

Decision No. R14-1140

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0116T

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

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
APPROVING STIPULATION AND
GRANTING APPLICATION AS AMENDED**

Mailed Date: September 17, 2014

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I. STATEMENT, FINDINGS, AND CONCLUSIONS

A. Procedural Background.

1. On February 4, 2014, the Summit County Emergency Telephone Service Authority Board (Summit County Authority) filed a verified application to assess an emergency telephone surcharge rate of \$1.95 per service user per month pursuant to § 29-11-102(2)(b), C.R.S. (Application).

2. On February 7, 2014, the Commission issued its Notice of Application Filed.
3. On March 7, 2014, Commission Staff (Staff) and the Colorado Office of Consumer Counsel (the OCC) timely intervened of right.
4. On March 11, 2014, Summit County filed Proof of Publication which included an affidavit (Affidavit). The Affidavit attests that Summit County Authority provided notification to its customers of its Application by publication in a newspaper of general circulation in Summit County, *The Summit County Journal*. In support of the Affidavit, Summit County Authority attached copies of Proofs of Publication along with tear sheets verifying that notice was published in display ad format on February 28 and March 7, 2014 in *The Summit County Journal*.
5. On March 12, 2014, by Minute Order, the Commission deemed the Application complete and referred this matter to an Administrative Law Judge (ALJ) for disposition.
6. By Decision No. R14-0293-I, issued March 17, 2014, the ALJ scheduled a prehearing conference for April 3, 2014.
7. On May 8, 2014, the Applicant filed its Unopposed Motion for Waiver of the Statutory Timeframe and to Establish a Revised Procedural Schedule.
8. By Interim Decision No. R14-0493-I, issued on May 8, 2014, a new procedural schedule was adopted and an evidentiary hearing was rescheduled for September 11 and 12, 2014.
9. On July 22, 2014, Staff filed its Unopposed Motion to Modify Procedural Schedule (Motion). In its Motion, Staff stated that the parties had reached a settlement agreement in principal and were working to reduce the agreement to writing.

10. On August 29, 2014, Staff filed a Joint Motion to Approve Stipulation and Settlement Agreement and for Waiver of Response Time and a Stipulation and Settlement Agreement (Stipulation).

11. On September 4, 2014, Staff filed Confidential Attachment A and B to the Settlement Agreement.

B. Stipulation and Settlement Agreement.

12. The parties' Stipulation is intended to resolve all issues in this proceeding. The parties submit that the agreements reached in the Stipulation are reasonable and necessary in order to provide continued and adequate telephone emergency service within the Summit County Authority's jurisdiction, and therefore, the Stipulation should be approved.

13. Summit County Authority is an emergency telephone service authority operating pursuant to an intergovernmental agreement by nine 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. As a result, 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.

14. Summit County Authority has previously sought and received Commission approval of 911 surcharge increases on two occasions: (a) an increase to \$1.25 per user per month surcharge in Proceeding No. 06A-391T, (Decision No. C06-0991, issued

August 23, 2006); and (b) an increase in the surcharge to \$1.50 per user per month in Proceeding No. 10A-628T (Decision No. R10-1383, issued December 29, 2010).

15. Summit County Users of exchange telephone, wireless, wireline, and VoIP telecommunications services were provided notice of the proposed surcharge increase as described. *Supra*, ¶ 4. The notices advised affected Users how to protest, object, or comment upon the proposed surcharge increase and how to intervene in this proceeding.

16. One objection was filed by J. Warwick, Blue River, Colorado, on March 23, 2014 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.

17. Pursuant to § 29-11-102(2)(b), C.R.S., the Commission has jurisdiction over the subject matter of this proceeding. The Commission also has jurisdiction over the parties to this proceeding.

18. 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 VoIP service in those portions of a governing body's jurisdiction for emergency telephone service. In addition, § 29-11-102(1)(a), C.R.S., also allows a governing body to incur equipment, installation, and other directly related costs for the continued operation of emergency telephone services.

19. When a governing body wishes to charge more than \$0.70 per user per month, the body shall seek approval from the Commission. § 29-11-102(1)(b), C.R.S. The Commission may approve the increased charges if it determines it is necessary to provide continued and adequate emergency telephone service in the areas served by the subject applicant.

20. Summit County Authorities' Application seeks approval of an emergency telephone charge increase from \$1.50 to \$1.95 per user per month. Per the Stipulation, the parties have agreed to an increase to \$1.75 per user per month for Summit County Authorities' administration and operation of an emergency telephone service. The parties further agree that if approved, the \$1.75 per user per month will be implemented on January 1, 2015.

21. The parties reached agreements as to Summit County Authorities' 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.

22. The Settling Parties acknowledged and agreed that the supporting documents, as hereby amended, used to demonstrate that the Computer Aided Dispatch (CAD) equipment quote, including a five-year maintenance expense and personnel costs, were 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.

23. The parties agreed to 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.

24. The parties reached agreements as to Summit County Authorities' burden of proof to: (a) demonstrate that the proposed increase of expenses and capital outlay warrants the requested increase in the surcharge, as follows:

- i. 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.
- ii. 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:
 - a. Assumed, for purposes of the Attachment, that the surcharge increase will be effective January 1, 2015.
 - b. 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.
 - c. Increased the prepaid wireless revenues by two percent per year starting in calendar year 2014 to account for wireless prepaid growth.
 - d. Increased salary reimbursement amounts by three percent per year starting in calendar year 2014.
 - e. Reduced the telephone expense to reflect the current tariffed rate for such services.
 - f. Increased equipment repairs expense by ten percent per year.
 - g. Increased maintenance contract expense in calendar year 2017 to reflect the quote for CAD maintenance.

25. The parties agreed that no adjustments were made to the capital outlay related to Summit County Authority's purchase of equipment directly related to the receipt and routing of

emergency calls as shown in Confidential Attachment A. Capital expenditures are to be used to acquire assets as follows:

- a) 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.
- b) 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.
- c) 2015 – purchase of CAD related servers (\$8,400) and upgrade of GIS software (\$4,000) in the amount of \$12,400.
- d) 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, 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.
- e) 2017 – purchase necessary equipment to interface between the CAD system and the updated statewide radio system at the estimated amount of \$200,000.
- f) 2018 – replace monitors and related equipment in the amount of \$43,800.
- g) 2019 – upgrade the phone system to next generation technology in the amount of \$183,600.

26. The parties agreed to the 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.

27. Summit County Authority must file a motion to reopen the settlement agreement to obtain Commission approval before spending monies for purchasing a CAD system for a higher amount than \$1.161 million, in the event that Staff and the OCC object to the expenditure. Per the Stipulation, Summit County Authority must first provide the OCC and Staff with advanced notice if the cost is projected to exceed \$1.161 million; Staff and the OCC have 30 days to object in writing to the expenditure. The Stipulation does not provide for a timeframe for Summit County Authority to file a motion to reopen the settlement agreement should they receive such an objection.

28. The ALJ finds that a timely resolution to such disputes should be sought; without a firm deadline to file a motion to reopen, a timely resolution is less likely. Moreover, the parties may continue to work on dispute resolution after such a motion is filed. The Summit County Authority shall file its motion to reopen the settlement agreement within 60 days of the date that it is served with Staff's or the OCC's written objection, whichever is later received.

29. The parties agreed that Summit County Authority may implement the \$1.75 surcharge per user per month no sooner than January 1, 2015, after notifying every emergency telephone service supplier in accordance with § 29-11-103(3)(a), C.R.S.

30. Based on examination of the Application, the Stipulation and its Attachments, the ALJ finds that the \$1.75 surcharge is just, reasonable, and in the public interest. The funds realized from the increase in the emergency telephone service surcharge will be used to pay for costs, investments, expenses, and services as permitted by § 29-11-104(2), C.R.S. The increase is necessary to fund the investments and to pay the costs that are required to allow the Summit County Authority to continue to provide adequate and reasonable emergency telephone service (*i.e.*, to take emergency telephone calls and to dispatch them appropriately).

31. The ALJ will approve the Stipulation and will grant the Application, as amended by the Stipulation. The Summit County Authority will be given approval to increase the emergency telephone service surcharge in its service area to \$1.75 per month per service user, but may not implement the increased monthly emergency telephone service surcharge approved by this Decision earlier than January 1, 2015.

32. Pursuant to § 40-6-109(2), C.R.S., the Administrative Law Judge recommends that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The “Joint Motion to Approve Stipulation and Settlement Agreement and for Waiver of Response Time” executed by the Summit County Emergency Telephone Service Authority Board (Summit County Authority), the Commission Staff, and the Office of Consumer Counsel is granted, with the addition stated in ¶ 28 above.

2. The parties’ Stipulation and Settlement Agreement (Stipulation) and the Confidential Attachments A and B thereto are approved and ordered, and are incorporated by reference and attached hereto as Appendix A.

3. The parties shall comply with the terms and conditions of the Stipulation, Appendix A to this Decision.

4. Consistent with, and as amended herein and by the Stipulation, the Verified Application filed by Summit County Authority on February 4, 2014, is granted.

5. Summit County Authority is granted approval to increase the emergency telephone service surcharge in Summit County's service area to \$1.75 per month per service user.

6. Summit County Authority may not implement the increased monthly emergency telephone service surcharge approved by this Decision earlier than January 1, 2015.

7. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

8. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

9. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

10. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the Administrative Law Judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

11. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director