

BEFORE THE PUBLIC UTILITIES COMMISSION

STATE OF COLORADO

Proceeding No. 14A-0116T

IN THE MATTER OF THE APPLICATION OF THE SUMMIT COUNTY E-911
EMERGENCY TELEPHONE SERVICES AUTHORITY BOARD TO INCREASE
THE EMERGENCY TELEPHONE SURCHARGE PURSUANT TO 29-11-102(2)(B),
C.R.S.

STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement (“Settlement Agreement”) dated August 28, 2014, is entered into by and among the Summit County E-911 Emergency Telephone Service Authority Board (“Summit County Authority”), the Staff of the Colorado Public Utilities Commission (“Staff”), and the Colorado Office of Consumer Counsel (“the OCC”) (collectively, the “Settling Parties”). The purpose of the Agreement is to resolve all issues raised by Staff and the OCC regarding the application filed by the Summit County Authority (the “Application”) with the Colorado Public Utilities Commission (the “Commission”) in Proceeding No. 14A-0116T. In the Application, the Summit County Authority sought to increase its monthly emergency telephone surcharge rate applicable within the areas of Summit County, Colorado that are served by the Summit County Authority. The Agreement is set forth below.

Recitals

1. Section 29-11-102(1)(a) of the Colorado Revised Statutes (“C.R.S.”) allows a governing body to incur equipment, installation, and other directly related costs for the continued operation of emergency telephone services as further described in that statutory section. Additionally, the statutory section allows a governing body to pay for the costs of such service by imposing a surcharge in those portions of the governing body’s jurisdiction for which emergency telephone services will be provided.

2. Section 29-11-102(1)(a), C.R.S., allows a governing body to impose a surcharge in an amount not to exceed \$0.70 per user per month per exchange access facility (wireline), per wireless communications access, and per interconnected voice-over-internet-protocol service in those portions of a governing body’s jurisdiction for emergency telephone service.

3. Section 29-11-102(1)(b), C.R.S., allows a governing body to seek approval from the Commission for a surcharge rate in excess of \$0.70 per user per month if the Commission determines it is necessary in order to provide continued and adequate emergency telephone service in the areas served by the subject applicant.

4. The Summit County Authority is an emergency telephone service authority, operating according to terms and conditions of an amended Intergovernmental Agreement (IGA)¹, comprised of a group of nine local

¹ See, Exhibit 1 of Summit County Authority’s Application.

government entities: Town of Breckenridge, Town of Dillon, Town of Frisco, Town of Silverthorne, Summit County Government, Copper Mountain Consolidated Metropolitan District, Lake Dillon Fire Protection District, Red White and Blue Fire Protection District, Lower Blue Fire Protection District, and the Summit County Ambulance Service. The Summit County Authority is responsible for administering the operation of the emergency telephone service program serving the exchange access facilities (wireline), wireless telecommunications services, and interconnected voice-over-Internet-protocol (VoIP) users (“Users”) in those areas.

5. The IGA sets forth terms and conditions for the operation, administration and financial support of the Summit County Communications Center (SCCC) for the purpose of establishing and maintaining an effective emergency services communications systems. Costs for the ongoing functionality of Summit County’s emergency systems include such items as: salaries, equipment maintenance, training, and day-to-day operations. The budget for the SCCC is divided into four separate funds: Operations (OPS), Responsive Alarm Management Program (RAMP), Capital Expense Participation Fund (CEPF) and E-911 Fund (E-911). The RAMP fund is self-sustaining by program fees. The SCCC has the ability to transfer excess monies in the OPS and CEPF funds in order to offset deficits in the E-911 fund.

6. The Summit County Authority previously sought Commission approval of a 911 surcharge increase on two occasions: (1) an increase in the surcharge from \$0.70 to \$1.25 per user per month in Proceeding No. 06A-391T, which the

Commission granted on August 23, 2006 in Decision No. C06-0991; and (2) an increase from \$1.25 to \$1.50 per user per month in Proceeding No. 10A-628T, which the Commission granted on December 29, 2010 in Decision No. R10-1383.

7. On February 6, 2014, the Summit County Authority filed its Application pursuant to § 29-11-102(2)(b), C.R.S., in which it sought Commission authorization to increase its monthly emergency telephone surcharge from \$1.50 to \$1.95 per user per month.

8. The Summit County Authority also filed the following in this Proceeding: Exhibits on February 6, 2014; estimates for two Computer Aided Dispatch (CAD) systems on March 25, 2014; Direct Testimony and Exhibits on April 25, 2014; and Supplemental Direct Testimony and Exhibits on June 12, 2014.

9. Residents of Summit County and potential users of Summit County E-911 Emergency Telephone Services were provided notification of a proposed surcharge increase to \$1.95 per user per month affecting all persons with exchange access facility (wireline), wireless communications access and interconnected voice-over-internet-protocol (“VOIP”) telecommunications services billed to addresses in Summit County area through publication, on February 28, 2014 and on March 7, 2014, in *The Summit Daily News* and *The Summit County Journal*, newspapers of general circulation in Summit County. Proofs of publication were filed in this proceeding on March 11, 2014 and March 14, 2014, and copies of the notices were attached to the filings. The notices advised affected residents and potential users how to protest, object or comment upon the proposed surcharge increase, and how to

intervene in this proceeding. The notices further advised that the application was available for inspection at the Summit County Communications Center, 0227 CR 1003, Frisco, Colorado, and at the Commission's offices.

10. The record in this proceeding reflects that one objection was filed by J. Warwick, Blue River, Colorado, on March 23, 2014, and objecting to the surcharge increase asserting that the increase should be denied because of excessive executive pay and compensation, insufficient partnering with neighboring counties to save costs and insufficient cost control. The record also reflects that no requests to intervene were filed in this proceeding by any affected residents or potential users or any other persons or entities.

11. The Staff and the OCC intervened in this proceeding on March 7, 2014, generally challenging the need for and reasonableness of the proposed increase.

12. On July 25, 2014, the Commission suspended certain filing deadlines after notification from the Settling Parties regarding reaching a tentative settlement agreement herein. The Commission set September 8, 2014 as the deadline for filing a settlement agreement and September 11, 2014 for a hearing on the settlement agreement, should one be necessary. To mitigate litigation costs, the Settling Parties have expressed a preference for addressing any questions concerning the settlement agreement in writing in lieu of a hearing to mitigate litigation costs.

13. The Settling Parties have reached a timely agreement concerning the matters raised in Proceeding No. 14A-0116T and believe this Settlement

Agreement is reasonable and necessary in order for the Summit County Authority to provide continued and adequate telephone service within the Summit County Authority's jurisdiction, and therefore, that this Settlement Agreement should be approved by the Commission.

Terms of the Settlement Agreement

1. This Settlement Agreement provides a surcharge increase for the Summit County Authority pursuant to § 29-11-102(1)(b) C.R.S. That section requires a governing body to seek approval from the Commission to increase a surcharge above \$0.70 per user, per month. The Settling Parties recommend that the Commission approve, in accordance with the terms and conditions of this Settlement Agreement, a surcharge of \$1.75 per user per month within the Summit County Authority's jurisdiction for its administration and operation of an emergency telephone service by and on behalf of the governing bodies comprising the Summit County Authority, which are identified in the IGA referenced above.

2. The Summit County Authority has satisfied its burden of proof to demonstrate that the proposed increase of the 911 surcharge is reasonable for the intended use of funds to purchase equipment directly related to the receipt and routing of emergency calls, for personnel expenses incurred for persons employed to take emergency telephone calls and dispatch them, and for persons employed to maintain the computer data base of the public safety answering point. In this regard, the Settling Parties have agreed as follows:

- a. The Settling Parties acknowledge and agree that the supporting documents, as hereby amended, used to demonstrate that the CAD equipment quote, including a five year maintenance expense and personnel costs, are related to the emergency telephone calls and maintenance and repair of the computer database of the Summit County Authority's public safety answering point are as shown in **Confidential Attachment A** to this Settlement Agreement.
 - b. The Settling Parties accept and agree to the following adjustments to the information contained Exhibit 8 to the Summit County Authority's Application, and which are also shown in **Confidential Attachment A**:
 - i. The inclusion of 2013 actual revenues and costs;
 - ii. The inclusion of access line counts using 2013 actual values; and
 - iii. The inclusion of revenues collected from prepaid wireless services in 2013.
3. The Summit County Authority has satisfied its burden of proof to demonstrate that the Authority's projected increase of expenses and capital outlay warrants the requested increase in the surcharge, as follows:
- a. The Settling Parties acknowledge and agree that the supporting documents, as hereby amended, used to demonstrate that the revenue and expenses related to the Authority's maintenance, repair, and continued operation of the emergency telephone service facilities and

emergency notification services are shown in **Confidential Attachment A**.

b. The Settling Parties accept and agree to the following assumptions and estimations be applied to the 2013 actual revenues and expenses as shown in **Confidential Attachment A**:

- i. Assumed, for purposes of the Attachment, that the surcharge increase will be effective January 1, 2015.²
- ii. Reduced the access line count by two percent per year starting in calendar year 2014 to account for service supplier's loss of access lines per year, and which will impact the amount of telephone surcharge revenues.
- iii. Increased the prepaid wireless revenues by two percent per year starting in calendar year 2014 to account for wireless prepaid growth.
- iv. Increased salary reimbursement amounts by three percent per year starting in calendar year 2014.
- v. Reduced the telephone expense to reflect the current tariffed rate for such services.
- vi. Increased equipment repairs expense by ten percent per year.
- vii. Increased maintenance contract expense in calendar year 2017 to reflect the quote for CAD maintenance.

- c. The Settling Parties acknowledge and agree that no adjustments were made to the capital outlay related to the Authority's purchase of equipment directly related to the receipt and routing of emergency calls as shown in **Confidential Attachment A** to this Settlement Agreement. Capital expenditures are to be used to acquire assets as follows:
- i. 2013 – purchase of new 911 phone system (final payment of \$86,200) including licensing fees for CAD servers (\$6,750) and virtualization of DAC servers (\$7,275) in the amount of \$100,225.
 - ii. 2014 – purchase replacement equipment for the current CAD system such as servers and a voice recorder for an estimated amount of \$62,600. The Authority did not receive a written quote or estimate for the voice recorder which is approximately half of the estimate.
 - iii. 2015 – purchase of CAD related servers (\$8,400) and upgrade of GIS software (\$4,000) in the amount of \$12,400.
 - iv. 2016 – purchase a CAD system in the amount of \$749,503. No adjustments were made to allocate a portion of the cost to persons not directly related to the receipt and routing of emergency calls. As shown in **Confidential Attachment A**,

² The start date of the \$1.75 per User per month surcharge is governed by

the E911 fund will have a deficit if the system is purchased at the estimated cost. The parties agree that this deficit may be covered by excess monies from the CEPF and OPS funds to forego the necessary adjustments as shown in Confidential Attachment B to this Settlement Agreement.

- v. 2017 – purchase necessary equipment to interface between the CAD system and the updated statewide radio system at the estimated amount of \$200,000.
- vi. 2018 – replace monitors and related equipment in the amount of \$43,800.
- vii. 2019 – upgrade the phone system to next generation technology in the amount of \$183,600.

4. The Staff and the OCC specifically reviewed, among other things, the increased expenses, the salaries and compensation of executives, the potential loss of revenues due to line losses and the future needs of the Summit County Authority as Colorado moves toward implementation of next generation 911 services. Based upon that review, the Staff and OCC proposed reductions for future expenses, imposed limitations on capital expenditures and required certain deficits to be recovered from the CEPF and the OPS funds which are funded by the user agencies. The compensation and salaries paid to executives employed by Summit County Authority are consistent with those paid by other 911 authority boards in Colorado.

paragraph 16 of this Settlement Agreement.

Finally, the Staff and the OCC required The Summit County Authority to agree not to seek another increase in its emergency telephone surcharge until after December 31, 2018.

5. Based on the above-described updates and adjustments to the Summit County Authority's Application, the Settling Parties acknowledge and agree that a surcharge calculated at \$1.75 per user, per month, an increase of \$0.25 per user per month, is necessary in order to maintain a reasonable level of reserve balance for future expenditures. Further, the increased surcharge amount will be assessed on exchange access facility (wireline), wireless, and voice-over-Internet protocol users per line on a monthly basis.

6. The Settling Parties also acknowledge and agree that the Settling Parties need to institute a mechanism to ensure that the Summit County Authority manages its capital expenditures in accordance with the figures in **Confidential Attachment A**. Accordingly, the Settling Parties agree as follows:

- a. The Summit County Authority shall not seek another increase in its emergency telephone surcharge until after December 31, 2018;
- b. The Summit County Authority shall purchase a CAD system and fund its maintenance contracts on or before December 31, 2018;
- c. The CAD system shall cost no more than \$1.161 million which is the primary basis of the agreed upon surcharge increase. The Summit County Authority shall inform Staff and the OCC via letter if the cost is projected to exceed this amount unless excess monies in the OPS

and CEPF funds or any other source are used to cover the deficit as shown in **Confidential Attachment B**. If, 30 days after receipt of Summit County Authority's letter, either Staff or the OCC objects in writing to the Summit County Authority regarding the cost exceeding \$1.161 million, the Summit County Authority shall file a motion to reopen the Settlement Agreement in this Proceeding to obtain Commission approval for purchasing a CAD system for a higher amount than \$1.161 million.

7. No later than 60 days after a final Commission order approving this Settlement Agreement, which order does not contain any modification of the terms and conditions of this Settlement Agreement that is unacceptable to any of the Settling Parties, the Summit County Authority may implement the \$1.75 per user per month surcharge.

8. This Settlement Agreement is made for settlement purposes only. No Settling Party concedes the validity or correctness of any regulatory principle directly or indirectly incorporated in this Settlement Agreement. No binding precedential effect or other significance, except as may be necessary to enforce this Settlement Agreement or a Commission order concerning this Settlement Agreement, shall attach to any principle contained in this Settlement Agreement.

9. The Settling Parties shall support all aspects of this Settlement Agreement embodied within this document in any hearing conducted to determine whether the Commission should approve this Settlement Agreement, and/or in any

other hearing, proceeding, or judicial review relating to this Settlement Agreement or the implementation of its terms and conditions.

10. Each Settling Party also agrees that, except as expressly provided in this Settlement Agreement, it will take no action in any administrative or judicial proceeding, or otherwise, which would have the effect, directly or indirectly, of contravening the provisions or purposes of this Settlement Agreement.

11. Nothing in this Settlement Agreement shall constitute a waiver by a Settling Party with respect to any matter not specifically addressed in this Settlement Agreement.

12. This Settlement Agreement shall not become effective and shall be of no force and effect until the issuance of a final Commission order approving this Settlement Agreement, which order does not contain any modification of the terms and conditions of this Settlement Agreement that is unacceptable to any of the Parties.

13. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Party hereto, that Party may withdraw from this Settlement Agreement and shall so notify the Commission and the other Settling Parties in writing within ten (10) days of the date of the Commission order.

14. In the event a Settling Party exercises its right to withdraw from the Settlement Agreement, this Settlement Agreement shall be null and void and of no effect and no force in these or any other proceedings, and a hearing shall be set on the merits of the Application.

15. In the event this Settlement Agreement becomes null and void or in the event the Commission does not approve this Settlement Agreement, this Settlement Agreement, as well as the negotiations or discussion undertaken in conjunction with the Settlement Agreement, shall not be admissible into evidence in these or any other proceedings.

16. The Settling Parties state they have reached this Settlement Agreement by means of a negotiated process and that the increase in the surcharge is necessary in order to provide continued and adequate emergency telephone service within the Summit County Authority's jurisdiction, and that the results reflected in this Settlement Agreement are just, reasonable, and in the public interest.

17. The Settling Parties agree that approval by the Commission of this Settlement Agreement shall constitute a determination that by the Commission that the Settlement Agreement is necessary in order to provide continued and adequate emergency telephone service within the Summit County Authority's jurisdiction and provides a just, equitable, and reasonable resolution of the issues raised herein.

18. The Settling Parties agree jointly to apply to the Commission for a waiver of compliance with any requirements of the Commission's Rules and Regulations to the extent necessary to permit all provisions of this Settlement Agreement to be carried out and effectuated.

19. This Settlement Agreement is an integrated agreement that may not be altered by the unilateral determination of any Settling Party.

20. This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original.

21. This Settlement Agreement may be executed and delivered by facsimile or by e-mail and the Settling Parties agree that such facsimile or scanned e-mail execution and delivery shall have the same force and effect as delivery of an original document with original signatures, and that each Settling Party may use such facsimile or scanned signatures as evidence of the execution and delivery of this Settlement Agreement by the Settling Parties to the same extent that an original signature could be used.

22. This Settlement Agreement is entered and effective as of the date stated in paragraph number one, above.

SUMMIT COUNTY E-911 EMERGENCY TELEPHONE SERVICE AUTHORITY
BOARD



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