

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Senator Karin Brownlee at 8:30 a.m. on March 01, 2001 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: April Holman, Legislative Research Department
Bob Nugent, Revisor of Statutes
Lea Gerard, Secretary

Conferees appearing before the committee: Walt Way, Johnson County Sheriff's Office
Bob Lamkey, Sedgwick City Emergency Management
Wayne White, Johnson County
Kim Gulley, League of Municipalities

Others attending: See attachment list.

In accordance with KSA 75-3715a, a fiscal note concerning **SB 298** was submitted to the Senate Commerce Committee.

Walt Way, Johnson County Sheriff's Office and the Kansas City E-911 system testified in support of **HB 2034** stating the greatest concern is the availability of funds for local public safety agencies to equip their dispatch centers so that location information sent with wireless 911 calls may be used to locate callers and send the needed emergency services rapidly (Attachment 1).

In response to questions from the Committee, Walt Way stated it would cost the Kansas City region approximately 4.3 million dollars to equip the 39 PSAPS and provide supporting telecommunications services. To take care of the Kansas side, there are 11 PSAPS and it would cost approximately 40 percent of the 4.3 million dollars. He also indicated that only PSAPs should be allowed cost recovery although wireless and wireline companies have costs.

Kim Gulley, Director of Policy Development & Communications, testified on behalf of the League of Kansas Municipalities in support of **HB 2034** stating developing and maintaining an efficient and effective 911 system is critical to the safety of Kansans. One of the most controversial aspects of the discussion of the 911 Task Force centered around the concept of cost recovery. Currently, local governments pay for the cost of providing 911 services with the fee that is charged solely to wireline customers. That fee is established locally and currently ranges everywhere from a low of 18 cents to the statutory maximum of 75 cents depending upon the local needs. Wireline providers recover any costs that they experience as a result of the 911 system through tariffs established by the KCC and through phone bills paid by local PSAPS.

Kim Gulley stated they believe the fiscal note for **HB 2034** is incorrect and have communicated this with Budget. The 10 million dollars won't happen all at once it is designed to take place over a period of time. Local governments will have to take an affirmative step to add wireless to their local 911 system. There will not be an instant 10 million dollar fee (Attachment 2).

Bob Lamkey, Public Safety Director for Sedgwick County, testified in support of **HB 2034** on behalf of Betsy Gwin, Sedgwick County Commissioner. There is concern with the equity of having landline users pay for the technology required for wireless users. The intent should be to share the cost of 911 service among all that use it. **HB 2034** allows Sedgwick County to generate the necessary revenue for the capital improvements and recurring monthly costs from wireless providers to assure a constant level of 911 service (Attachment 3).

Bob Lamkey testified in opposition to **SB 298** stating some of the concerns are not having a central administration and limits to the costs that are to be covered. Collected funds will pay for the cost of administrative support for the Advisory Board, PSAP costs related to implementing wireless E-911 and wireless provider costs pursuant to a service agreement with the PSAP. Budget estimates for the cost administration including support of the Advisory Board could be as high as \$315,000 per year. Extending 911 to wireless users is necessary, it's a public safety issue (Attachment 4).

Keith Faddis, Deputy Chief, Overland Park Police, presented written testimony in support of **HB 2034** (Attachment 5).

July Moler, General Counsel/Legislative Services Director, presented written testimony in support of **HB 2034** (Attachment 6).

Donald R. Seifert, Policy Development Leader, Olathe, Kansas presented written testimony in support of **HB 2034** (Attachment 7).

A side-by-side comparison of **HB 2034** and **SB 298** was presented by Sprint, Cingular and Verizon wireless carriers (Attachment 8).

Meeting adjourned.

Next meeting scheduled March 02, 2001 at 8:30 a.m.

SENATE COMMERCE COMMITTEE

GUEST LIST

DATE: MARCH 01, 2001

NAME	REPRESENTING
Walter Way	Johnson County Sheriff
Bob Hodges	KTA
Kelly Kuitala	City of Overland Park
Ashley Sherard	Johnson County
Grand Gage	Sedgwick County
Bob Haukeg	Sedgwick County
Pat Lehman	KFS A
Jim Ygnally	Verizon Wireless
Kevin Walker	American Heart Assn.
Whitney Jansen	WYCO/KCC, KS
Amy Yankoni	Cingular Wireless
George Barber	RTAC
Stephen King	Cingular Wireless
Joe Schuele	ALLTEL
Mike Murray	Sprint
Sandy Braden	Cingular Wireless
Wilson Truzyer	Western Wireless
Mike DeLoat	ATA
Don Serfert	City of Olathe
Robert Atanuzko	KCC

Testimony of:

Major Walter Way
Johnson County Sheriff's Office
Olathe, Kansas

House Bill 2034

February 28, 2001

Madam Chair, Members of the Committee on Commerce:

My name is Walter Way and I am representing both the Johnson County Sheriff's Office and the Kansas City regional E9-1-1 system. I am appearing in support of House Bill 2034.

For those who are not familiar with the Kansas City regional E9-1-1 system, it was formed in 1983 and it is managed under the auspices of the Mid-America Regional Council (MARC) which is a bi-state planning organization that provides a governance structure for county and city governments to further cooperation on mutual service needs. The Kansas City regional system serves 663,000 Kansas citizens residing in Johnson, Wyandotte and Leavenworth Counties and over 1,000,000 people residing in 5 Missouri Counties. Our regional E9-1-1 system serves over 118 cities and it is comprised of 39 Public Safety Answer Points (PSAPs) that received 1,500,000 9-1-1 calls in 1999. The Kansas City region is served by 22 local exchange telephone carriers and 6 wireless telephone carriers. The 2001 operating budget for this system is \$3,776,000 which is cost-shared by 8 counties based upon their percentage of the total regional population.

Congress passed the Telecommunications Act of 1996 with the goal promoting the safety of life and property through the use of wire and radio communications throughout the United States. That has led to a series of orders issued by the Federal Communications Commission (FCC) to mandate wireless carriers to provide enhanced 9-1-1 services by specific target dates. Initially, the FCC included a mandate for both PSAPs and wireless carriers to recover their implementation costs, but that mandate was modified in November 1999 when the FCC eliminated as a prerequisite for E-911 service, that a mechanism be in place for wireless carriers to recover their E9-1-1 implementation costs. The FCC has stated that the prerequisite for carriers to recover their E9-1-1 implementation costs has been a significant impediment to E9-1-1 implementation in this country.)

In its *Fifth Memorandum Opinion and Order* adopted November 9, 2000 (attached), the FCC denied two petitions from wireless carriers that requested reconsideration of the decision to eliminate the carrier cost recovery mechanism as a condition of providing E911 service to PSAPs. In the Introduction Section of that Order, the FCC said "We affirm that:... (3) we fully considered the impact of removing the carrier cost recovery requirement on all carriers, including rural carriers. We continue to believe that

Senate Commerce Committee
MARCH 1, 2001
Attachment 1-1

removing the carrier cost recovery prerequisite is necessary to overcome delays in implementation of Phase I and, potentially, Phase II of our E911 service.” In paragraph 23 of that Order, the FCC also stated that a rural carrier’s reliance on self-recovery of E911 implementation costs is just and fair.

The FCC has made it clear that the wireless carriers are not entitled to the recovery of their E9-1-1 implementation costs from local governments, yet, wireless carriers continue to insist on cost recovery as a requirement for providing E9-1-1 services to their customers. I would submit to this committee that there are a number of valid reasons why local governments should not be mandated to pay for the implementation costs of wireless carriers. Those reasons are:

- Access to 9-1-1 services is a basic and essential component of telephone service.

Both wired and wireless telephone carriers have been mandated by the FCC to provide access to enhanced 9-1-1 services. Carriers may not charge for 9-1-1 calls made from coin pay phones or from wireless phones, which supports the idea that access to 9-1-1 services is a basic and integral part of providing telephone service to customers.

- Wireless carriers are not part of the E9-1-1 network

Each local government contracts for E9-1-1 services with a wired telephone company (the 9-1-1 Service Provider) who provides the network, switches, selective routing of 9-1-1 calls, databases, and other components needed to receive 9-1-1 calls from citizens and send those calls to the proper public safety agency within the local E9-1-1 system. The 9-1-1 Service Provider is paid in accordance with tariffs filed with the state and by contractual agreements.

All other telephone carriers, whether wired or wireless, that want to deliver their customer’s 9-1-1 calls to the local E9-1-1 system are responsible for the cost of delivering those calls to the demarcation point of the local E9-1-1 system. Local governments pay for the infrastructure to receive and route E9-1-1 calls within the contracted system. Local governments do not contract with other telephone carriers for their customer’s 9-1-1 calls any more than they would pay a telephone carrier for routing other types of telephone calls from a citizen to the PBX in their city hall.

- Wireless carriers will provide location services for commercial purposes

Each wireless carrier was required by the FCC to select a location technology by November of 2000 that would be used to locate 9-1-1 callers. The costs of implementing the different location methods will vary considerably in each area of the state and will be phased in over a period of time. The costs of the location technology implemented by the wireless carriers can be controlled more

effectively if such costs are incorporated into customer billings for basic telephone service and are amortized into network infrastructure costs.

International Data Corp. stated in a Wall Street Journal article last September that location based services are expected to generate \$590 million for wireless carriers in 2001 and \$5 billion dollars by 2004. The point is that wireless carriers will develop location services in the normal course of business and there is no need for local governments to pay for developing these services.

One other issue that needs to be discussed is the assertion that location technology is not yet ready for implementation of enhanced wireless 9-1-1 service. Network based location technologies such as triangulation exist and are in use in several locations in this country to locate wireless 9-1-1 callers. Handsets with Global Positioning System (GPS) chips are not yet on the market but are expected to be commercially available by the fourth quarter of 2001. The FCC has issued an order requiring wireless carriers to begin selling such handsets by October 1, 2001 and to gradually increase the number of such handsets in their total customer base through December 2005. There is no reason to believe the technology will not be available in the near future to provide for the location of wireless callers needing emergency services.

The greatest concern is the availability of funds for local public safety agencies to equip their dispatch centers so that location information sent with wireless 9-1-1 calls may be used to rapidly locate callers and send needed emergency services to their citizens.

Local governments will need additional revenue for local dispatch centers to fund the equipment and services necessary to provide enhanced 9-1-1 service for wireless callers. Johnson County government and the elected officials on the MARC Board of Directors support the extension of the 9-1-1 tax to wireless telephones, the preservation of local government authority over 911 service and the levying of 911 fees, and they support passage of House Bill 2034 as the most effective means of implementing enhanced 911 services for wireless telephone users in our communities.

Thank you for the opportunity to address this important public safety issue. I would be pleased to answer any questions.

Attachment: Fifth Memorandum Opinion and Order adopted by the Federal Communications Commission on November 9, 2000

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

In the Matter of)	
)	
Revision of the Commission's Rules to Ensure)	
Compatibility with Enhanced 911 Emergency)	CC Docket No. 94-102
Calling Systems)	

FIFTH MEMORANDUM OPINION AND ORDER

Adopted: November 9, 2000

Released: November 22, 2000

By the Commission:

I. INTRODUCTION

1. In this Fifth Memorandum Opinion and Order, we deny two petitions for reconsideration of the *E911 Second Reconsideration Order*,¹ in which we, *inter alia*, modified our Enhanced 911 (E911) rules to eliminate the prerequisite that carrier cost recovery mechanisms be in place before the wireless carrier's obligation to provide E911 service is triggered. We affirm that: (1) adequate notice and opportunity for comment was provided, (2) a complete record supports our conclusion that the rule resulted in a significant impediment to Phase I implementation that was inconsistent with our rules and the statute, and (3) we fully considered the impact of removing the carrier cost recovery requirement on all carriers, including rural carriers. We continue to believe that removing the carrier cost recovery prerequisite is necessary to overcome delays in the implementation of Phase I and, potentially, Phase II of our E911 service. This will accelerate implementation of this important service, which will enable callers of 911 using a wireless telephone to obtain emergency assistance more rapidly and efficiently through the transmission of certain enhanced information that assists in locating the caller.

II. BACKGROUND

2. In the E911 proceeding, the Commission imposed E911 rules on certain Commercial Mobile Radio Service (CMRS) licensees, based largely upon a framework developed by representatives of the wireless industry and public safety organizations in a Consensus Agreement.² The purpose of the

¹ Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, RM-8143, Second Memorandum Opinion and Order, 14 FCC Rcd 20850 (1999), amending Sections 20.18(d) and (j) of the Commission's Rules, 47 C.F.R. §§ 20.18(d), (j) (*E911 Second Reconsideration Order*); *appeal pending sub nom.* United States Cellular Corp. v. FCC, No. 00-1072 (D.C. Cir., filed Feb. 28, 2000).

² Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, RM-8143, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676, 18687-89 (paras. 21-23, noting the Consensus Agreement filed by CTIA, APCO, NENA, and NASNA) (1996), adopting new Section 20.18 of the Commission's Rules, 47 C.F.R. §§ 20.18, *et seq.* (*E911 First Report and Order*); Memorandum Opinion and Order, 12 FCC Rcd 22665 (1997); Second Report and Order, 14 FCC (continued....)

rules is to promote an improved wireless 911 service by requiring these carriers to transmit certain enhanced data with 911 calls and thereby help emergency service providers locate the wireless 911 caller. If certain conditions are met, Phase I requires a covered carrier, as of April 1, 1998, to transmit the 911 caller's callback number and cell site location, while Phase II requires a carrier, as of a schedule beginning October 1, 2001, to transmit Automatic Location Information (ALI).³ The carrier's obligation to transmit this information initially was conditioned upon (1) the carrier receiving a request for service from a Public Safety Answering Point (PSAP) that is capable of receiving and utilizing the data and (2) "a mechanism for recovering the costs of the service [being] in place."⁴

3. In the *E911 Second Reconsideration Order*, in response to a petition for further reconsideration, we clarified and modified the condition that provided for a cost recovery mechanism.⁵ We concluded that this condition was unnecessary and a potentially significant impediment to Phase I, and potentially to Phase II, if implementation were to remain contingent upon a cost recovery mechanism being in place for the recovery of a carrier's E911 costs.⁶ In deciding to eliminate the prerequisite for a carrier cost recovery mechanism, we did not intend to disturb existing mechanisms or discourage states from establishing such mechanisms at any time, but rather to remove the need to satisfy such a requirement before E911 service could be implemented. The cost recovery rule was not eliminated entirely, but was modified to retain the limited provision that a mechanism be in place for the recovery of the PSAP's costs of implementing E911.⁷ The purpose of this modification was to accelerate implementation of this important service to ensure that wireless callers of 911 obtain emergency assistance more rapidly and efficiently.

4. In January of this year, two petitions for reconsideration of the *E911 Second Reconsideration Order* were filed.⁸ Two comments in support of, and one comment opposing, the

(Continued from previous page) _____
Rcd 10954 (1999); Third Report and Order, 14 FCC Rcd 17388 (1999); Second Memorandum Opinion and Order, 14 FCC Rcd 20850 (1999) (*E911 Second Reconsideration Order*); Third Memorandum Opinion and Order, 15 FCC Rcd 1144 (2000); Fourth Memorandum Opinion and Order, FCC 00-326, released Sept. 8, 2000 (*E911 Fourth Reconsideration Order*).

³ 47 C.F.R. §§ 20.18(d)-(i).

⁴ 47 C.F.R. § 20.18(j) (1998).

⁵ 47 C.F.R. § 20.18(d).

⁶ *E911 Second Reconsideration Order*, 14 FCC Rcd at 20852-54 (paras. 3-6).

⁷ *Id.*, at 20877-80 (paras. 65-72), amending 47 C.F.R. § 20.18(j); as follows: (j) Conditions for Enhanced 911 Services. The requirements set forth in paragraphs (d)-(h) of this section shall be applicable only if the administrator of the designated Public Safety Answering Point has requested the services required under those paragraphs and is capable of receiving and utilizing the data elements associated with the service, and a mechanism for recovering the Public Safety Answering Point's costs of the enhanced 911 service is in place.

⁸ Rural Cellular Association, Petition for Reconsideration, filed January 28, 2000 (RCA Petition); and CorrComm, L.L.C., Petition for Reconsideration filed January 28, 2000 (Corr Petition). Corr subsequently changed its name to Corr Wireless Communications, L.L.C. We note that Corr is filing comments for the first time in this proceeding and is not a party that has participated at any prior stage. Corr states that it is a small wireless carrier that serves rural areas and thereby is an interested person that may petition for reconsideration of a final action under our rules. 47 C.F.R. § 1.429(a).

petitions were filed.⁹ Petitioners filed comments in reply to the opposition comments.¹⁰

5. On April 21, 2000, RCA filed a petition for stay of the implementation of the amended cost recovery rule, which became effective on April 27, 2000.¹¹ Comments opposing the petition for stay were filed by APCO and by NENA.¹² RCA filed a reply and requests that we dismiss APCO's opposition as late-filed.¹³ Inasmuch as we deny the petitions for reconsideration of that Order, the petition for stay is denied as moot.

III. DISCUSSION

A. Notice of Carrier Cost Recovery Rule Change

6. **Background.** Corr asserts that we failed to provide adequate notice of our intent to eliminate the carrier cost recovery rule and, accordingly, Corr did not submit comments in opposition for our consideration at that time.¹⁴ It argues that CTIA's petition for further reconsideration of the cost recovery rule and the responsive pleadings request only that the cost recovery mechanism be more clearly defined and not that it be deleted, particularly for Phase II.

7. CTIA, in support, agrees with Corr and argues that the Commission failed to provide adequate notice and opportunity for comment on the proposed deletion as required by the Administrative Procedures Act (APA).¹⁵ It asserts that no commenter interpreted its petition as a request to fundamentally restructure the rule to eliminate the carrier cost recovery mechanism and that, contrary to our finding in the *E911 Second Reconsideration Order*, the rule change is not a logical outgrowth of its petition or any other record evidence.

8. **Discussion.** We find there was adequate notice and opportunity for comment on the cost recovery rule change we adopted and that the rule change was a logical outgrowth of this rulemaking proceeding. In the *E911 Second Reconsideration Order*, we denied similar arguments by CTIA and carriers when we determined that, under the circumstances in the record, our rule change was a logical

⁹ Cellular Telecommunications Industry Association, Comments, filed March 22, 2000 (CTIA Comments), and DiGiPh PCS, Comments In Support of Petitions, filed March 22, 2000 (DiGiPH Comments). Association of Public-Safety Communications Officials-International, Inc., Opposition of APCO to Petitions, filed March 22, 2000 (APCO Opposition).

¹⁰ Corr, Reply, filed April 5, 2000 (Corr Reply); RCA, Reply, filed April 5, 2000 (RCA Reply).

¹¹ RCA, Petition for Stay, filed April 21, 2000 (RCA Stay Petition).

¹² APCO, Opposition to Petition for Stay, filed May 4, 2000 (APCO Stay Opposition); National Emergency Number Association, Opposition to Petition for Stay, filed May 2, 2000 (NENA Stay Opposition).

¹³ RCA, *ex parte* filing of May 11, 2000.

¹⁴ Corr Petition at 1-2.

¹⁵ CTIA Comments at 3-4, *citing* Administrative Procedures Act, 5 U.S.C. § 553(b).

outgrowth of the rulemaking proceeding and the notice requirement was satisfied.¹⁶ More specifically, we found that: (1) CTIA's petition for further reconsideration raised the issue of modifying the cost recovery rule on behalf of carriers;¹⁷ (2) the record on CTIA's petition was supplemented as a result of the Public Notices we issued requesting an Implementation Report and comments on alternative solutions to the delays caused by the rule;¹⁸ and (3) the modification we adopted addressed the issues of record.¹⁹ Corr and CTIA do not submit new or persuasive evidence that our conclusions were in error. We therefore reaffirm our conclusions in the *E911 Second Reconsideration Order* for the reasons stated there.

B. Absence of Record Evidence

9. **Background.** RCA argues that our decision to drop carrier cost recovery as a precondition of E911 service is not based on the record and instead adopts only the opinion of APCO.²⁰ RCA asserts that APCO is the lone public safety organization in favor of carrier self-recovery approaches, such as "bill and keep," as appropriate cost recovery mechanisms.²¹ RCA argues that we ignored the recommendations of the Implementation Report and the majority of the individual proposals of the Consensus Agreement parties, including NENA's opposition to APCO.²² RCA contends that we chose the administratively easier option as the means of addressing the delays in Phase I implementation and ignored the record, as well as our earlier proceedings in which we considered and rejected "bill and keep" by carriers as a cost recovery method.²³

10. **Discussion.** We reject RCA's argument that our rule modification has no basis in the record and has no support in either law or fact. First, in the *E911 Second Reconsideration Order*, we found that Phase I was virtually nonexistent and that the record, as supplemented by the Implementation Report and the responsive comments, demonstrated that the cost recovery rule was a significant impediment.²⁴ This was because of disputes in establishing formal, adequate funding mechanisms for

¹⁶ *E911 Second Reconsideration Order*, 14 FCC Rcd at 20875 (para. 60 n. 86), citing, e.g., *Small Refiner Lead Phase-Down Task Force v. EPA*, 705 F.2d 506, 547-49 (D.C. Cir. 1983); *International Harvester v. Ruckelshaus*, 478 F.2d 615 n. 51 (D.C. Cir. 1973); *Reeder v. FCC*, 865 F.2d 1298, 1305 (D.C. Cir. 1989).

¹⁷ *Id.*, at 20860-62 (paras. 24-27), discussing the rule modifications requested by CTIA and the responsive comments opposing the modifications as a fundamental change.

¹⁸ *Id.*, at 20858-59 (paras. 16 n. 18, 17-18), 20862-64 (paras. 28-32 n. 39), 20867 (para. 39), discussing the Public Notices requesting an Implementation Report and responsive comments to augment the record on CTIA's petition.

¹⁹ *Id.*, at 20867-68 (para. 42), 20870-71 (para. 50), 20878-79 (para. 67 n. 98, para. 68), noting the request of APCO to delete the carrier cost recovery rule and the requests of NENA, as well as APCO and other public safety groups, to retain the rule as modified to provide for PSAP cost recovery.

²⁰ RCA Petition at 5-8.

²¹ RCA Petition at 5-6.

²² RCA Petition at 5-6.

²³ RCA Petition at 7.

²⁴ *E911 Second Reconsideration Order*, 14 FCC Rcd at 20864-70 (paras. 33-48).

carriers.²⁵

11. In the *E911 Second Reconsideration Order*, we reviewed the proposed solutions of CTIA, RCA, and the carriers, which requested that we modify the rule to impose specific and detailed obligations on the states to adopt the uniform mechanisms currently being pursued under our rule.²⁶ Although RCA renews arguments that such proposals would provide guidance to states that would increase the pace of state approval of such carrier cost recovery mechanisms, we affirm our conclusion that such detailed and varied requirements would only increase the delays caused by these same issues and involve us in resolving these ongoing disputes.²⁷ We decided that eliminating the precondition for a carrier cost recovery mechanism was the better course, not only because it addressed the proposed solutions of APCO and the subsequent filings of NENA, but also the initial comments of the States of Hawaii and Washington, the Public Safety Associations, and Wireless Consumers Alliance, Inc. (WCA) that sought to avoid any specific requirement that prevents a carrier from implementing service promptly.²⁸

12. Next, the *E911 Second Reconsideration Order* fully considered how elimination of the carrier cost recovery precondition was consistent with the law and our rules. As we discussed, CMRS carriers covered by our E911 rules are not subject to rate regulation and may adjust their prices to recover their costs.²⁹ Contrary to RCA's contentions, we had not prescribed cost recovery mechanisms in previous Orders or rejected carrier self-recovery as an alternative method, but rather had left the rule sufficiently broad to encourage prompt and effective solutions for different situations consistent with our schedule and service requirements.³⁰

13. We also reject RCA's claim that our decision ignored the recommendations of CTIA and the responsive filings of the carriers and the recommendations of the two other public safety organizations, NENA and NASNA, that are Consensus Agreement parties. We addressed these concerns in the *E911 Second Reconsideration Order* when we eliminated the carrier cost recovery rule, but retained the rule to continue to provide for mechanisms that recover the PSAP's E911 costs.³¹ In providing for PSAP cost recovery, we agreed with a subsequent filing of NENA and NASNA that adequate funding of PSAPs is a critical element in ensuring timely E911 implementation and that States and localities should be encouraged to provide such funding.³² As NENA states, RCA's reliance on

²⁵ *Id.*, at 20863-70 (paras. 32-48).

²⁶ *Id.*, at 20870-72 (paras. 48-52).

²⁷ *Id.*, at 20871-72 (paras. 51-52).

²⁸ *Id.*, at 20867 (para. 39), 20870 (paras. 49-50).

²⁹ *Id.*, at 20872 (para. 52).

³⁰ *Id.*, at 20861 (para. 24), 20862 (para. 28), 20866 (para. 38).

³¹ *Id.*, at 20877-80 (paras. 65-72).

³² *Id.*, at 20877-79 (para. 67 n. 98, paras. 66-69).

NENA's original concerns is out-of-date.³³

C. Impact on Small, Rural CMRS Carriers

14. **Background.** Corr and RCA argue that we failed to consider the severe and unfair cost burden on small and rural carriers that will result from eliminating the carrier cost recovery mechanism as a precondition to E911 service.³⁴ Specifically, Corr argues that, because it failed to receive notice of the proposed rule change, we should now consider the significant costs it expects to incur to implement Phase II's ALI requirement and the intolerable burden of recovering the costs from its small customer base.³⁵ Corr requests that we not only restore the carrier recovery rule, but modify it to require that states adopt a pooling mechanism to ensure that cost recovery is accomplished without the harmful effects to small carriers that would be the result of non-pooling approaches.³⁶ Corr raises several other arguments in support of its request to reverse and revise our decision, which we consider separately below.

15. RCA contends that we erred in dismissing as insignificant the higher costs of rural carriers and their lower customer base, and that we ignored the adverse impact of eliminating State pooling mechanisms on rural carriers' customers and operations.³⁷ RCA argues that we left no incentive for states to implement pooling mechanisms or for expediting E911 implementation. RCA requests, alternatively, that we establish criteria under which small, rural carriers could apply for an expedited waiver of the E911 rules in cases where individual cost recovery through self-recovery will be an enormous burden and hardship.³⁸

16. CTIA and DiGiPH agree with petitioners and request that we reinstate the precondition for a carrier cost recovery mechanism to avoid the harmful results to small, rural carriers.³⁹ APCO disagrees with petitioners and opposes the request for waiver.⁴⁰

17. **Discussion.** We are not persuaded that small, rural carriers are unfairly disadvantaged by the rule change or that we should adopt a carrier cost recovery rule requiring that cost recovery mechanisms with pooling provisions be implemented by states to overcome any adverse impacts on such carriers. The *E911 Second Reconsideration Order* found that eliminating the precondition for a carrier cost recovery mechanism did not unfairly discriminate against rural carriers, but rather that rural areas would benefit from more prompt service when the resolution of carrier funding issues is removed from

³³ NENA Opposition to Stay, at 2, attaching NENA's press release in support of the *E911 Second Reconsideration Order*, November 18, 1999.

³⁴ Corr Petition at 1-6.

³⁵ Corr Petition at 1-3.

³⁶ Corr Reply at 1-2.

³⁷ RCA Petition at 2-4.

³⁸ RCA Petition at 8, RCA Reply at 6.

³⁹ CTIA Comments at 1-5, DiGiPH Comments at 4-7.

⁴⁰ APCO Opposition at 2-4.

E911 implementation.⁴¹ In addition, our rule change did not preclude states from continuing, or adopting, formal cost recovery mechanisms when preferable or necessary in their judgment. We find on reconsideration that our conclusions were amply supported by the record.

18. First, we disagree with RCA that we dismissed as insignificant the claims of rural carriers that they will experience higher costs to implement E911. Instead, we found that the record, as reflected in the general claims of RCA and others, was not clear that such costs would be significantly higher.⁴² We observed that, even if the costs of operating in rural areas generally were higher, there are other reasons that justify the rule change, such as lower costs for infrastructure needs, the benefits of competitive pricing, and carriers' ability to pursue with states any formal mechanisms they may prefer.⁴³

19. Corr has submitted specific cost information that CTIA and RCA argue will demonstrate the magnitude of the cost increase to rural carriers of E911 implementation and the negative impact of relying on their customers to recover these costs.⁴⁴ According to Corr, the hardware costs of upgrading each cell site for the ALI requirement of Phase II will increase its investment by 100 percent with no corresponding increase in productivity or revenue.⁴⁵ Corr's projections for Phase II costs, however, appear to rely solely on a network-based solution and ignore the new flexibility we granted rural and other carriers in the *E911 Third Report and Order*.⁴⁶ There, we provided carriers with the flexibility of using handset-based technology solutions in providing ALI, in part to address the comments of RCA in that proceeding that network-based solutions may not be feasible in many rural wireless markets and that handset-based solutions seem well-suited to rural areas.⁴⁷ As APCO notes, handset-based technologies involve relatively few changes to a carrier's infrastructure, whereas network-based technologies require the modifications to every cell site as described by Corr.⁴⁸ As a result, a rural carrier that relies on handset-based technologies may well have the same per-subscriber cost of Phase II compliance as an urban carrier.

20. Corr counters that the handset-based solution is not yet available because none of the equipment manufacturers will have marketplace penetration to enable rural carriers to meet our Phase II deadlines for handset-based compliance.⁴⁹ We recently addressed these same concerns in the *E911 Fourth Reconsideration Order*, which adopted extensions of the handset deployment schedule and

⁴¹ *E911 Second Reconsideration Order*, 14 FCC Rcd at 20873-74 (paras. 56-58).

⁴² *Id.*, at 20874 (para. 56 n. 80, para. 57).

⁴³ *Id.*, at 20874 (paras. 57-58).

⁴⁴ CTIA Comments at 3, RCA Reply at 1-2.

⁴⁵ Corr Petition at 2-3.

⁴⁶ *E911 Second Reconsideration Order*, 14 FCC Rcd at 20874 (para. 57 n. 81), citing the *E911 Third Report and Order*, 14 FCC Rcd at 17390-91 (paras. 23-24).

⁴⁷ *E911 Third Report and Order*, 14 FCC Rcd at 17390-91 (paras. 23 n. 37, 24 n. 38).

⁴⁸ APCO Opposition at 3.

⁴⁹ Corr Reply at 1-2.

clarified the accuracy guidelines for Phase II to accommodate the realities of each carrier's system.⁵⁰ In denying the request of a rural carrier for a rolling six-month waiver of the Phase II requirements, we found that claims of handset unavailability should be alleviated by the schedule adjustments and by evidence that other handset manufacturers may be ready.⁵¹

21. Additionally, we found that similar projections by a rural carrier of cell-site costs did not adequately substantiate that network-based solutions were prohibitively expensive for rural CMRS carriers.⁵² Carriers now have several network-based solutions being offered by vendors, including offers with terms that do not require an up-front investment by carriers, and should not incur the expenses all at once in view of the deployment schedule and the need for the numerous PSAPs to be ready to request Phase II service.⁵³ Although we recognize, as we did in that decision, that rural CMRS providers may face distinct challenges in implementing Phase II, we conclude that Corr and RCA do not demonstrate on reconsideration that we need to reinstate our rule and, further, adopt the specific carrier cost recovery mechanism they seek. We have provided for carriers, including rural carriers, to file requests for waiver of the Phase II requirements under specific guidelines that request they document their efforts to comply and the reasons for delay.⁵⁴

22. Next, we do not find that our modification of the rule imposed an undue burden on the ability of rural carriers to recover their costs in the absence of a carrier cost recovery rule, or is unjust or unfair to these carriers. As discussed above, it is not clear that rural carriers will have the costs that they project. Moreover, as we emphasized in the *E911 Second Reconsideration Order*, we did not prohibit the use of any formal or other type of carrier recovery mechanism when we eliminated the carrier cost recovery precondition.⁵⁵ We did not intend to disturb existing state-adopted mechanisms or the ongoing efforts of carriers and states to develop mutually acceptable mechanisms for state adoption, but only to remove the prerequisite for a mechanism to be in place before the carrier is required to initiate service.⁵⁶ Furthermore, we retained the prerequisite for a PSAP cost recovery mechanism. We recognized that PSAPs generally obtain the public funding they need from state legislatures in collaboration with carriers' efforts for cost recovery mechanisms and retained the rule to encourage states in the funding of 911 emergency services.⁵⁷ In so doing, we signaled to states that we did not object to state-adopted funding mechanisms or to state funding of E911 in any manner. Thus, petitioners do not substantiate claims that

⁵⁰ *E911 Fourth Reconsideration Order*, FCC 00-326, released Sept. 8, 2000, modifying 47 C.F.R. §§ 20.18(g)(1)-(2), (i).

⁵¹ *Id.*, at 23-24 (para. 70 n. 124). We note that the request was filed by United States Cellular Corporation (USCC), a rural carrier that filed comments that we considered in the *E911 Second Reconsideration Order* and that subsequently filed the petition for review of our cost recovery rule change that is pending court review.

⁵² *Id.*, at 24 (para. 71 n. 126), discussing similar projections by USCC of overall costs to upgrade its system's cell sites to employ a specific network-based solution.

⁵³ *Id.*, at 24 (paras. 71 n. 127 and 72).

⁵⁴ *Id.*, at 16-17 (paras. 44-45).

⁵⁵ *E911 Second Reconsideration Order*, 14 FCC Rcd at 20874-75 (paras. 58-59).

⁵⁶ *Id.*, at 20872-73 (paras. 53-54).

⁵⁷ *Id.*, at 20877-80 (paras. 65-72).

our modified rule has had the negative impact on funding that they claim.

23. We do not agree with Corr and RCA that rural carriers' reliance on self-recovery of E911 implementation costs is unjust and unfair. As we noted in the *E911 Second Reconsideration Order*, Congress and the Commission have determined that the public generally benefits from the promotion of competition among CMRS carriers that results from market-based pricing for their services.⁵⁸

24. Further, we are not persuaded that the lack of a carrier cost recovery rule that provides for state-adopted pooling or similar mechanisms for small and rural carriers will further delay the implementation of E911. As the public safety community makes clear in opposing the petitions, we should not reconsider our decision and prolong the uncertainties that delayed E911 under our prior rule.⁵⁹ Indeed, according to data recently compiled by APCO on the effect of our decision, the number of PSAPs seeking Phase I service has risen from 10 percent to more than 60 percent.⁶⁰ As we concluded, by removing the cost recovery issues that were obstacles to such implementation, carriers and the states or PSAPs could better resolve these and related differences, such as technology choice, to accelerate implementation.⁶¹

25. Next, we reject Corr's assertion that the Supplemental Final Regulatory Flexibility Analysis (FRFA) in Appendix C of the *E911 Second Reconsideration Order* failed to properly analyze the adverse impact on small entities of our elimination of the carrier cost recovery rule and failed to describe the steps we have taken to minimize the impact of this action on small entities.⁶² In the Supplemental FRFA, we fully discussed the possible economic impact on small and rural carriers and any significant alternatives to minimize any impact. Specifically, we concluded that the alternative proposal to eliminate the carrier cost recovery rule would not adversely affect such carriers.⁶³ We found that small and rural carriers had not demonstrated that their E911 costs would be higher than those of larger carriers or that a state-adopted pooling mechanism was necessary or appropriate, since wireless carriers may recover their own costs.⁶⁴ We also found that the states remained free to decide what mechanism, if

⁵⁸ *Id.* at 20872 (para. 52), citing Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1478-1481, 1504, 1510-1511 (paras. 173-182, 250, 272) (1994) (*CMRS Second Report and Order*). Forbearance from tariffing and its filing requirements promotes competitive market conditions by enabling CMRS providers to make rapid, efficient responses to changes in demand or cost and by reducing the administrative costs and burdens necessary to ensure that charges, practices, and classifications are reasonable. *Id.*, at 1479 (para. 177).

⁵⁹ APCO Opposition at 3, NENA Opposition to Stay at 2.

⁶⁰ One Phase At a Time, Caron Carlson, *Wireless Week*, Aug. 14, 2000, at 34. The article indicates that Texas, which the *E911 Second Reconsideration Order* found had no implementation, has gone to almost 100 percent implementation. We also note that, in a related article in the same issue, Rural Cellular Corporation reports that it has achieved such significant increases in new customers, earning, and revenue to allow this "rural carrier to concentrate on providing customers with city slicker features such as wireless Internet and prepaid calling plans." Rural Cellular Producing Wireless Crops, *Wireless Week*, Aug. 14, 2000, at 24.

⁶¹ *E911 Second Reconsideration Order*, 14 FCC Rcd at 20876-77 (paras. 63-64).

⁶² Corr Petition at 9-12, CTIA Comments at 5.

⁶³ *E911 Second Reconsideration Order*, 14 FCC Rcd at 20908-10.

⁶⁴ *Id.*, at 20909.

any, to adopt for carriers.⁶⁵ Moreover, we concluded that the proposal to remove the carrier cost recovery condition would most benefit rural areas and small carriers, because it would remove the need to resolve carrier cost recovery issues before the carrier's service obligation is triggered, thereby speeding deployment of E911 and ensuring more efficient and effective service.⁶⁶ Inasmuch as the reasons and findings in support of our conclusions in the Supplemental FRFA are affirmed on reconsideration above, we therefore see Corr's argument on this point as redundant.

26. For the same reasons, we also find no merit in Corr's additional argument that we violated the prohibition of the Fifth Amendment of the U.S. Constitution against the public taking of private property without just compensation, because our rule change requires carriers to provide E911 service without publicly-funded cost recovery.⁶⁷ We affirm on reconsideration that our rule change did not impose an undue burden on carriers and did not preclude them from recovering their E911 costs, inasmuch as they may continue to do so through self-recovery and state-adopted mechanisms. Finally, Corr argues that we should change the definition of universal service to include our CMRS E911 service and thereby permit cost support to be supplied to CMRS carriers in the normal course of providing universal support funding mechanisms.⁶⁸ That request is outside the scope of a petition for reconsideration of our cost recovery decision in the *E911 Second Reconsideration Order* and is denied without further discussion.⁶⁹

IV. PROCEDURAL MATTERS

A. Regulatory Flexibility Act

27. The Commission has not prepared an additional Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) of the possible economic impact on small entities of the Commission's decisions, *see generally* the Regulatory Flexibility Act (RFA), 5 U.S.C. § 604, because this Order does not promulgate or revise any rules, and our previous RFA analyses in this proceeding remain unchanged.⁷⁰

B. Authority

28. This action is taken pursuant to Sections 1, 4(i), 201, 303, 309, and 332 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. §§ 151, 154(i), 201, 303, 309, and 332.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Corr Petition at 14-15.

⁶⁸ Corr Petition at 6-9.

⁶⁹ 47 C.F.R. § 1.429(i).

⁷⁰ *See also* para. 25, *supra*; *see generally* Supplemental FRFA, *E911 Second Reconsideration Order*, 14 FCC Rcd at 20908-10.

C. Further Information

29. For further information, contact the Policy Division, Wireless Telecommunications Bureau, at 202-418-1310 (voice) or 202-418-1169 (TTY) or 202-418-7247 (fax).

V. ORDERING CLAUSES

30. Accordingly, IT IS ORDERED that the Petitions for Reconsideration filed by Corr Wireless Communications, L.L.C. (formerly CorrComm, L.L.C.) and Rural Cellular Association ARE DENIED.

31. IT IS FURTHER ORDERED that the Petition for Stay filed by Rural Cellular Association IS DENIED AS MOOT.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary



League of Kansas Municipalities

300 SW Commerce
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

To: Senate Commerce Committee
From: Kim Gulley, Director of Policy Development & Communications
Date: March 1, 2001
Re: Support for HB 2034
Opposition to SB 298

Thank you for allowing me to appear today on behalf of the League of Kansas Municipalities and our member cities. The development of enhanced wireless 911 has been established by the League Governing Body and the Convention of Voting Delegates as a priority for 2001. We appear today in support of HB 2034 and in opposition to SB 298.

HB 2034 Reflects Task Force Recommendations

HB 2034 was drafted to implement all of the recommendations contained in the Wireless 911 Task Force Report. The Task Force was made up of a group of diverse representatives who spent a great deal of time working on this issue. They carefully considered a number of the key policy issues that you will face as you work these bills. We hope that you will strongly consider their recommendations as you work through this important piece of legislation.

Public Safety is the Key

Developing and maintaining an efficient and effective 911 system is critical to the safety of Kansans. Local law enforcement professionals and locally elected officials have stepped up to the challenge of providing this service to both wired and wireless phone users. The current system has developed locally over time and offers both basic and enhanced services to wireline customers. Although wireless customers can dial 911, if contact is lost or the individual is uncertain of their location, there is no way to identify the location of the individual who is calling. We believe it is time to equalize these services and provide all Kansans, regardless of the type of communication they are using, with the highest quality emergency services possible.

Cost Recovery

One of the most controversial aspects of the discussions of the 911 Task Force centered around the concept of cost recovery. It will cost a great deal of money to equip local PSAPs with the capability of locating wireless phone users. Likewise, wireless service providers may experience costs related to the delivery of 911 information.

Currently, local governments pay for the cost of providing 911 services with the fee that is charged solely to wireline customers. That fee is established locally and currently ranges everywhere from a low of \$.18 to the statutory maximum of \$.75, depending upon the local needs. Wireline providers recover any costs that they experience as a result of the 911 system through tariffs established by the KCC and through phone bills paid by local PSAPs.

There was agreement amongst the members of the 911 Task Force that wireless providers should be treated in the same manner as wireline providers with respect to cost recovery. In fact, after lengthy discussions and negotiations, there was a vote taken by the Task Force to reject state mandated cost recovery in favor of cost recovery for providers that could be negotiated locally between PSAPs and providers. This vote was unanimous in favor of this position is reflected in the language of HB 2034.

Opposition to SB 298

The primary difference between HB 2034 and SB 298 is the establishment of a statewide fund to be administered through the Kansas Highway Patrol for enhanced wireless 911. The 911 Task Force considered the possibility of centralizing 911 services, as well as centralizing the collection of the fee. Both concepts were rejected by the Task Force. Both the Task Force and the House version of the bill endorse local control over both the 911 system and the collection of the fee to fund the service.

We oppose establishing a one-size-fits-all solution to the development of enhanced wireless 911. As we move toward enhanced wireless 911 services, different areas will have different needs and fashion different solutions to their needs. We believe that the advisory board as established in HB 2034 will serve as a technical advisory group to share information and provide help to any community that needs assistance in setting up enhanced wireless 911. Establishing a statewide pot from which communities will have to compete against each other and wireless providers for funds will inevitably impede the development of enhanced wireless 911. For these reasons, we oppose SB 298 and ask you to work the legislation proposed in HB 2034.

Conclusion

Twenty years ago, cities and counties were entrusted to implement basic 911. They can and should be trusted to implement enhanced wireless 911. HB 2034 provides a common sense, workable approach to achieve this and we ask you to recommend it favorably for passage.



BETSY GWIN
Commissioner - First District

BOARD OF COUNTY COMMISSIONERS
SEDGWICK COUNTY, KANSAS

COUNTY COURTHOUSE • SUITE 320 • 525 NORTH MAIN • WICHITA, KANSAS 67203-3759
TELEPHONE (316) 383-7411 • FAX (316) 383-8275

Testimony Regarding House Bill 2034
Senate Commerce Committee

Sedgwick County Commissioner Betsy Gwin
February 28, 2001

Good morning Madame Chair and Senate Commerce Committee members. I am Sedgwick County Commissioner Betsy Gwin. I have been a County Commissioner for 10 years have been a strong proponent of our emergency services. I am pleased to be here today to support House Bill 2034.

Technology is moving quickly in the telecommunications field. We have moved from rotary phones to cordless phones in our homes; wireless phones are common not only for business use, but for family members to communicate with one another. On the horizon, we are seeing our cable lines and desktop computers utilized for voice communications with others.

Fortunately, we all have the capacity through these means to contact emergency service providers by dialing 9-1-1. With landlines, 9-1-1 dispatchers immediately have the address and phone number of the caller. With wireless calls, however, we still do not have this capability...we can't find someone who needs our help in an emergency, unless they are able to tell us their location.

House Bill 2034 is important to our continued public safety efforts in Sedgwick County. The methods of communication are shifting; last year, over 125,000 calls to our 9-1-1 center were made from wireless phones. To assure a constant "E 9-1-1" level of service to all callers, including those calling from wireless phones, we will need to make technological upgrades.

We are concerned with the equity of having landline users pay for this technology required for wireless users; the elderly couple on a fixed income with a landline should not have to cover the costs of the family with wireless phones. It is our intent to share the costs of our 9-1-1 service among all that use it. House Bill 2034 also allows us to generate the necessary revenue for the capital improvements and recurring monthly costs from wireless providers to assure a constant level of E 9-1-1 service.

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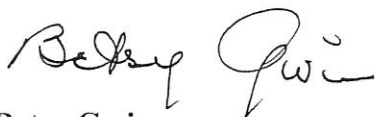
Testimony House Bill 2034
Senate Commerce Committee
Sedgwick County Commissioner Betsy Gwin
February 28, 2001

Page 2

Since February 1980, we have provided 9-1-1 service to the citizens of Sedgwick County. It was around this time that we were allowed the opportunity to impose a tax on local phone service to help support and enhance local 9-1-1 service. We believe the wireless 9-1-1 tax should follow this model. In our community, Sedgwick County Commissioners are responsible for assuring a high level of 9-1-1 service. We are also held accountable for the taxes necessary to provide this service. It makes sense for local governments to also identify what level of 9-1-1 service and what level of funding are necessary for their respective communities; there is no "one size fits all" in this state.

2000 legislation was passed that allowed the Governor to form and appoint a 14-member task force to review 9-1-1 service. This task force, made up of local government officials and providers of wireless phone service, invested a lot of effort looking at industry trends and the public safety needs across our state. We are supportive of the recommendations the task force has brought forward as House Bill 2034.

We ask your support of House Bill 2034, to help us assure residents and visitors in Sedgwick County that help can find them in a time of emergency when they dial 9-1-1, whether they are at home or traveling through our community. Thank you.



Betsy Gwin
Commission – First District



COUNTY MANAGER'S OFFICE

Sedgwick County Courthouse
525 N. Main, Suite 343
Wichita, KS 67203
Phone: (316) 383-7575
Fax: (316) 383-7946

Robert J. Lamkey
Director, Division of Public Safety

TESTIMONY REGARDING SB 298
Senate Committee on Commerce
By Bob Lamkey, Director of Public Safety
February 28, 2001

Madam Chair and members of the Committee, I am Bob Lamkey, Director of Public Safety for Sedgwick County. I have senior management responsibility for non-law enforcement aspects of public safety such as the Emergency Communications (911), Emergency Medical Services, Sedgwick County Fire District #1 and Emergency Management Departments.

As Sedgwick County's Public Safety Director, my charge is to assist citizens in need. That request for help normally begins with a 911 phone call—where effective communication is essential. Today with wired phones, existent location technology enables 911 dispatchers to send help while continuing to aid the person in need, and should the caller disconnect we can call back. This capability needs to be extended to wireless phone users.

The appropriate technology is at hand, but there are considerable costs to be borne by 911 centers and wireless providers to make it happen. Extending the 911 tax to wireless phones will permit those who use the service to help defray the cost of service enhancements.

In reviewing SB 298 we applaud the intent to provide a funding mechanism for deploying wireless E-911 and the structure of the proposed advisory body is right sized and balanced in representation. However, we have a number of significant reservations about key aspects—aspects that differ considerably from the recommendations of a thoughtful and representative Legislative 911 Task Force.

The 911 Task Force recognized that local jurisdictions are responsible for delivering 911 services and that they should be empowered to collect, hold and spend monies in a fiscally responsible manner to appropriately provide that service, and be held accountable by their constituency. Sedgwick County supports that position.

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“...TO BE THE BEST WE CAN”

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As we understand it, SB 298 calls for a fee of \$.50 per subscriber account to be managed centrally by an administrator with input from an Advisory Board. Collected funds will pay for the cost of administration, support for the Advisory Board, public safety answering point (PSAP) costs related to preparing for or implementing wireless E-911 and wireless provider costs pursuant to a service agreement with the PSAP. It is estimated the cost of administration, including support of the Advisory Board, could be as high as \$315,000 per year—current 911 tax dollars cannot be used for such purposes, why should wireless 911 dollars? What is the need for additional administrative layers when local jurisdictions are prepared and ready to tackle this challenge with existing resources? We in government are constantly challenged to reduce bureaucracy.

We are concerned about entering service agreements with wireless providers, as described in the bill, without a stable or predictable revenue stream. Funding is not guaranteed by SB298.

It does not appear that the proposed bill recognizes added recurring PSAP costs to receive information in support of wireless E-911 as eligible for funding. Rough estimates are that Sedgwick County would incur additional charges of \$150,000-200,000 annually from the local exchange carrier to support wireless E-911. We believe those costs are an important component of PSAP cost recovery.

The 911 Task Force recommended local determination and administration of the wireless 911 tax (to \$.75, identical to wired tax), that it be used to support the entire 911 system and recognized the need to treat taxpayers equitably. We support their findings and recommendations.

The proposed administrative structure and restricted use of funds solely to support wireless E-911 does not easily allow all of those using the system to share equitably in the cost of the entire system. Sedgwick County wants to be able to support deployment of wireless E-911 and provide a uniform tax across the user base in support of service delivery. We have seen a dramatic shift in the number of wireless calls to our 911 center. In 1996 only 10% of our 400,000+ calls were wireless; last year we received nearly 125,000—and that trend continues. Sedgwick County believes all users should pay equally.

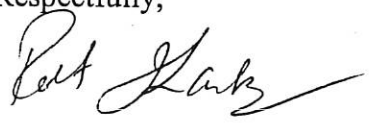
In summary, extending 911 to wireless users is necessary. The telecommunications revolution is ongoing and we need to recognize it and adapt. The impact of rapid advances in wireless communications on our society will only increase. Perhaps the day will come when wired phones join rotary phones as nostalgic museum pieces. It only makes sense for government to adapt to changes we can see as early as possible. We want to deliver emergency services as fast and effectively as possible. A responsive, technologically adept 911 operation is essential to that task. A sound base of financial support, locally administered and equitably distributed among **all** telephone users, is a

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fair and sound way to achieve that aim now and in the future. Unfortunately, we do not believe that SB 298 quite hits that mark.

Thank you for allowing me to speak to you today.

Respectfully,

A handwritten signature in cursive script, appearing to read "Robert J. Lamkey". The signature is written in dark ink and is positioned below the word "Respectfully,".

Robert J. Lamkey
Sedgwick County Director of Public Safety

Testimony of
Major R. Keith Faddis
Deputy Chief
Overland Park Police

House Bill 2034 and
Senate Bill 298

February 28, 2001

Members of the Committee:

Since 1990 I have been involved in the emergency communications area of law enforcement. I have served on task forces and committees that were involved in delivering 911 service to the citizens of Johnson, Wyandotte and Leavenworth counties as well as the greater Kansas City metropolitan area. Most recently I served as a member of the Governor's Task Force on Enhanced Wireless 911.

I would like to take just a minute and make sure you understand just how 911 works and the difference between wire line and wireless enhanced 911. The 911 telephone system is complicated for the telephone companies and service providers but is very simple for the caller. When a call is placed to 911 the call goes to the telephone company central office and then to the central office housing the 911 equipment and then to the appropriate PSAP. A wireless calls goes to the Mobile Telephone switching office then to the telephone central office housing the 911 equipment and then to the appropriate PSAP.

With Basic 911 when a call is received at the Answering point the callers number is displayed for the calltaker. If the caller hangs up before speaking then the calltaker must call the telephone company to get the name and address associated to that telephone number. As enhanced 911 was installed that information appeared on a display in front of the calltaker. If the caller hung up then the dispatcher no longer had to call the telephone company. They had the information then needed to dispatch officers immediately. So what does the enhanced 911 mean to the caller? If for some reason the call was disconnected help could still be on the way. In medical cases when the caller cannot speak or disturbances when the phone was torn out of the wall or burglaries when the caller is too frightened to speak, the dispatchers still had the information and knew where to send the assistance. Because the current state of wireless 911 we cannot send any assistance to a wireless caller in any of the examples I just gave you. When a wireless 911 call comes into the psap none of the subscriber information comes with it. No name, no address and no number to call back and most important of all no location. If the caller has not given any of the information to the dispatcher we cannot recontact them.

In Overland Park over 50 percent of the 911 calls we receive are from wireless. In December of last year that figure was over 60 percent. That means that 6 out of 10 citizens who call 911 receive a lower level of service than those who call from a wire line

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phone. Public Safety wants to be able to provide the same level of service to anyone who calls 911. That is why we have TDD devices in PSAP's. that is why we have installed 911 equipment that can capture abandoned calls. That is why we want enhanced wireless 911.

This is becoming more of an issue. Why is public safety so concerned? Perhaps some information that appeared in the November 12, 2000 edition of the Kansas City Stat may help. According to Ann Shutt, regional marketing director of Verizon wireless "there are 100 million wireless users in this country". Ms. Shutt went on to say that "some businesses have cut the cord and are using wireless as their only phone." In the same article, Phil Phillips, technology manager for Mobilfone stated "Many young single business people skip having home phones. Why pay \$40 a month for a wire phone when they are away from the apartment so much anyway?" As more people take this course the ability to locate them when they call 911 becomes more important. That is why we support HB 2034.

The Governors Task Force on Wireless E911 met several times during the past year and HB2034 contains most of the task force recommendations. The task force recommended that the 911 tax be extended to wireless and that the amount of the tax be left to local government and the county commissioners who must answer to the voters. One item that was decided very early in the meetings was that centralization of the 911 system was not desirable. It was agreed that there is not a one size fits all solution and that the governing bodies could best determine what is best for their citizens. That is how it was done when 911 was originally implemented in Kansas and it has worked well. There would also be costs associated with centralization that were unnecessary. Instead of using the 911 money to fund the system and improvements necessary some of the money would be diverted to fund another level of bureaucracy. The task force also made other recommendations that are reflected in HB2034. Those recommendations include the following: that the method of assessing the 911 tax be the same for wire and wireless, that the funds should not be segregated either by collection or expenditure, that an advisory panel be created to assist those agencies that needed assistance. In fact the Association of Public Safety Communications Officials has already started just such a group to assist PSAP in implementing wireless e 911.

The legislative Post Audit of 911 in the state of Kansas showed that 911 centers were being operated efficiently and the 911 systems in Kansas works well.

House Bill 2034 is the culmination of several months work by the Governors Task Force, members of the public safety community, representatives of local government, telephone companies including rural and independents, wireless service providers and public at large. We support House Bill 2034 over Senate Bill 298 because HB 2034 is the result of many years of work to reach an acceptable compromise with the goal of providing the best 911 service to all citizens of Kansas and we believe that HB 2034 is the best way to achieve that goal.



KANSAS
ASSOCIATION OF
COUNTIES

Kansas Association of Counties
Written Testimony on HB 2034

By Judy A. Moler, General Counsel/Legislative Services Director
March 1, 2001

The Kansas Association of Counties is in support of HB 2034. The passage of HB 2034 would mean....not a new tax....but extension of a current tax to new technology in order to achieve tax equity. The purpose of this tax is to build and provide enhanced 911 services for wireless users.

The Governor's Task Force on E 911 services appointed by the Governor met throughout the summer and fall with most of the recommendations of that Task Force appearing in HB 2034. One issue discussed by the Task Force and discarded was that of centralization of services.

A centrally controlled process and system does not and will not fit all localities across the state. For this reason, the Kansas Association of Counties is opposed to SB 298. It is not necessary to create a state level bureaucracy to administer the "enhanced wireless 911 fund". Public safety services have been handled locally and developed locally. Fire, ambulance, basic E 911 were all developed in this way, and this is the appropriate venue for the development of enhanced 911. Built into HB 2034 is a reasonable timeline for the building of enhanced 911. HB 2034 provides a well thought out framework for the provision of enhanced 911 services across Kansas.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the KAC by calling (785) 272-2585.

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email kac@ink.org

Senate Commerce Committee
March 1, 2001
Attachment 6-1



MEMORANDUM

TO: Members of the Senate Commerce Committee
FROM: Donald R. Seifert, Policy Development Leader *MS*
SUBJECT: **House Bill 2034; Enhanced Emergency 911 Telephone Service**
DATE: February 28, 2001

On behalf of the city of Olathe, thank you for the opportunity to add support for HB 2034, as amended by the House. Recommended by the E911 Task Force, the city appreciates the comprehensive work of the task force in studying the many issues associated with deployment of enhanced 911 services to wireless communications users.

The 911 emergency system has long been such an integral component of public safety that most Kansans take it for granted. Since 1980, cities and counties in Kansas have been authorized to collect a monthly surcharge on telephone lines to finance operation of the 911 emergency telephone service. The Olathe Police Department operates a busy public safety answering point that handled some 55,000 calls last year. Reflecting the growth of wireless communications in our society, wireless calls to 911 account for a growing portion of total call volume. In Olathe, such wireless calls are now approximately 45% of total emergency calls. However, until enhanced 911 service envisioned by this bill becomes available, wireless callers cannot receive the same level of emergency service as wire based callers.

The city supports extension of the 911 tax to wireless users for several reasons. First, as noted above, it is logical because wireless calls account for such a large proportion of 911 calls. Second, as a matter of equity, HB 2034 makes sense so wireless users share in the cost of providing emergency service. Finally, HB 2034 offers a means to finance enhanced 911 technology mandated by the FCC without unfairly burdening wire based telephones. The city does not support a centralized approach to wireless 911 service as contained in other bills before this committee. We believe the decentralized 911 system works very well in Kansas. It makes no sense to have different delivery systems for wireless vs. wire based emergency calls.

The city of Olathe supports extension of the 911 tax to wireless communications users who will benefit from the enhanced services. The city joins other units of local government in urging the committee to recommend this bill favorably for passage.

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March 1, 2001
Attachment 7-1

Side-by-Side HB 2034 and SB 298

	HB 2034	SB 298
<u>Administration</u>	<p>Local tax rate, maximum of \$.75, determined by local governing body. Page 2, line 42.</p> <p>Service provider collects tax and remits to local governing body Page 5, line 3.</p> <p>Service provider retains 2% administrative fee. Page 5, line 6.</p>	<p>Statewide tax rate, maximum of \$.50, determined by state administrator in consultation with advisory board. Page 2, line 18.</p> <p>Service provider collects tax and remits to state administrator. Page 2, line 28.</p> <p>Service provider retains up to 2% administrative fee. Page 2, line 30.</p>
<u>Tax Jurisdiction</u>	<p>Customer billing address. Page 4, line 8.</p>	<p>Same. Page 2, line 19.</p>
<u>Liability Protection.</u>	<p>Included. Page 7, line 9.</p>	<p>Included. Slightly different language. Page 5, line 27.</p>
<u>Proprietary Information.</u>	<p>Protected. Page 5, line 37.</p>	<p>Protected. Slightly different language. Page 5, line 23.</p>
<u>Implementation of Wireless E911 Service.</u>	<p>County-by-county at the discretion of the local governing body. Page 6, line 37.</p>	<p>Statewide at the discretion of state administrator. Page 3, line 17.</p>
<u>Advisory Board.</u>	<p>14 members. Selected by various agencies, associations, industry. available to assist the local governing boards. Page 2, line 38.</p>	<p>11 Members appointed by the governor. Consults with state administrator. Page 7, line 33.</p>
<u>Technology mandate.</u>	<p>None.</p>	<p>None.</p>
<u>Cable Telephony.</u>	<p>Included.</p>	<p>Silent.</p>
<u>Wireless Provider Cost Recovery</u>	<p>At the discretion of the local governing body subject to negotiation. Page 5, line 11.</p>	<p>Eligibility of costs determined by state administrator in consultation with advisory board. Page 4, line 3.</p>