

Comment & Suggestions for the Senate to consider in HB 911 (PN1331)

Offered by Roger Schneider of Phone Recovery Services, LLC,
Expert Witness and 911 District Consultant on 911 Surcharges*

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*Presented in Mr. Schneider's absence by Joshua D. Wolson, Partner, Dilworth Paxson, LLP

Executive Summary of Mr. Schneider's Remarks

The Current Version of HB 911 will cut Billable Business lines by more than 50%

- There are two provisions that will reduce the base of billable lines for businesses and establishments in Pennsylvania with multiple phone lines and numbers in active service. The following two paragraphs are excerpted from Section 5307 (b) of HB911 (PN 1331) and will cause a significant reduction in the base of phones subject to 911 surcharges in the Commonwealth:
 - “(6) As of July 1, 2015, for each digital transmission link, including primary rate interface service or Digital Signal-1 (DS-1) level service, or equivalent, that can be channelized and split into 23 or 24 voice-grade or data-grade channels for voice communications, that when the digits 9-1-1 are dialed provides the subscriber access to a PSAP through permissible interconnection to the dedicated 911 system, a subscriber shall be assessed 12 surcharges.”
 - “(7) Surcharges on VoIP service shall apply to no more than the number of VoIP service lines for which the VoIP service providers enable the capacity for simultaneous calls regardless of actual usage, to be connected to the public-switched telephone network.”
- Both paragraphs should be struck in favor of the current Statute which provides:
 - For PRI or DS-1 lines to be assessed a surcharge for all 23 PRI channels capable of voice-grade communication not just 12 as proposed in paragraph (6) above
 - For VoIP, every phone number capable of dialing 911 is assessed a 911 surcharge, subject to a sliding scale discount of 75% for the number of lines between 25 and 100 to a maximum discount of 87.7% for over 500 numbers
- We support the change in the surcharge to a flat rate of \$1.65 verses the current law which provides for a maximum “contribution rate” (or 911 surcharge) ranging from \$1 to \$1.50 depending on the size of the county.

Sen. Randy Vulakovich
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Sen. Jay Costa
Senate Box 203043
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Dear Chairmen Vulakovich and Costa:

First, I would like to thank the Chairman and the members of the Committee for the opportunity to submit my remarks in writing and I am sorry that a family health situation will prevent me from being in front of the committee to address these thoughts to you personally and to answer any questions you may have. I will certainly make myself available to the committee for follow-up on any aspect of the proposed legislation revamping the Commonwealth's 911 systems.

My name is Roger Schneider and I am a resident of Alabama. In my home town of Huntsville, AL I served as an appointed commissioner for our local city/county Emergency Communications District, otherwise known as the 911 Board, for over 20 years. I have a long and varied career in technology and directed the technology efforts of the 1988, 1992 and 1996 Democratic National Conventions which involved installing and maintaining thousands of telephone lines. For the past decade, and intensely for the past few years, I have specialized in analyzing the application of 911 statutes by telephone service providers in Alabama, Tennessee, Georgia, Delaware, and Pennsylvania among other states, counties and cities.

So, I want to congratulate the House on achieving a difficult and meaningful milestone with the passage of HB 911. Restructuring a state's 911 systems involves a large number of stakeholders who are sometimes supportive of each other and sometimes at odds. Representative Steve Barrar, his colleagues and his staff have done an admirable job at balancing a great many interests in drafting and passing HB 911.

It is very clear, even to an outsider like myself, that all the 911 stakeholders in Pennsylvania understand that the current situation is not financially sustainable and threatens the critical, life-and-death mission of 911 districts in protecting the citizens of the Commonwealth.

On a personal note, back in Alabama, we have a "Call-taker of the Quarter" award we present to the 911 call-taker who has successfully handled the most difficult incoming 911 call in the last three months. The entire Board of Commissioners listens to the recording of the call and our call-taker's response and the job that these public servants do every day always leave the entire Board in awe. They deserve our support and I know that the 911 employees across Pennsylvania appreciate the hard work and perseverance that the Legislature is expending in improving the 911 systems.

There are many significant accomplishments in HB 911 – a single uniform 911 fee, an increase in that fee to reflect increasing technology costs and the imminent need for Next Generation 911, updating telecommunications procedures and operating and accountability requirements, and other benefits.

As part of its obligation to maintain accountability and stabilize the 911 Districts' financial situations, **the House was forward-thinking and deleted language that would have removed counties' right to review the records of telephone providers and determine if 911 fees were being billed, collected and remitted properly in the past.** This is important to the counties because each have been forced to make up funding shortfalls with funds from their General Funds, and often with increased property taxes, for example.

While an "autopsy" or an audit is never pleasant, in this case it could be vital to the financial well-being of many of Pennsylvania's counties. I urge this committee and the Senate to avoid any language that removes accountability for those companies acting as the financial agents, of the state's 911 Districts.

The House also added Administrative Subpoena powers to the Pennsylvania Emergency Management Agency which is given the power to audit telephone service providers for the proper billing, collection and remittance of 911 fees. This explicit subpoena power is important given HB 911's valid but stringent confidentiality provisions. Importantly, Administrative Subpoenas are required by some federal privacy laws, and the new statutory language protects service providers from repercussions from federal agencies when they cooperate with the Commonwealth's requests for information.

So, some of HB 911's benefits to the 911 systems are obvious, while others are subtle but nevertheless important.

There is, I believe, one last issue to be addressed in HB 911... an issue that could have unintended financial consequences for the counties and 911 systems.

Under current law:

- Traditional local exchange service is assessed 911 fees on "dial tone access lines", that is, the number of telephone users that can simultaneously obtain dial tone and make an outbound local call (for example, to 911). For a fully configured multi-line PRI circuit, there are 23 "lines" that can support an outgoing call concurrently, so PRIs are assessed 23 911 fees.

"(g.1) Contribution rate.

(1) Counties of the first through second class A may impose a monthly contribution rate in an amount not to exceed \$ 1 **per line on each local exchange access line.** Counties of the third through fifth class may impose monthly contribution rates in an amount not to exceed \$ 1.25 per line on each local exchange access line. Counties of the sixth through eighth class may impose a monthly contribution rate in an amount not to exceed \$ 1.50 per line on each local exchange access line." [35 Pa. C.S.A. Section 5305 (g.1)]

- VoIP service on the other hand is not currently assessed on simultaneous calls allowed, but on every active ten-digit telephone number a subscriber has in place. The telephone numbers typically outnumber the number of simultaneous calls by 5 to 8 times, and thus are assessed many more 911 fees than a PRI.

“(a) VoIP service customer 911 contribution. –

(1) Each VoIP provider or telecommunications carrier shall collect a \$ 1 fee per month for **each telephone number or successor dialing protocol** assigned by a VoIP provider to a VoIP service customer number that has outbound calling capability.” [35 Pa. C.S.A. Section 5311.14 (a)(1)]

Under HB 911:

Traditional local exchange service and VoIP are both assessed 911 surcharges uniformly based on each “communications service” which is defined as any service that has the capability of calling 911:

“ ‘Communication service.’ Any service that provides to a subscriber or consumer the capability to initiate, route, transmit or complete a 911 communication from or through any telecommunication device that utilizes telephone numbers, Internet protocol addresses or functional equivalents or technological successors.” [HB 911, (PN 1331), Section 5305]

But **that uniformity is undone** with later language in HB 911, Section 5307 (b) that modifies this assessment:

“(6) As of July 1, 2015, for each digital transmission link, including primary rate interface service or Digital Signal-1 (DS-1) level service, or equivalent, that can be channelized and split into **23 or 24 voice-grade or data-grade channels for voice communications**, that when the digits 9-1-1 are dialed provides the subscriber access to a PSAP through permissible interconnection to the dedicated 911 system, a subscriber **shall be assessed 12 surcharges.**” [HB 911 (PN 1331), Section 5307 (b) (6)]

“(7) Surcharges on VoIP service shall apply to no more than the number of VoIP service lines for which the VoIP service providers enable the capacity for **simultaneous calls** regardless of actual usage, to be connected to the public-switched telephone network.” [HB 911 (PN 1331), Section 5307 (b) (7)]

Recommended Language:

In both subsection (6) and (7) of HB 911 (PN 1331), Section 5307(b) above, the **assessments for each type of voice service are being reduced from current levels** – assuring that fewer 911 surcharges will be assessed under the new law than are under the current law. The financial projections and fiscal impact studies, however, assume that the same number of assessments will occur in the future as are collected now, but of course charged at the new \$1.65 contribution rate.

So, HB 911, Section 5307(b) (6) and (7) introduce an unknown, but very significant, level of financial risk for the 911 systems and counties. For example, dropping the assessments on PRIs from every active “line” or channel as is currently applied, to a maximum of **12 fees reduces an entire class of assessments to one half** of current levels.

Similarly, reducing the assessments on VoIP from every active telephone number to the number of simultaneous calls allowed by the provider could easily **drop VoIP assessments to 20%** of current assessments.

Again, neither of these reductions in the number of 911 fees that may be assessed are taken into account in calculating the fiscal impact of HB 911.

To eliminate that financial risk, I strongly recommend that the final legislation use the existing methods of surcharge assessment for both multi-line service like PRIs and for VoIP, while keeping HB 911's \$1.65 contribution rate.

HB 911, Section 5307(b) (6) and (7) can be edited as follows, essentially returning HB 911's language to the assessment language currently in effect:

“(6) As of July 1, 2015, for each digital transmission link, including primary rate interface service or Digital Signal-1 (DS-1) level service, or equivalent, that can be channelized and split into 23 or 24 voice-grade or data-grade channels for voice communications, that when the digits 9-1-1 are dialed provides the subscriber access to a PSAP through permissible interconnection to the dedicated 911 system, a subscriber shall be assessed **for each “access line” as provided by an activated voice-grade channel.**”

“(7) Each VoIP provider or telecommunications carrier shall collect a **\$ 1.65 fee per month for each telephone number or successor dialing protocol** assigned by a VoIP provider to a VoIP service customer number that has outbound calling capability.”

Again, thank you for the opportunity to share my thoughts on the 911 legislation with you in this manner. I am pleased to be a part of this important process, even if only a small one.

Sincerely,

Roger Schneider
President
Expert Discovery/PRS