

Decision No. C20-0690

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 20M-0337T

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IN THE MATTER OF IMPLEMENTING HB 20-1293 TO ESTABLISH THE  
2021 EMERGENCY TELEPHONE CHARGE THRESHOLD, STATEWIDE  
9-1-1 SURCHARGE, PREPAID WIRELESS 9-1-1 CHARGE, AND STATEWIDE  
9-1-1 SURCHARGE DISTRIBUTION FORMULA.

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**DECISION GRANTING INTERVENTIONS; AND  
ESTABLISHING THRESHOLD, SURCHARGE AND  
CHARGE AMOUNTS, AND DISTRIBUTION FORMULA**

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Mailed Date: September 29, 2020

Adopted Date: September 23, 2020

**TABLE OF CONTENTS**

I. BY THE COMMISSION .....	2
A. Statement .....	2
B. Background.....	2
C. Intervention.....	5
D. Emergency Telephone Charge Threshold .....	9
E. Statewide 9-1-1 Surcharge .....	14
F. Prepaid Wireless 9-1-1 Charge.....	16
G. Statewide 9-1-1 Surcharge Distribution Formula.....	17
II. ORDER.....	18
A. The Commission Orders That: .....	18
B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING September 23, 2020. ....	20

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**I. BY THE COMMISSION****A. Statement**

1. The Commission opened this proceeding through Decision No. C20-0601, issued August 17, 2020 (Opening Decision) to begin implementation of House Bill (HB) 20-1293, which requires the Commission to establish by October 1, 2020, the local Emergency Telephone Charge threshold, a statewide 9-1-1 surcharge, a prepaid wireless 9-1-1 charge, and a formula for distribution of money from the statewide 9-1-1 surcharge to governing bodies, each to be effective January 1, 2021.<sup>1</sup>

2. Through this Decision, we address intervention pleadings and establish the following amounts and formula to be effective January 1, 2021: (1) an authorized Emergency Telephone Charge threshold of \$1.72; (2) a statewide 9-1-1 surcharge of \$0.10; (3) a prepaid wireless 9-1-1 charge of \$1.38; and (4) a distribution formula through which the Commission will distribute funds from the statewide 9-1-1 surcharge, less administrative costs to be determined by the Commission but not exceeding 4 percent, to each 9-1-1 governing body in amounts proportional to the number of concurrent sessions each 9-1-1 governing body maintains at its Public Safety Answering Points (PSAPs) as a percentage of the total number of concurrent sessions in the state.

**B. Background**

3. On July 10, 2020, the Governor signed HB 20-1293, which requires the Commission to establish annually, by October 1 of each year: (1) the authorized threshold amount at which applications are required to increase the local Emergency Telephone Charge; (2) a statewide 9-1-1 surcharge; (3) a prepaid wireless 9-1-1 charge; and (4) formulas for

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<sup>1</sup> §§ 29-11-100.2 through 102.5, C.R.S.

distribution of money from the statewide 9-1-1 surcharge and prepaid wireless 9-1-1 charge to the governing bodies. By statute, these items will be effective January 1 of the following year. In accordance with Rules 2148 and 2149, 4 *Code of Colorado Regulations* (CCR) 723-2 of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services, the Commission opened this proceeding to establish these items by October 1, 2020.<sup>2</sup>

4. As described in our Opening Decision, we proposed for participant comment amounts and a formula required by HB20-1293 to be established by October 1, 2020, with an effective date of January 1, 2021: (1) an authorized Emergency Telephone Charge threshold of \$1.72; (2) a statewide 9-1-1 surcharge of \$0.10; (3) a prepaid wireless 9-1-1 charge of \$1.38; and (4) a distribution formula through which the Commission will distribute funds from the statewide 9-1-1 surcharge, less administrative costs to be determined by the Commission but not exceeding 4 percent, to each 9-1-1 governing body in amounts proportional to the number of concurrent sessions each 9-1-1 governing body maintains at its PSAPs as a percentage of the total number of concurrent sessions in the state. While this proceeding addressed the amounts and formula required by statute to be established by October 1, 2020, the Commission noted that additional implementation of HB 20-1293 would be addressed through later proceedings and decisions.<sup>3</sup>

5. Interested persons were invited to submit comments or briefing, in addition to intervention requests, by September 16, 2020, and to submit reply briefs or comments by September 21, 2020.<sup>4</sup>

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<sup>2</sup> In our Opening Decision, we explained that a formula for the distribution of the prepaid wireless 9-1-1 charge that conforms to the statutory requirement is already in place, and therefore such a formula does not need to be established by October 1, 2020.

<sup>3</sup> Opening Decision, at ¶ 2.

<sup>4</sup> *Id.*, at ¶ 3.

6. Through Decision No. C20-0658-I, issued September 11, 2020, we provided updated concurrent session information for participant comment. Specifically, we noted that the corrected number of concurrent sessions is a total of 601, rather than 599 as indicated in the Opening Decision. In providing this updated information, we noted that the effect on pertinent calculations caused by the increased total of concurrent sessions did not change the proposed statewide 9-1-1 surcharge or distribution formula. We further provided for participant comment, the underlying concurrent session count totaling 601 concurrent sessions as Attachment A to Decision No. C20-0658-I.

7. Intervention pleadings and comments were timely filed by the following: Douglas County Emergency Telephone Service Authority (Douglas ETSA); the El Paso-Teller County Emergency Telephone Service Authority (El Paso 911); the Colorado Telecommunications Association (CTA); Qwest Corporation, doing business as CenturyLink (CenturyLink); the Adams County E-911 Emergency Telephone Service Authority, the Arapahoe County E-911 Emergency Communications Service Authority, and the Jefferson County Emergency Communications Authority (collectively, AAJ Authorities); CTIA – The Wireless Association (CTIA); the Boulder Regional Emergency Telephone Service Authority (BRETSA); and Bresnan Broadband of Colorado, LLC and Time Warner Cable Information Services (Colorado), LLC (collectively, Charter). Public comments were also jointly filed via the Commission’s online comment form by the Montrose Emergency Telephone Service Authority, the Ouray County Emergency Telephone Authority, and the San Miguel County Emergency Telephone Authority, collectively referring to themselves as the “West Region 9-1-1 Authorities” (West Region Authorities) and supporting the Commission’s proposals.

8. Initial pleadings and comments overwhelmingly support or remain neutral to the Commission's proposals in its Opening Decision. CTIA, however, raised concerns regarding the proposed authorized Emergency Telephone Charge threshold of \$1.72, and requested that the Commission set a lower amount.

9. On September 21, 2020, a response pleading was provided by CTIA, in which they reiterated their position that the proposed threshold for Emergency Telephone Charge applications of \$1.72 is too high, and suggested that an amount of \$1.39 would be more appropriate.

**C. Intervention**

10. On September 14, 2020, Douglas ETSA and El Paso 911 jointly filed an intervention as of right, or in the alternative, a request for permissive intervention. Douglas ETSA and El Paso 911 state that they operate emergency telephone and emergency notification services within their respective jurisdictions pursuant to § 29-11-104, C.R.S., that they impose Emergency Telephone Charges, and that they are eligible recipients of the new statewide 9-1-1 surcharge and the prepaid wireless 9-1-1 charge being established in this proceeding. Therefore, Douglas ETSA and El Paso 911 assert that they have an interest in monitoring and providing input into the Commission's development of the Emergency Telephone Charge threshold and the statewide 9-1-1 surcharge amount. Concurrent with its request for intervention, Douglas ETSA and El Paso 911 filed a brief and statement of position in support of the Commission's initial proposals.

11. On September 16, 2020, CTA filed a motion to intervene pursuant to Rule 1401(c), 4 CCR 723-1 of the Commission's Rules of Practice and Procedure. CTA states it is a trade association comprised of more than two dozen rural carriers throughout Colorado.

CTA states that its members serve as Originating Service Providers (OSPs), and that their customers that call 9-1-1 are routed by CTA members to the Basic Emergency Service Provider (BESP) for call completion. It also states that CTA members, like other OSPs, collect a monthly surcharge to remit funds to PSAPs which use those funds to pay for costs associated with 9-1-1 service. CTA claims that any actions the Commission takes that impact the 9-1-1 system, including establishing, collecting, and distributing 9-1-1 surcharges, directly affect the tangible and pecuniary interests of its members. CTA filed no initial comments or reply comments on the proposed amounts and formula.

12. CenturyLink also timely filed an intervention by right, or, in the alternative, a request for permissive intervention. CenturyLink states that it is a provider of telecommunications service to customers who require access to 9-1-1 service, and on whose behalf CenturyLink collects and remits 9-1-1 surcharges in Colorado. CenturyLink also states it is a certificated BESP, which would receive some of the proceeds from 9-1-1 surcharges for tariffed Basic Emergency Service. Therefore, CenturyLink claims this proceeding directly affects its legally protected rights and obligations and that it likely meets the requirements for intervention as of right. In the alternative, CenturyLink requests the Commission treat its notice of intervention as of right as a motion for permissive intervention.

13. In its pleading, CenturyLink remains “officially neutral” as to the Commission’s proposed amounts and formula, but states that the proposals “make sense.”

14. The AAJ Authorities collectively filed a timely motion to intervene pursuant to Rule 1401(c), 4 CCR 723-1. The AAJ Authorities state their primary source of revenue is the Emergency Telephone Charge, and that the amount of the statewide 9-1-1 surcharge and the prepaid wireless 9-1-1 charge, and the manner in which the surcharge and charge are remitted

and distributed, will affect the AAJ Authorities. Thus, the AAJ Authorities claim this proceeding may substantially affect their pecuniary or tangible interests. Concurrent with its motion to intervene, on September 16, 2020, the AAG Authorities provided a Brief in Support of Proposed Commission Action.

15. CTIA also filed a motion to intervene pursuant to Rule 1401(c), 4 CCR 723-1, on September 16, 2020. CTIA states that its members include a number of wireless providers who, as Originating Service Providers for 9-1-1 calls, will be responsible for collecting the charges required under HB 20-1293, and that customers will likely engage with their wireless providers concerning the charges. Therefore, it states that the tangible interests of wireless providers that are CTIA members will be affected by the charges to be collected from wireless customers. Concurrent with its intervention pleading, CTIA filed initial comments requesting that the Commission adopt a threshold amount lower than the proposed \$1.72.

16. On September 16, 2020, BRETSA filed a notice of intervention as of right pursuant to Rules 1401(a) and (b), 4 CCR 723-1. BRETSA states that it is a governing body as defined in § 29-11-101(16), C.R.S. As such, it states that it is authorized to impose an Emergency Telephone Charge on service users, and that it will receive a distribution of the statewide 9-1-1 surcharge and the prepaid wireless 9-1-1 charge. BRETSA claims that the amounts and formulas established by this proceeding will impact its revenues available to meet the costs of continued operation of the Emergency Telephone Service. BRETSA's concurrently filed comments support the proposed threshold amount of \$1.72, and request the Commission include that any future rules adopted interpreting implementation of HB 20-1293 allow

reasonable time for governing bodies to bring their budgetary practices into compliance with updated rules.<sup>5</sup>

17. Charter filed a timely request for intervention by right, or, in the alternative, a request for permissive intervention on September 16, 2020. Charter states that it holds certificates of public convenience and necessity authorizing it to provide local exchange telecommunications services and letters of registration for private line services and various other services in Colorado. Further, it states it remits 9-1-1 surcharges to the Commission, and that it remits these amounts out of its service revenues and does not pass these amounts on to its customers. Therefore, Charter states that this proceeding will have a significant effect on its business and a direct effect on its operational costs in Colorado. Charter did not submit comments addressing the Commission proposals provided in the Opening Decision, although it did provide reply comments stating that it agreed with initial comments filed by CTIA suggesting that an Emergency Telephone Charge rate lower than the proposed rate of \$1.72 should be considered.

18. Under Rule 1401(c), 4 CCR 723-1, persons seeking permissive intervention must demonstrate that the proceeding may substantially affect the pecuniary or tangible interests of the movant, and that the movant's interests would not otherwise be adequately represented. The motions to intervene filed by CTA, the AAJ Authorities, and CTIA demonstrate the required pecuniary or tangible interests and that the movants' interests would not otherwise be adequately

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<sup>5</sup> Consistent with the Commission's statements in its Opening Decision, full implementation of HB 20-1293 will be addressed through a separate decision and future rulemakings. BRETSA's statements are therefore not addressed in this Decision regarding establishment of certain statutory requirements by October 1, 2020.



represented. Therefore, we find it appropriate to grant the requests for permissive intervention in this proceeding filed by CTA, the AAJ Authorities, and CTIA.

19. Additionally, we decline to determine whether Douglas ETSA, El Paso 911, CenturyLink, BRETSA, and Charter meet the requirements for intervention as of right set forth in Rule 1401(b), and instead address these movants' alternative requests for permissive intervention.<sup>6</sup> We find that the motions to intervene filed by Douglas ETSA and El Paso 911, CenturyLink, BRETSA, and Charter demonstrate the required pecuniary or tangible interests and that the movants' interests would not otherwise be adequately represented as required by Rule 1401(c), and therefore grant these movants permissive intervention in this proceeding.

20. Therefore, each pleading seeking intervention is granted, and the following are parties to this proceeding: Douglas ETSA and El Paso 911, jointly; CTA; CenturyLink; the AAJ Authorities, collectively; CTIA; BRETSA; and Charter.

#### **D. Emergency Telephone Charge Threshold**

21. Section 29-11-102, C.R.S., requires the Commission to take into account inflation and the needs of the governing bodies in setting the authorized Emergency Telephone Charge threshold amount. As required by Rule 2148(I)(B) and (C), 4 CCR 723-2, the Commission must take these considerations into account by considering, at a minimum, historical data, future projections, inflation rates, the rate of increase of the average emergency telephone charge, comments provided to the Commission, and other factors the Commission deems relevant.

22. In our Opening Decision, we proposed for stakeholder comment an authorized Emergency Telephone Charge threshold of \$1.72. We noted that the Emergency Telephone

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<sup>6</sup> Although BRETSA did not include a request for permissive intervention in the alternative to its notice of intervention as of right, we construe its pleading as such for consistency.

Charge threshold has been set at \$0.70 since 1990, and stated that \$0.70 in June of 1990 would equal \$1.39 in June of 2020, per the most recent comparison available through the Bureau of Labor Statistics Consumer Price Index Calculator. Further, we observed that, if adjusted for inflation, the average Emergency Telephone Charge has risen at a rate that is nearly parallel to inflation, with the exception of the years 2016 through 2020. The difference between what \$0.70 would be, adjusted for inflation, each year and the average Emergency Telephone Charge held steady between \$0.35 and \$0.39 until 2016, at which time the average Emergency Telephone Charge rate began to increase at a rate that was greater than inflation. The gap between the inflation-adjusted threshold and the average Emergency Telephone Charge was \$0.31 in 2016, \$0.29 in 2017, \$0.30 in 2018, \$0.25 in 2019, and is now at \$0.12 in 2020.

23. Additionally, we discussed the fact that historically, governing bodies requesting large increases to their Emergency Telephone Charge rates do so to replace outdated equipment and to pay for an increasing share of the personnel and equipment costs of the PSAP. We also noted that the ongoing migration of the PSAPs of the state from the legacy 9-1-1 network to the Emergency Services IP-Network have prompted a number of PSAPs to replace equipment now in order to be able to take full advantage of the migration.

24. Therefore, our proposal took into account historic data indicating that, beginning in 2016, the rate of increase in the average Emergency Telephone Charge outstripped inflation, indicating a greater need by the 9-1-1 governing bodies than simply adjusting for inflation. The rate of increase in the average Emergency Telephone Charge was, on average, 7.7 percent per year. Starting with \$1.28 in 2016 (the 2016 equivalent of \$0.70, adjusted for inflation) and adding 7.7 percent per year, we reached \$1.72 for the year 2020.

25. Initial comments provided by Douglas ETSA and the AAJ Authorities were wholly supportive of the Commission's initial proposals, as were the public comments filed by the West Region Authorities. BRETSA characterized the proposed threshold of \$1.72 for Emergency Telephone Charges as "conservative," but stated that the proposal was "well-supported," and expressed support for the proposal given the time constraints of this proceeding.

26. CTIA requests in its initial comments that the Commission lower the proposed threshold amount of \$1.72 for Emergency Telephone Charge applications. In its reply comments, CTIA proposes that adjusting the \$0.70 threshold for inflation to \$1.39 would be appropriate. Charter did not comment on the proposed threshold rate in its initial comments, but, in its reply comments, agreed with CTIA's request for a threshold amount lower than \$1.72, stating that the Commission "should take a more measured approach to determine any appropriate increase above the current \$0.70."<sup>7</sup>

27. In support of this request, CTIA notes that while the \$0.70 threshold has not been adjusted for inflation since it was first enacted in statute in 1990, the number of phone lines in Colorado has increased, and therefore the revenue being generated by the total number of lines has presumably also increased. Attachment 1 to CTIA's comments indicate that the number of 9-1-1 access connections in Colorado has increased from roughly 4.5 million in 1999 to over 7.8 million in 2018. In its reply comments, however, BRETSA disagrees that the increase in the number of lines is sufficient to offset inflation and the increased cost of Emergency Telephone Service. It notes that the increase in 9-1-1 access connections is due to population growth and

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<sup>7</sup> Charter Reply Comments at pp.1-2.

the widespread adoption of cellular phones, which in turn have increased the number of incidents and the call load per incident, resulting in increased costs at Colorado's PSAPs.

28. CTIA also notes the Federal Communications Commission (FCC) reported to Congress that \$197.9 million in 9-1-1 surcharge revenues were diverted by states for purposes other than 9-1-1,<sup>8</sup> suggesting that a lower Emergency Telephone Charge application threshold would allow the Commission to ensure that Emergency Telephone Charge funds are not being diverted to other purposes by the governing bodies. However, CTIA acknowledges that there is "no evidence suggesting that fee diversion has been a problem in Colorado."<sup>9</sup> This is the case despite the fact that the Commission only reviews expenses by governing bodies when they apply for increases to the local Emergency Telephone Charge to rates above \$0.70, and that even with the \$0.70 threshold for Emergency Telephone Charge applications, only a small percentage of the budgets and expenses of governing bodies are reviewed by the Commission every year.<sup>10</sup>

29. CTIA, in its reply comments, proposed that the Commission adjust the rate to \$1.39, which would adjust the \$0.70 threshold for inflation only. While this would meet the statutory requirement to take into account inflation, it would not meet the second statutory requirement to take into account "the needs of the governing bodies," and would therefore fall short of meeting the Commission's statutory obligations. As stated in the Opening Decision, a review of Emergency Telephone Charge applications received by the Commission reveal that

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<sup>8</sup> FCC, Eleventh Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges for the Period January 1, 2018 to December 31, 2018, Submitted Pursuant to Public Law No. 110-283 (Dec. 19, 2019), <https://www.fcc.gov/files/11thannual911feereport2019pdf>; *see also* Public Notice, FCC Issues Annual Report on State 911 Fees (Dec. 19, 2019), <https://docs.fcc.gov/public/attachments/DOC-361479A1.pdf> ("9-1-1 Public Notice").

<sup>9</sup> CTIA Initial Comments at p. 12.

<sup>10</sup> Other pressures, such as oversight of the governing bodies by local elected officials, account for the fact that, to the Commission's knowledge, no Emergency Telephone Charge funds have ever been diverted to purposes not allowed by statute.

requests for charge increases are brought about by a number of factors, including replacing outdated equipment, paying increased share of personnel and equipment costs at the PSAPs, and preparations for migration of the state's PSAPs to an Emergency Services IP network.<sup>11</sup> Furthermore, it should be noted that while the Colorado statute has been modified three times to expand the types of expenses for which Emergency Telephone Charge funds can be used, those expansions were not accompanied with an increase to the threshold. Emergency Medical Dispatch protocol systems were added as an eligible expense in 1992,<sup>12</sup> personnel expenses in 1995,<sup>13</sup> emergency notification systems in 2002,<sup>14</sup> and radio equipment in 2004.<sup>15</sup> Adjusting the threshold for inflation without also appropriately taking into account additional costs that have been added to the Emergency Telephone Charge would be a failure to fulfill the Commission's duty to take into account "the needs of the governing bodies."

30. CTIA also suggested that the needs of the governing bodies vary from one locality to another. While the Commission agrees with this statement, it is required by statute to establish a single Emergency Telephone Charge application threshold that applies to all governing bodies.

31. We find that consideration of the comments submitted by the parties in this proceeding further supports establishing an authorized Emergency Telephone Charge threshold of \$1.72, effective January 1, 2021. The statute requires that the Commission "take into account inflation and the needs of the governing bodies."<sup>16</sup> The \$0.70 threshold previously prescribed in the statute was established in 1990, and adjusting for inflation yields a new rate of \$1.39. To take

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<sup>11</sup> Opening Decision, at ¶¶ 9, 10.

<sup>12</sup> HB 92-1156.

<sup>13</sup> Senate Bill (SB) 95-15.

<sup>14</sup> HB 02-1086.

<sup>15</sup> SB 04-111.

<sup>16</sup> § 29-11-102.3(2)(f)(II), C.R.S.

into account the “needs of the governing bodies,” however, the Commission also noted that the average statewide Emergency Telephone Charge increased at an average rate of 7.7 percent higher than inflation, from 2016 to 2020. As the only objective method for determining the needs of the governing bodies, the Commission then proposed a rate that was determined by adjusting the rate by inflation to what it would have been in 2016, which is \$1.28, then adjusting it an additional 7.7 percent per year thereafter, bringing it to the proposed figure of \$1.72. An amount greater than \$1.39 is further supported by BRETSA’s comment stating that the cost of providing Emergency Telephone Service has increased with population growth and the migration to wireless service, and by the fact that since 1990, the Colorado Legislature has allowed additional uses of the Emergency Telephone Charge without increasing the threshold amount.

32. Therefore, taking into account both inflation and the needs of governing bodies, in addition to our further consideration of the submitted comments, we establish an authorized Emergency Telephone Charge threshold of \$1.72, effective January 1, 2021.

**E. Statewide 9-1-1 Surcharge**

33. Pursuant to § 29-11-102.3, C.R.S., the statewide 9-1-1 surcharge must be reasonably calculated to meet the needs of governing bodies to operate the 9-1-1 system, and the amount may not exceed \$0.50 per month per 9-1-1 access connection. To establish this amount, Rule 2148(II)(B) provides that the Commission consider historical data, costs to the 9-1-1 governing body of basic emergency service tariffs, comments of interested stakeholders, and other factors the Commission deems relevant.

34. In our Opening Decision, we proposed for stakeholder comment a statewide 9-1-1 surcharge of \$0.10. This proposed amount was intended to raise enough funding statewide that when distributed to the 9-1-1 governing bodies, the amount will reimburse 9-1-1 governing

bodies for the monthly recurring charges they are required under the tariff to pay CenturyLink, serving as the BESP.

35. As updated through the concurrent session count of 601 provided in Decision No. C20-0658-I, we observed that the annual statewide cost for the Basic Emergency Service in the ESInet Tariff is \$5,425,010.64. To reach this number, we noted that the monthly recurring charge for Basic Emergency Service in the ESInet Tariff is \$752.22 per month per concurrent session at each PSAP, that there are currently 601 concurrent sessions installed or planned for installation at all of Colorado's PSAPs, and multiplied  $\$752.22 \times 601 \times 12$  months.<sup>17</sup>

36. We also observed that a penny of surcharge assessed statewide would yield an estimated \$648,477 per year. We reached this number by taking data from past surveys of 9-1-1 governing bodies on the amount received from their Emergency Telephone Charge, dividing that amount by the population served by that governing body, and multiplying this by the state population. To raise the annual statewide cost for the Basic Emergency Service in the ESInet Tariff of \$5,425,010.64 using the estimate of \$648,477 per year per penny of surcharge statewide, we explained that the statewide 9-1-1 surcharge rate would need to be set at 8.37 cents.<sup>18</sup>

37. Further, we noted that these calculations depended on information containing some uncertainties, and that the Commission may use up to 4 percent of the surcharge for administrative costs. Therefore, we proposed to set the statewide 9-1-1 surcharge at \$0.10.

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<sup>17</sup> See Decision No. C20-0658-I, issued September 11, 2020, at ¶¶ 6-8 (noting that the revised calculation does not affect the proposed statewide 9-1-1 surcharge of \$0.10).

<sup>18</sup> *Id.* at ¶ 6.

38. All commenters were either neutral on this proposal or supported it. The AAJ Authorities note that while the statute directs the Commission to establish a statewide 9-1-1 Surcharge that “is reasonably calculated to meet the needs of the governing bodies to operate the 911 system,”<sup>19</sup> the term “911 system” itself is undefined and may be ambiguously interpreted. The Commission chooses not to establish precedent regarding how it is interpreting the meaning of this phrase in the statute at this time, but believes that a \$0.10 surcharge to reimburse the governing bodies for the ongoing, tariffed Basic Emergency Service charges makes sense for this initial implementation of the statewide 9-1-1 surcharge.

39. After consideration of the comments submitted by the parties in this proceeding, and after thorough review of our initial proposal, we establish a statewide 9-1-1 surcharge of \$0.10, effective January 1, 2021. This rate is calculated to produce sufficient revenue to fully reimburse each governing body in the state for the ongoing, tariffed costs of Basic Emergency Service, freeing up approximately \$5.9 million annually to be used by the governing bodies for other purposes as allowed under § 29-11-104, C.R.S.

**F. Prepaid Wireless 9-1-1 Charge**

40. Pursuant to § 29-11-102.5, C.R.S., and Rule 2149, 4 CCR 723-2, the flat rate prepaid wireless 9-1-1 charge is to be calculated by adding the average of the local Emergency Telephone Charge amounts as of July 1 of that year and the amount of the statewide 9-1-1 surcharge amount established by the Commission for the following year. In our decision opening this proceeding, we stated that the average Emergency Telephone Charge as of July 1, 2020 was \$1.28. Taking our proposal of \$0.10 for the statewide 9-1-1 surcharge and adding the

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<sup>19</sup> § 29-11-102.3(1)(b), C.R.S.



average Emergency Telephone Charge of \$1.28, we proposed setting the prepaid wireless 9-1-1 charge at \$1.38.

41. Rule 2149(c), 4 CCR 723-2, states that comments proposing revisions to the Emergency Telephone Charge threshold and proposed statewide 9-1-1 surcharge should address the effect of proposed revisions to the prepaid wireless 9-1-1 charge.

42. All of the commenters were either neutral or supportive of the Commission's proposed rate of \$1.38 for the prepaid 9-1-1 charge, with the AAJ Authorities noting that since the statute provides a prescriptive formula for how the figure should be determined, that the proposal of \$1.38 is the only figure that may be arrived at if a statewide 9-1-1 surcharge of \$0.10 is established.

43. As stated above, after review of the comments submitted by parties in this proceeding, the statewide 9-1-1 surcharge effective January 1, 2021 shall be \$0.10. Adding \$0.10 to the average of the local Emergency Telephone Charge amounts as of July 1, 2020 (\$1.28) results in \$1.38. Therefore, as required by § 29-11-102.5, C.R.S., and Rule 2149, 4 CCR 723-2, we establish a prepaid wireless 9-1-1 charge of \$1.38, effective January 1, 2021.

**G. Statewide 9-1-1 Surcharge Distribution Formula**

44. Pursuant to § 29-11-102.3(3)(c)(III), C.R.S., the Commission must establish a formula for distribution of money collected from the statewide 9-1-1 surcharge to the governing bodies. This formula must be based on the number of concurrent sessions maintained by the PSAPs of each governing body, and the Commission may retain up to 4 percent of the collected surcharges to cover the direct and indirect costs of administering the surcharge.

45. To implement this statutory requirement, through our Opening Decision, we proposed a distribution formula through which the Commission will distribute funds from the

statewide 9-1-1 surcharge, less administrative costs to be determined by the Commission but not exceeding 4 percent, to each 9-1-1 governing body in amounts proportional to the number of concurrent sessions each 9-1-1 governing body maintains at its PSAPs as a percentage of the total number of concurrent sessions. Through Decision No. C20-0658-I, we provided that the formula proposed would include the 601 concurrent sessions identified in Attachment A to that decision, and continued to invite participant comment.<sup>20</sup>

46. All of the commenters were either neutral or supportive of this proposal.

47. After consideration of the comments submitted by the parties in this proceeding, and after review of our initial proposal, we establish a distribution formula as discussed in our Opening Order and Decision No. C20-0658-I. The Commission will distribute funds from the statewide 9-1-1 surcharge, less administrative costs to be determined by the Commission but not exceeding 4 percent, to each 9-1-1 governing body in amounts proportional to the number of concurrent sessions each 9-1-1 governing body maintains at its PSAPs as a percentage of the total number of concurrent sessions in the state, effective January 1, 2021.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The Motion to Intervene filed by Douglas County Emergency Telephone Service Authority (Douglas ETSA) and the El Paso-Teller County Emergency Telephone Service Authority (El Paso 9-1-1) on September 14, 2020, is granted.

2. The Motion to Intervene filed by the Colorado Telecommunications Association (CTA) on September 16, 2020, is granted.

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<sup>20</sup> Decision No. C20-0658-I, issued September 11, 2020, at ¶ 9.

3. The Motion to Intervene filed by Qwest Corporation, doing business as CenturyLink (CenturyLink) on September 16, 2020, is granted.

4. The Motion to Intervene filed by the Adams County E-911 Emergency Telephone Service Authority, the Arapahoe County E-911 Emergency Communications Service Authority, and the Jefferson County Emergency Communications Authority (AAJ Authorities) on September 16, 2020, is granted.

5. The Motion to Intervene filed by CTIA – The Wireless Association (CTIA) on September 16, 2020, is granted.

6. The Intervention filing provided by the Boulder Regional Emergency Telephone Service Authority (BRETSA) on September 16, 2020, is granted, consistent with the discussion above.

7. The Motion to Intervene filed by Bresnan Broadband of Colorado, LLC and Time Warner Cable Information Services (Colorado), LLC (Charter) on September 16, 2020, is granted.

8. The following are parties to this proceeding: Douglas ETSA and El Paso 9-1-1, jointly; CTA; CenturyLink; the AAJ Authorities; CTIA; BRETSA; and Charter.

9. Effective January 1, 2021, the authorized Emergency Telephone Charge threshold shall be \$1.72.

10. Effective January 1, 2021, the statewide 9-1-1 surcharge shall be \$0.10.

11. Effective January 1, 2021, the prepaid wireless 9-1-1 charge shall be \$1.38.

12. Effective January 1, 2021, we establish a distribution formula through which the Commission will distribute funds from the statewide 9-1-1 surcharge, less administrative costs to

be determined by the Commission but not exceeding 4 percent, to each 9-1-1 governing body in amounts proportional to the number of concurrent sessions each 9-1-1 governing body maintains at its Public Safety Answering Points as a percentage of the total number of concurrent sessions in the state.

13. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
September 23, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners