9-1-1 service 100% out of its General Fund). *See also id.* at para. 13 n.38 (explaining that for Nevada, where certain local jurisdictions filed individual responses rather than the state, not every local jurisdiction had established a funding mechanism).

¹⁰ *See* 911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008, PS Docket Nos. 20-291, 09-14, *Notice of Inquiry*, 35 FCC Rcd 11010, para. 32 (rel. Oct. 2, 2020) (citing CTIA Comments, PS Docket No. 09-14, at 6-7 (filed Feb. 8, 2019)).

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