

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

In the Matter of)
)
Tenth Annual Report to Congress on State) PS Docket No. 09-14
Collection and Distribution of 911 and)
Enhanced 911 Fees and Charges)

COMMENTS OF APCO INTERNATIONAL

The Association of Public-Safety Communications Officials-International, Inc. (APCO)¹ submits the following comments in response to the Public Notice in the above-captioned proceeding.² APCO appreciates the Commission’s efforts, consistent with the NET 911 Act, to ensure efficiency, transparency, and accountability in the collection and expenditure of a fee or charge for the support or implementation of 9-1-1 service.³ 9-1-1 fee diversion is a harmful practice that must end. It exacerbates significant funding, staffing, and technology challenges facing Emergency Communications Centers (ECCs).

The annual reports are helpful for providing insight into the nation’s 9-1-1 ecosystem and combatting fee diversion,⁴ but as APCO has previously commented, the Commission could make

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 31,000 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 FCC Seeks Public Comment on Tenth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges, PS Docket No. 09-14, *Public Notice*, DA 18-1271 (rel. Dec. 19, 2018) (“Notice”).

³ Tenth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges, PS Docket No. 09-14, at para. 3, (Dec. 17, 2018) (“Tenth Report”) (citing New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, § 101(2) (2008)).

⁴ Commissioner O’Rielly has done a commendable job of using the reports to spur non-filing states to provide information and even to obtain commitments not to divert funds collected for 9-1-1. *See* Commissioner Michael

the reports more useful.⁵ For the eleventh and subsequent annual reports on 9-1-1 fee collection and expenditure, the Commission should revise the information collection questionnaire consistent with APCO's suggestions.⁶

Here, APCO responds to the Commission's inquiry on the adequacy of NG9-1-1 expenditures, and offers suggestions for making the reports more useful for understanding what constitutes fee diversion and tracking progress toward NG9-1-1.

I. Funding for NG9-1-1

The Commission seeks comment on the adequacy of the reported NG9-1-1 expenditures and, noting that some states reported no expenditures on NG9-1-1, the impact of inadequate spending.⁷ As the report makes evident, 9-1-1 fees alone are insufficient for ongoing 9-1-1-related expenses in the majority of states, and certainly fall short of what's needed to achieve NG9-1-1.⁸ Public safety telecommunicators perform difficult, lifesaving work and deserve to have the best tools available to do their jobs. Ending fee diversion, while essential, will not ensure ECCs have the resources they need. Significant federal funding is necessary to modernize the nation's 9-1-1 systems and could provide the additional benefit of serving as a compelling deterrent to fee diversion.

O'Rielly, Status Update: Fixing 9-1-1 Fee Diversion, FCC Blog, available at <https://www.fcc.gov/news-events/blog/2018/11/29/status-update-fixing-9-1-1-fee-diversion>.

⁵ See Comments of APCO, PS Docket No. 09-14 (filed Mar. 9 2018); Comments of APCO, PS Docket No. 09-14 (filed Feb. 13, 2017); Comments of APCO, PS Docket No. 09-14 (filed Feb. 8, 2016).

⁶ Should the Commission be unable to revise the questionnaire in advance of the 2021 expiration of OMB authorization, the agency should instead consider providing additional guidance to increase the usefulness of responses received.

⁷ Notice at 2. Specifically, the Commission seeks comment on "the impact of this failure to prepare for impending communications-sector IP technology transition, including the impact on commercial providers and on consumers and communities." APCO looks forward to reviewing the comments received in response to this inquiry, particularly with regard to the impact on ECCs and public safety telecommunicators who, due to lack of funding and interoperable solutions, will continue to rely on outdated technology while the divide between their capabilities and consumer expectations increases.

⁸ See Tenth Report at para. 24, describing how states augment 9-1-1 fees with other sources of funding.

II. Determining Whether 9-1-1 Fees Have Been Diverted

States need clear notice about what constitutes fee diversion in order to appropriately document and combat the practice. The Commission’s report explains that the requisite nexus to 9-1-1 includes expenditures that “(1) support PSAP functions or operations, (2) have a reasonable nexus to PSAPs’ ability to receive 911 calls and/or dispatch emergency responders, or (3) relate to communications infrastructure that connects PSAPs (or otherwise ensures the reliable reception and processing of emergency calls and their dispatch to first responders).”⁹ Nonetheless, disagreements over what constitutes diversion persist.¹⁰

APCO generally supports the Commission’s fee diversion analyses, but further guidance is needed. For example, the Commission has “generally determined that funds used to support public safety radio systems... are not 911-related,” but that expenditures to integrate radio systems with 9-1-1 could be 9-1-1-related where sufficient documentation is provided.¹¹ While APCO agrees with this particular guidance, it may be helpful for the Commission to provide specific examples of what constitutes fee diversion in advance of future information collections, for example, by including a record of its previous determinations and descriptions of how states have demonstrated that an expenditure is “911-related.”

III. Understanding Progress Toward NG9-1-1

The Commission’s annual questionnaire asks several questions related to NG9-1-1 services and expenditures.¹² The report’s information on NG9-1-1 could be made more useful by providing a comprehensive understanding of what constitutes NG9-1-1, how states are ensuring interoperability, and the approaches being taken to achieve NG9-1-1 capabilities.

⁹ *Id.* at para. 40.

¹⁰ *See id.* at paras. 31-37.

¹¹ *See id.* at paras. 26, 37.

¹² *Id.* app. D at 118-120.

NG9-1-1 is an end-to-end IP-based ecosystem enabling voice communications, multimedia, and other data capabilities to flow from the 9-1-1 caller to the ECC and be properly reported, archived, and further transmitted between ECCs and with field responders. Put more plainly, achieving NG9-1-1 means a member of the public can send a photo to 9-1-1, and the ECC is capable of receiving, processing, and analyzing the data, then sharing the incident-related information with other ECCs or field responders to render an emergency response. Further, ECCs should be able to dynamically share resources and reroute calls, which is particularly valuable during high call volume periods and major disasters affecting ECC operations. These capabilities depend on interoperability.

APCO remains focused on ensuring that interoperability is inherent to NG9-1-1, regardless of jurisdiction, device, software, or service provider, etc., and without the need for costly after-the-fact integrations or specialized interfaces. Unfortunately, little has changed since APCO's previous comments, which cited a finding by the Government Accountability Office that 9-1-1 officials have reported that differences in equipment, software, applications, or service providers can make connecting with neighboring jurisdictions difficult.¹³ By clearly defining NG9-1-1 and requesting information about how states are ensuring interoperability, the Commission's reports will better illustrate the progress toward achieving interoperable NG9-1-1 services across each of the states.

Similarly, having more detailed information about states' approaches to NG9-1-1 would be helpful. For example, rather than asking respondents to describe the type and number of ESInets operated, the Commission should ask about the nature and functions provided by NG9-1-1 solutions adopted by the state. This could include information such as ESInet

¹³ U.S. Gov't Accountability Office, GAO-18-252, Next Generation 911: National 911 Program Could Strengthen Efforts to Assist States, 15-16 (2018).

deployment and use, cloud-based call handling or dispatch services, real-time text solutions, etc.¹⁴ More detailed information would help capture innovative, diverse, and “non-traditional” architectural and technological NG9-1-1 solutions that vendors or states are deploying, and better illustrate actual NG9-1-1 progress for states and policymakers. States considering their own options for achieving NG9-1-1 would then benefit from information about the approaches early adopters are taking. Further, more detailed information about NG9-1-1 expenditures could help identify costs that are being imposed upon, or unnecessarily assumed by, 9-1-1 authorities that the Commission’s rules might otherwise impose, or should impose, upon service providers.¹⁵

Finally, the Commission should collect and report more detailed information on the “other” service types for 9-1-1 calls, meaning not identified as wireline, wireless, or VoIP calls.¹⁶ As technology evolves and provides new methods for contacting 9-1-1, these “other” types of calls could have implications for public safety telecommunicators’ and callers’ experience during an emergency. For example, an upward trend in real-time text 9-1-1 calls will likely warrant technology and training changes for ECCs.

Respectfully submitted,

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¹⁴ For example, is the ESInet limited to mobile origination networks? Is the system limited to VoIP traffic, or is it capable of handling multimedia, etc.?

¹⁵ ECCs are already facing questions about how to apply the Commission’s rules for a next generation environment. As states continue modernizing 9-1-1 systems, further questions will likely arise related to demarcation points, the cost of receiving location information with 9-1-1 calls, and a host of other issues.

¹⁶ See Tenth Report at para. 11, Table 3.

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