

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review )  
of Chapter 4901:1-8, of the Ohio )  
Administrative Code, 9-1-1 Service ) Case No. 12-2055-TP-ORD  
Program. )

ENTRY

The Commission finds:

- (1) Section 119.032, Revised Code, requires all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. The Commission has established this docket in order to conduct an evaluation of the 9-1-1 Service Program rules codified in Chapter 4901:1-8, Ohio Administrative Code (O.A.C.), as required by Section 119.032, Revised Code.
- (2) Additionally, in accordance with Section 121.82, Revised Code, in the course of developing draft rules, the Commission must evaluate the rules against the business impact analysis. If there will be an adverse impact on businesses, as defined in Section 107.52, Revised Code, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Furthermore, the Commission is required, pursuant to Section 121.82, Revised Code, to provide the Common Sense Initiative (CSI) office the draft rules and the business impact analysis. The Commission is to consider any recommendations made by CSI with regard to the draft rules and provide CSI with a memorandum explaining either how CSI's recommendations were incorporated into the rules or why the recommendations were not incorporated into the rules. The Commission has considered the current rule review procedures and revised them to incorporate the new CSI process.
- (3) By entry issued on August 1, 2012, the Commission scheduled a workshop to be held at the offices of the Commission on September 6, 2012, to elicit feedback on any proposed revisions to the rules which Commission Staff (Staff) may have and permit stakeholders to propose their own revisions to the rules for Staff's consideration.
- (4) The workshop was held as scheduled, however, no stakeholder comments were offered at that time.

- (5) Staff has evaluated the rules contained in Chapter 4901:1-8, O.A.C., and recommends amendments to several rules. Specifically, Staff recommends modifications to Rules 4901:1-8-01 (definitions), 4901:1-8-02 (general provisions), 4901:1-8-04 (records), and 4901:1-8-05 (reporting), O.A.C. The modifications consist of updating the definitions of incumbent local exchange carrier, wireless service, and wireless service provider with more current definitions or cites that were incorporated recently in Chapter 4901:1-6, O.A.C. In addition, the Commission's waiver language contained in the general provisions rule is amended to be consistent with other O.A.C. chapters. Finally, the rules concerning recordkeeping and reporting have been updated to replace the references to Chapter 4901:1-5, O.A.C., which have been repealed, with references to Chapter 4901:1-6, O.A.C. Staff's proposed changes to Chapter 4901:1-8, O.A.C., as well as the business impact analysis for this package of rules, are attached to this entry as Attachments A and B, respectively.
- (6) In order to avoid needless production of paper copies, the Commission will serve a paper copy of this entry only and will make Staff's proposed changes to Chapter 4901:1-8, O.A.C., as well as the business impact analysis for this package of rules, available online at: [www.puco.ohio.gov/puco/rules](http://www.puco.ohio.gov/puco/rules). All interested persons may download the proposed rules and the business impact analysis from the above website, or contact the Commission's Docketing Division to be sent a paper copy.
- (7) The Commission requests comments from interested persons to assist in the review required by Section 119.032(C), Revised Code, and Executive Order 2011-01K. Comments on the draft rules and/or on the business impact analysis contained in Attachments A and B, respectively, should be filed, either via electronic filing or in hard copy, by October 10, 2012. Reply comments should be filed by October 17, 2012.

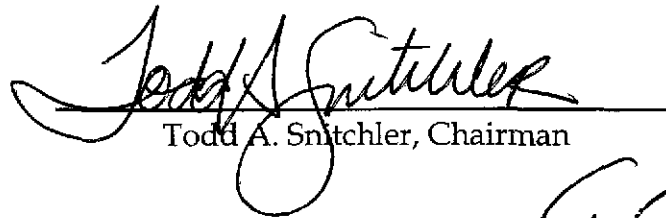
It is, therefore,

ORDERED, That all interested persons file comments on the proposed rule changes and business impact analysis contained in Attachments A and B, respectively, by October 10, 2012, and file reply comments by October 17, 2012. It is, further,

ORDERED, That a copy of this entry without the attached rules or business impact analysis be served upon all regulated telephone companies, including all

registered wireless carriers and all competitive emergency services telecommunications carriers, the Ohio Telecom Association, the Office of the Ohio Consumers' Counsel, the Ohio 9-1-1 Council, the Ohio 9-1-1 Advisory Board, the Ohio Association of Public-Safety Communications Officials, the Ohio National Emergency Number Association, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Todd A. Snitchler, Chairman

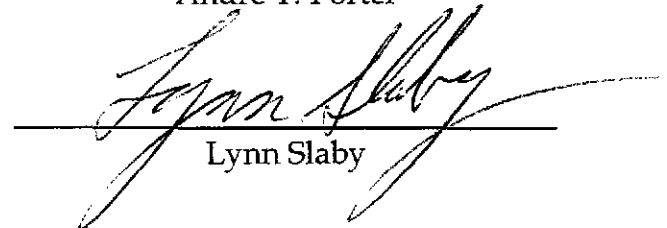
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Steven D. Lesser



Andre T. Porter



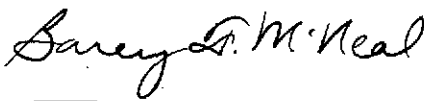
Cheryl L. Roberto



Lynn Slaby

JML/dah

Entered in the Journal  
**SEP 26 2012**



Barcy F. McNeal

Barcy F. McNeal  
Secretary

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Attachment A  
Staff's Proposed Amendments for Chapter 4901:1-8  
9-1-1 Service Program  
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**4901:1-8-01 Definitions.**

As used within this chapter:

- (A) "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1.
- (B) "Automatic location identification (ALI)" means the address/location of the telephone from which a call originates and supplementary emergency services information.
- (C) "Automatic number identification (ANI)" means the telephone number associated with the access line from which a call originates.
- (D) "Competitive local exchange carrier (CLEC)" means any facilities-based and nonfacilities-based local exchange carrier that was not an incumbent local exchange carrier on the date of enactment of the Telecommunications Act of 1996 (1996 act) or is not an entity that, on or after such date of enactment, became a successor, or assign of an incumbent local exchange carrier.
- (E) "E9-1-1 database" means the database maintained by each service provider which provides end user telephone number and location information for the initial load and ongoing updates to the ALI database held by the database management system provider.
- (F) "Enhanced 9-1-1 system service provider (SSP)" means a provider of systems and support necessary to enable wireline 9-1-1 calling for one or more PSAPs in a specific geographic area. Services include, but are not limited to:
  - (1) A method of interconnection for all telecommunication providers into the 9-1-1 system.
  - (2) A method to provide selective routing and location information for an emergency caller to a PSAP through management of a 9-1-1 database and, if required, to other emergency response agencies.
- (G) "Incumbent local exchange carrier (ILEC)" shall have the meaning set forth in

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~~division (A)(5) of section 4927.01 of the Revised Code, with respect to any area, means any facilities-based local exchange carrier that:~~

- ~~(1) (1) On the date of enactment of the 1996 act, provided basic local exchange service in such area.~~
- ~~(2) (2) On the date of enactment, was deemed to be: (a) a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b), as effective on November 1, 2006; or (b) a person or entity that, on or after such date of enactment, became a successor or assignee of a member described in this paragraph.~~
- (H) "Ohio 9-1-1 coordinator" is a public official, located within the public utilities commission and created under section 4931.60 of the Revised Code, who is charged with carrying out the duties described in section 4931.60 of the Revised Code.
- (I) "Ohio wireless 9-1-1 surcharge" means a monthly charge, identified in section 4931.61 of the Revised Code, imposed on each wireless telephone number of wireless service subscribers within Ohio, and utilized for the implementation of countywide wireless enhanced 9-1-1.
- (J) "Outage" means a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communication provider's network.
- (K) "Outbound emergency notification message" means the outbound telephonic notification alert distributed to wireline end users, which relates details regarding a public emergency event in the affected geographically defined area.
- (L) "Outbound emergency notification messaging system" means a system which performs an outbound emergency notification message to wireline telephone end users, utilizing information obtained from a database that holds end user records supplied by a wireline telephone company and serves the PSAP of a 9-1-1 system established under sections 4931.40 to 4931.70 of the Revised Code.
- (M) "Public safety answering point (PSAP)" means a facility to which 9-1-1 system

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calls for a specific territory are initially routed for response and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.

- (N) "User minutes" means the mathematical result of multiplying the duration of an outage expressed in minutes, by the number of end users potentially affected by the outage.
- (O) "Wireless enhanced 9-1-1" means enhanced wireless 9-1-1, as described in 47 C.F.R. 20.18(d) to (h), as effective November 1, 2006, that, has the capabilities of wireless phase I service and, to the extent available, wireless phase II service.
- (P) "Wireless 9-1-1 government assistance fund" is a custodial fund, created under division (B) of section 4931.63 of the Revised Code, utilized for the remittance of moneys collected by the wireless service providers and resellers under section 4931.61 of the Revised Code, and for disbursements to counties for the implementation of wireless enhanced 9-1-1.
- (Q) "Wireless phase I service (phase I)" means the delivery of a wireless 9-1-1 call with callback number and identification of the cell tower from which the call originated.
- (R) "Wireless phase II service (phase II)" means the delivery of a wireless 9-1-1 call with phase I requirements and the location coordinates of the caller.
- (S) "Wireless service" shall have the meaning set forth in division (A)(17) of section 4927.01 of the Revised Code.~~means a federally licensed commercial mobile service as defined in 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3, effective as of November 1, 2006, and includes service provided by any wireless, two-way communications device, including a radio telephone communications line used in cellular telephone service or personal communications service, a network radio access line, or any functional or competitive equivalent of such a radio telephone communications or network radio access line.~~
- (T) "Wireless service provider" shall have the meaning set forth in division (A)(18)

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~~of section 4927.01 of the Revised Code, means a facilities-based provider of wireless service to one or more end users in this state.~~

- (U) "Wireless service reseller" means a nonfacilities-based provider of wireless service to one or more end users in this state.
- (V) "Wireline service provider" means a facilities-based or nonfacilities-based provider of wireline service to one or more end users in this state.

**4901:1-8-02 General provisions.**

- (A) This chapter of the Administrative Code does not apply to paging or any service that can not be used to call 9-1-1.
- (B) The public utilities commission may, upon ~~its own~~ an application or a motion or for good cause shown filed by a party, waive any requirement of , standard, or rule set forth in this chapter, other than a requirement mandated by statute, for good cause shown.

**4901:1-8-03 Accounting. "No Change"**

- (A) In the collection, retention, and remittance of wireless funds identified under sections 4931.61 and 4931.62 of the Revised Code, each wireless service provider and reseller shall keep their books, accounts, and records in accordance with generally accepted accounting principles, as prescribed by the "U.S. Financial Accounting Standards Board."
- (B) In submitting funds collected under section 4931.61 of the Revised Code, to the Ohio 9-1-1 coordinator, each wireless service provider and reseller, as prescribed by the Ohio 9-1-1 coordinator, shall:
  - (1) Remit funds for deposit to the wireless 9-1-1 government assistance fund on a monthly basis.
  - (2) Complete and submit to the Ohio 9-1-1 coordinator a remittance form that includes:
    - (a) The name of the submitting wireless service provider or reseller.

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- (b) The name of the submitting entity, if different from paragraph (B)(2)(a) of this rule.
  - (c) The complete mailing address of the submitting wireless service provider or reseller.
  - (d) A contact name and phone number for the submitting wireless service provider or reseller.
  - (e) The date the fees are submitted.
  - (f) The month the fees were assessed in.
  - (g) The total fees assessed to end users.
  - (h) The total fees collected by the wireless service provider or reseller.
  - (i) The total fees retained by the wireless service provider or reseller.
  - (j) The total fees submitted to the public utilities commission.
  - (k) An explanation of any discrepancy between paragraphs (B)(2)(g) and (B)(2)(h) of this rule.
- (C) Each wireless service provider and reseller who experiences a five per cent semiannual decrease in the gross remittance of the Ohio wireless 9-1-1 surcharge, submitted to the public utilities commission as required under section 4931.62 of the Revised Code, shall provide a written report to the Ohio 9-1-1 coordinator. The reporting periods shall include January one to June thirtieth and July one to December thirty-one of each year. The report shall be made to the Ohio 9-1-1 coordinator within thirty days of the end of the period. The report shall include:
- (1) Any information the wireless service provider or reseller may possess regarding the decrease in remittances.
  - (2) A detailed accounting of the number of Ohio end users held by the wireless service provider during the affected months, the total amount of the Ohio



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wireless 9-1-1 surcharge assessed to those end users, the total collections of the Ohio wireless 9-1-1 surcharge received from those end users, the total of the Ohio wireless 9-1-1 surcharge uncollected from those end users, and the amount of the Ohio wireless 9-1-1 surcharge paid by the wireless service provider on behalf of those end users the wireless service provider failed to collect from.

- (D) In accordance with division (B) of section 4931.66 of the Revised Code, any information provided under division (A) of section 4931.66 of the Revised Code, that consists of trade secrets as defined in section 1333.61 of the Revised Code, or of information regarding the end users, revenues, expenses, or network information of a telephone company shall be held confidential and does not constitute a public record for the purpose of section 149.43 of the Revised Code.
- (E) The approval process for disbursements from the wireless 9-1-1 government assistance fund shall be defined by order of the public utilities commission.
- (F) Upon approval for funding disbursements from the wireless 9-1-1 government assistance fund, each county shall provide the Ohio 9-1-1 coordinator with account information to facilitate the electronic transfer of funds.
- (G) Each county seeking approval under paragraph (H) of this rule shall complete an application form prescribed by the Ohio 9-1-1 coordinator, which shall include an acknowledgement of the limited duration of the funding source.
- (H) A county seeking to use funds distributed from the wireless 9-1-1 government assistance fund for personnel costs, as prescribed in division (B) of section 4931.65 of the Revised Code, shall certify to the Ohio 9-1-1 coordinator the following:
  - (1) A detailed accounting of expenditures utilized from the wireless 9-1-1 government assistance fund toward the implementation of wireless enhanced 9-1-1.
  - (2) Any remaining balances from disbursements of the wireless 9-1-1 government assistance fund.

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- (3) Amount of funding supplemented from sources other than the wireless 9-1-1 government assistance fund in the implementation of wireless enhanced 9-1-1.
- (4) Implementation date of countywide wireless enhanced 9-1-1.
- (5) Three most immediate preceding year history of personnel capital budgetary levels for each public safety answering point (PSAP).
- (6) Three most immediate preceding year history of the 9-1-1 system call statistics, including an itemization of calls by service type.
- (7) Projection of calls to be taken over the next three years, including an itemization of calls by service type.
- (8) Technological architecture of the countywide 9-1-1 system.
- (9) Number and location of PSAPs taking wireless enhanced 9-1-1 calls.
- (10) Current staffing levels at each PSAP.
- (11) Proposed use of wireless funds in personnel budgets.
- (I) Should the Ohio 9-1-1 coordinator discover a potential misuse of funds distributed from the wireless 9-1-1 government assistance fund, the Ohio 9-1-1 coordinator shall notify the appropriate investigative authorities.

**4901:1-8-04 Records.**

- (A) Each wireless service provider and reseller shall maintain a record retention policy in accordance with Chapter ~~4901:1-5~~ 4901:1-6 of the Administrative Code, inclusive of such items associated with the collection and remittance of the Ohio wireless 9-1-1 surcharge identified in section 4931.61 of the Revised Code, which includes, but is not limited to:
  - (1) Billing information.
  - (2) Collection information.

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- (3) Remittance data.
  - (4) Billing fee retention.
  - (5) Annual county end user counts (number of wireless numbers assigned to wireless subscribers with billing addresses in each county) submitted under section 4931.64 of the Revised Code.
  - (6) Monthly end user counts for the assessment, collection, and remittance of the surcharge identified in section 4931.61 of the Revised Code; and an indication of the methodology utilized to determine the number of end users within that month.
- (B) Each public safety answering point (PSAP) shall maintain a thirty-six month record retention for all documents associated with the provision of wireless enhanced 9-1-1, which includes, but is not limited to:
- (1) Use of funds.
  - (2) Budgetary information relative to the establishment, continuance, maintenance, and staffing of countywide wireless enhanced 9-1-1.
  - (3) Supplementary funding sources.
  - (4) Funding shortfalls.
  - (5) Wireless service call statistics.
- (C) Each PSAP shall, upon request, provide the Ohio 9-1-1 coordinator and/or Ohio wireless 9-1-1 advisory board with such records identified in paragraph (B) of this rule, to assist the Ohio 9-1-1 coordinator in fulfilling the requirements under section 4931.70 of the Revised Code.
- (D) Updates to the E9-1-1 database shall occur in the following manner:
- (1) Each competitive local exchange carrier (CLEC) shall submit an update to the E9-1-1 database for any end user residing on its switch within twenty-four hours of adding or updating an end user's information.

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- (2) Each CLEC shall submit an update to the E9-1-1 database for any end user to whom the CLEC is providing service under a commercial agreement with an incumbent local exchange carrier (ILEC), except as provided in paragraph (D)(3)(b) of this rule, within twenty-four hours of adding or updating an end user's information.
- (3) Each ILEC shall update its own E9-1-1 database, or submit an update to a database managed by another entity, within twenty-four hours of adding or updating either:
  - (a) Its own end user's information.
  - (b) The information of a CLEC end user, whose service is being provided under a resale agreement with the ILEC.
- (E) Each entity administering an E9-1-1 database shall maintain daily records for updates submitted to its E9-1-1 database, which shall include:
  - (1) The date the update was submitted.
  - (2) The service provider or entity making the submission.
  - (3) The number of records updated.

**4901:1-8-05 Reporting.**

- (A) Each wireless service provider and reseller, in calculating its end user count information for submission to the Ohio 9-1-1 coordinator, under division (A)(1) of section 4931.64 of the Revised Code, shall adjust counts between counties utilizing the four-digit extended zone improvement program postal code information, as utilized by the United States postal service.
- (B) Each wireless service provider or reseller, in calculating its end user count information for submission to the Ohio 9-1-1 coordinator, under division (A)(1) of section 4931.64 of the Revised Code, shall adjust its count for those prepaid end users for which it does not hold billing address information based upon either:

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- (1) The county in which the sale of minutes occurred.
  - (2) The percentage of its total postpaid end users reported for each county.
- (C) The Ohio 9-1-1 coordinator may waive the requirements established in paragraph (A) or (B) of this rule and permit a wireless service provider to utilize an alternate internal method of allocating end users between counties upon written request to the Ohio 9-1-1 coordinator. Any such alternate method shall be found reliable, effective, and in agreement with section 4931.64 of the Revised Code prior to a waiver being granted.
- (D) Each enhanced 9-1-1 system service provider (SSP) that discovers a disruption or impairment of automatic number identification (ANI) or automatic location identification (ALI) information, not occurring on the public safety answering point's (PSAP) premises, shall report, by telephone or electronic means, to the Ohio 9-1-1 coordinator within two hours, and to the affected PSAP as soon as reasonably possible when the disruption is both:
- (1) Expected to last for a period in excess of thirty minutes.
  - (2) Potentially affects at least nine hundred thousand user minutes.
- (E) Each SSP, experiencing a disruption defined under paragraph (D) of this rule, shall notify, as soon as possible, by telephone or other electronic means, any official who has been designated by the management of the affected 9-1-1 facility as the SSP's contact person for the communication outages at that facility; and the SSP shall convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on efforts to communicate with that facility.
- (F) Each SSP, experiencing a disruption defined under paragraph (D) of this rule, shall electronically submit to the Ohio 9-1-1 coordinator the following information:
- (1) A notification within two hours of discovering that it has experienced a disruption of a 9-1-1 facility, which shall include the name of the reporting entity, the date and time of the onset of the disruption, a brief description of

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the problem, the particular service affected, the geographic area affected by the disruption, and a contact name and telephone number by which the Ohio 9-1-1 coordinator may contact the entity.

- (2) Not later than seventy-two hours after discovering the outage, an initial communications outage report, which shall include all pertinent information then available on the disruption and shall be submitted in good faith.
- (3) Not later than thirty days after discovering the outage, the SSP shall submit electronically a final communications outage report, which shall include all pertinent information on the disruption, including any information that was not contained in, or that has changed from that provided in the initial report.
- (G) Each enhanced 9-1-1 SSP shall maintain the ability to reroute calls to another PSAP or secondary answering point.
- (H) Each enhanced 9-1-1 SSP shall retain and record the reliability information it collects from each PSAP within its service territory. Such information shall be retained for a period of time in accordance with Chapter ~~4901:1-5~~ 4901:1-6 of the Administrative Code, and shall be made available to the Ohio 9-1-1 coordinator upon request. Each SSP shall submit, no later than June 1, 2007, the error reporting categories it collects and definitions for these categories to the Ohio 9-1-1 coordinator. An SSP may revise its reporting categories (starting with the next succeeding calendar year) by submitting such revisions and definitions for such revisions to the Ohio 9-1-1 coordinator for review and acceptance. Reporting categories should reflect the general accuracy of the 9-1-1 database. If the company and the Ohio 9-1-1 coordinator cannot agree on any revised reporting category, the 9-1-1 coordinator and/or the company may apply, within forty-five days after submission of the reporting categories, to the commission for resolution of the dispute.

**4901:1-8-06 Outbound emergency notification messaging. "No Change"**

- (A) No entity may activate or perform an outbound emergency notification message in the absence of a public emergency. For the purposes of this rule, a public emergency shall be defined as the presence of actual or imminent conditions which present either:

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- (1) An immediate danger to the health or safety of people.
  - (2) A likelihood of severe irreparable damage to property.
- (B) Each entity which performs an outbound emergency notification message shall do so in coordination with other municipalities within the county.
- (C) Each entity who performs an outbound emergency notification message shall notify the Ohio 9-1-1 coordinator in writing within twenty-four hours after initiating the messaging. The report shall include:
- (1) The date and time that the outbound emergency notification message was initiated.
  - (2) The total number of individual unique outbound emergency notification messages sent.
  - (3) The circumstances surrounding the situation that spurred the outbound emergency notification message(s).
  - (4) The total number of telephone numbers the message(s) was delivered to.
  - (5) The number of square miles included in the geographic area of the outbound emergency notification message(s).
  - (6) A summary of whether or not the entity submitting the report believes the outbound emergency notification message will be utilized to deliver a message in relation to this same situation in the near future and, if so, for what length of time the submitting entity believes the situation will continue.
- (D) Each entity who wishes to perform a test message of an outbound emergency notification messaging system shall provide twenty-four hours advanced notification of the scope and scheduled time of the test to:
- (1) The news media in the affected area.
  - (2) The Ohio 9-1-1 coordinator.

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

<b>Agency Name:</b>	Public Utilities Commission of Ohio (PUCO)
	Attention: Jeffrey Jones, Chief, Telecommunications Section
	(V) Phone: 614/466-0463 (F) 614/728-8373
	jeff.jones@puc.state.oh.us
<b>Regulation/Package Title:</b>	Chapter 4901:1-8 / 9-1-1 Service Program
	Case No. 12-2055-TP-ORD
<b><u>Rule Number(s):</u></b>	
4901:1-8-03	Accounting
4901:1-8-04	Records
4901:1-8-05	Reporting
<b>Date:</b>	
<b><u>Rule Type:</u></b>	
<input type="checkbox"/> New	<input checked="" type="checkbox"/> 5-Year Review
<input checked="" type="checkbox"/> Amended	<input type="checkbox"/> Rescinded
	<input checked="" type="checkbox"/> No Change

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### Regulatory Intent

1. Please briefly describe the draft regulation in plain language. Please include the key provisions of the regulation as well as any proposed amendments.

Chapter 4901:1-8, Ohio Administrative Code (O.A.C.), sets forth requirements for the provision of 9-1-1 service and enhanced wireless enhanced 9-1-1 service, specifically, the delivery of a wireless 9-1-1 call with callback number and

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identification of the cell tower from which the call originated, in addition to the location coordinates of the caller. This chapter, inter alia, sets forth the requirements for (a) collection, retention, and remittance of wireless funds identified under sections 4931.61 and 4931.62 of the Revised Code, (b) records that must be maintained by each wireless 9-1-1 service provider and reseller, and by each public safety answering point, (c) reporting of information by each 9-1-1 wireless service provider and reseller (d) and outbound emergency messaging.

In this Business Impact Analysis, the Commission will focus upon those rules that (a) require a license for a company to operate, (b) impose a civil penalty for failure to comply with terms set forth in Chapter 4901:1-8, O.A.C., or (c) require specific expenditures or the report of information as a condition of compliance.

The proposed changes to this chapter are minor. Because Chapter 4901:1-5, O.A.C., which concerned the minimum telephone service standards, has been rescinded, staff proposes deleting references to Chapter 4901:1-5, O.A.C., in Rules 4901:1-8-04 and 4901:1-8-05, O.A.C., and inserting references to Chapter 4901:1-6, O.A.C., the title of which is Telephone Company Procedures and Standards.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Sections 4931.67 and 4931.49, Revised Code.

**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.**

No rule in this chapter implements a federal requirement or is being adopted or amended to enable Ohio to obtain or maintain approval to administer or enforce a federal law.

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

**5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The rules in this chapter establish standards as required by Section 4931.67, Revised Code, to be met by companies that provide enhanced wireless 9-1-1 service to consumers in Ohio.

**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Commission can monitor complaints about enhanced wireless 9-1-1 service that are made to the Commission's hotline (toll free number).

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. *If applicable, please include the date and medium by which the stakeholders were initially contacted.***

On August 1, 2012, in Case No. 12-2055-TP-ORD, the Commission issued an entry by U.S. Mail and e-mail indicating that a workshop would be conducted on September 6, 2012, to listen to any proposed rules changes proposed by stakeholders. The entry was served upon all regulated telephone companies, including all registered wireless carriers and all competitive emergency services telecommunications carriers, the Ohio Telecom Association, the Office of the Ohio Consumers' Counsel (OCC), the Ohio 9-1-1 Council, the Ohio 9-1-1 Advisory Board, the Ohio Association of Public Safety Communications Officials, and the Ohio National Emergency Number Association. The workshop was conducted as scheduled on September 6, 2012.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Only AT&T and Cincinnati Bell were represented at the workshop and neither had comments or objections to the rules. Therefore, proposed changes to this O.A.C. chapter originate with staff.

**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Not applicable.

**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

No alternative regulations were considered, as provision of enhanced 9-1-1 service is clearly a critical safety issue. Accordingly, the Commission adopted rules that it considers best suited to meet these goals.

**11. Did the Agency specifically consider a performance-based regulation? Please explain.**

*Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

The rules are performance-based only in the sense that, for example, the rules require certain information to be reported to the Commission. Primarily, the rules in Chapter 4901:1-8, O.A.C., are regulatory in nature as required by the Revised Code.

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

Although it is unlikely that Chapter 4901:1-8, O.A.C., duplicates the rules of other state entities, OCC was included on the U.S. Mail and e-mail list of stakeholders that were notified by the Commission of proposed rules changes. OCC has not indicated that O.A.C. 4901:1-8 duplicates any of its rules.

**13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

Stakeholders' first opportunity to comment on Chapter 4901:1-8, O.A.C., was in the aforementioned workshop on September 6, 2012; as already indicated, stakeholders suggested no proposed changes to the rules in the chapter. Next, the Commission will issue an entry containing Staff's proposed changes to the rules, to which stakeholders will have another opportunity to comment. Finally, following the comment period specified in the entry, the Commission will issue a finding and order adopting the proposed rules changes. As noted above, the Ohio Telecom Association, the Office of the Ohio Consumers' Counsel, the Ohio 9-1-1 Council, the Ohio 9-1-1 Advisory Board, the Ohio Association of Public Safety Communications Officials, and the Ohio National Emergency Number Association have been notified that this O.A.C. chapter is under review by staff, and these entities can provide feedback to Staff concerning the efficiency and effectiveness of the rules in this chapter.

**Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

**a. Identify the scope of the impacted business community;**

Rules in Chapter 4901:1-8, O.A.C., apply to all regulated telephone companies, including all registered wireless carriers and all competitive emergency services telecommunications carriers that are subject to Commission jurisdiction.

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

The rules impact the identified business community, in that there is a time cost to comply with requirements for (a) collection, retention, and remittance of wireless funds, (b) record-keeping provisions, and (c) reporting of information concerning end-user count and disruption/impairment of automatic number identification or automatic location identification information.

**c. Quantify the expected adverse impact from the regulation. *The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.***

The impact will primarily be in terms of time. The amount of time involved will vary with the requirement. For example, concerning Rule 4901:1-8-03, O.A.C., books, accounts, and records for collection and retention of wireless funds must be in accordance with generally accepted accounting principles; when a stakeholder submits funds collected under Section 4931.61, Revised Code, for remittance, a remittance form must be completed. In addition, each wireless service provider and reseller who experiences a 5 percent semiannual decrease in gross remittance of the Ohio wireless 9-1-1 surcharge submitted to the Commission must provide a written report to the Ohio 9-1-1 Coordinator. Finally, each county seeking approval to use funds distributed from the wireless 9-1-1 government assistance fund must complete an application form and shall certify to the Ohio 9-1-1 Coordinator certain information.

Regarding Rule 4901:1-8-04, O.A.C., each wireless service provider and reseller must maintain records concerning items associated with collection and remittance of the O.A.C. wireless 9-1-1 surcharge, including billing and collection, plus annual and monthly end user counts. Competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) must update the E9-1-1 database as specified in the rule with certain information pertaining to the end user. Finally, each entity administering an E9-1-1 database must maintain daily records for updates submitted to its E9-1-1 database, including the date that the update was submitted, the service provider or entity making the submission, and the number of records updated.

Regarding Rule 4901:1-8-05, O.A.C., each wireless service provider and reseller, in calculating its end user count information that is submitted to the Ohio 9-1-1 Coordinator, must adjust its count under conditions specified in the O.A.C. If there is a disruption or impairment of automatic number identification or automatic location identification information, each enhanced 9-1-1 system service provider (SSP) must report by telephone or electronically to the Ohio 9-1-1 Coordinator within 2 hours when the disruption is expected to last over 30 minutes and will potentially affect at least 900,000 user minutes. In addition, the SSP must provide a description of the service area and, within 72 hours, provide a more detailed report.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The Commission is the only state agency charged with ensuring that the regulated companies provide adequate and reliable 9-1-1 and enhanced 9-1-1 service to consumers. Additionally, the Ohio Revised Code directs the Commission to adopt rules to carry out Sections 4931.60 to 4931.70, Revised Code, including rules prescribing the necessary accounting for a wireless service provider's or reseller's billing and collection fee, and rules establishing a fair and reasonable process recommending the amount of the wireless 9-1-1 charge. The Commission has worked with stakeholders to develop a chapter that best serves these goals. It is notable that the regulated community had no comments at the public workshop,

nor has there been any indication from stakeholders that the rules in this chapter are particularly onerous.

**Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No. The rules address the services needed to provide 9-1-1 and enhanced 9-1-1 service, which are essential safety matters. Thus, any alternative means of compliance would not be appropriate.

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

PUCO's focus is to ensure that all regulated telephone companies, including all registered wireless carriers and all competitive emergency services telecommunication carriers, provide reliable 9-1-1 service and enhanced 9-1-1 service in a manner that most ensures public safety. The focus is not on seeking penalties for first-time paperwork offenses. To that end, the PUCO will fully comply with Section 119.14, Revised Code, and would not seek to recover administrative fines or civil penalties on any small business for a first-time paperwork violation unless such violation falls within one of the exceptions set forth in paragraph (C) of that section and without providing due process to the small business.

**18. What resources are available to assist small businesses with compliance of the regulation?**

Commission staff works with telecommunications providers, including wireless providers, to assist such companies with compliance.