

David W. Bogan

Partner

+1 860 541 7711

fax +1 866 877 2145

dbogan@edwardswildman.com

Via Federal Express and Email

October 16, 2014

Catrice C. Williams
Secretary
Department of Telecommunications and Cable
1000 Washington Street – 8th Floor
Suite 820
Boston, MA 02118-6500

Re: **D.T.C 14-3**

**Petition of the State 911 Department for Adjustment of the
Enhanced 911 Surcharge**

Dear Ms. Williams:

Enclosed please find the Petition of CTIA-The Wireless Association® to Intervene, and the motions of the undersigned and Tara L. Trifon for leave to appear *pro hac vice* as counsel, in connection with the above-referenced proceeding.

Please do not hesitate to contact me should you have any questions with regard to this submission.

Very truly yours,



David W. Bogan

DWB

cc (w/enc.):

Service List

AM 39391879.1

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Petition of the State 911 Department for : RE: 207 CMR 10.00
Adjustment of the Enhanced 911 Surcharge :

MOTION OF TARA L. TRIFON TO APPEAR *PRO HAC VICE*

I, Tara L. Trifon, respectfully move for leave to appear *pro hac vice* as counsel to CTIA – The Wireless Association® (“CTIA”) in the above-captioned proceeding. I am an attorney with the law firm of Edwards Wildman Palmer LLP, and I am a member in good standing with the Bars in the States of Connecticut and New York. In addition, I have represented CTIA in prior matters before the Department of Telecommunications and Cable, as well as in matters before the utility commissions in the states of Connecticut and Maine.

WHEREFORE, I respectfully request that I be permitted to appear *pro hac vice*.

Respectfully submitted,



Tara L. Trifon
Edwards Wildman Palmer LLP
20 Church Street
20th Floor
Hartford, CT 06103
(860)541-7740
(860)527-1498

Counsel to
CTIA – The Wireless Association®

October 16, 2014

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Petition of the State 911 Department for : RE: 207 C.M.R. §10.00
Adjustment of the Enhanced 911 Surcharge :

PETITION OF CTIA-THE WIRELESS ASSOCIATION® TO INTERVENE

Pursuant to 220 C.M.R. §1.03 of the Department of Telecommunications and Cable's (the "Department's") Procedural Rules, CTIA – The Wireless Association® ("CTIA") petitions to intervene in the above-captioned matter. In support of its request, CTIA states as follows:

1. CTIA is an international organization representing the wireless communications industry. Membership in CTIA includes wireless carriers and their suppliers, as well as providers and manufacturers of wireless data services and products. CTIA advocates on behalf of its members at all levels of government. CTIA also coordinates the industry's voluntary best practices and initiatives, and sponsors the leading North American wireless trade show. CTIA was founded in 1984 and is based in Washington, D.C.

2. The Department initiated this proceeding in response to a petition by the Massachusetts State 911 Department to adjust the Enhanced 911 Surcharge ("E911"), for each subscriber or end-user whose communication services are capable of accessing and utilizing the enhanced 911 system, to \$1.25 to provide for expenses associated with 911 services pursuant to G.L. c. 6A, §18H(b). *See*, Notice of Public Hearing ("Notice") dated September 23, 2014.

3. Members of CTIA provide wireless telephone service in Massachusetts, and as such, are required to collect and remit a surcharge representing the applicable E911 assessment from each subscriber, end user, or customer. In addition, CTIA's members are required to remit a total surcharge attributable to prepaid wireless subscribers in accordance with a formula set forth

in the 911 Department's regulations. *See*, 560 C.M.R. §3.00. If allowed, the 911 Department's request would substantially increase the amount that CTIA members and their customers would be required to pay to support E911 service.

4. The current assessment in the Commonwealth for E911 service is \$0.75. If the requested increase is granted, it would represent a 67% increase in the E911 assessment.

5. Wireless services are already subject to several taxes, fees, and surcharges. In particular, Massachusetts wireless consumers already face an average state and local tax and fee burden of 7.79% on their wireless service. These taxes and fees are in addition to a 5.82% federal USF surcharge, for a combined tax, fee, and surcharge rate of 13.61% on wireless service in Massachusetts. In contrast, the general sales tax rate in Massachusetts is only 6.25%.¹ As such, CTIA members and their customers have a significant interest in, and will be adversely and directly impacted by, the increase to support the Commonwealth's E911 service.

6. In light of the above, CTIA has a substantial and direct interest in the outcome of this proceeding, thereby satisfying the requirements for intervention set forth in 220 C.M.R. §1.03.

7. Among other things, CTIA may file comments in response to the Department's Notice, and participate in any hearings convened to consider the appropriateness of the 911 Department's request.

8. CTIA's participation will not impair the orderly conduct of this proceeding, and will enhance the Department's consideration of the issues associated with the 911 Department's request.

¹ *See*, Mackey, Scott and Henchman, Joseph. "Wireless Taxation in the United States 2014." Tax Foundation (October 8, 2014), available at <http://taxfoundation.org/article/wireless-taxation-united-states-2014>.

9. Please include the following individuals on the service list for this proceeding as

representatives of CTIA:

David W. Bogan
Edwards Wildman Palmer LLP
20 Church Street
Hartford, CT 06108
Telephone: (860) 541-7711
dbogan@edwardswildman.com

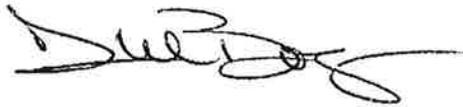
Matthew Gerst
Director, State Regulatory & External Affairs
CTIA-The Wireless Association®
1400 Sixteenth St, N.W.
Washington, DC 20036
Telephone: 202.736.3216
MGerst@ctia.org

Tara L. Trifon
Edwards Wildman Palmer LLP
20 Church Street
Hartford, CT 06108
Telephone: (860) 541-7740
ttrifon@edwardswildman.com

WHEREFORE, CTIA respectfully requests leave to intervene and participate in this proceeding.

Respectfully submitted,
CTIA – The Wireless Association®

By its attorneys,



David W. Bogan
Edwards Wildman Palmer LLP
20 Church Street
Hartford, CT 06108
Telephone: (860) 541-7711
dbogan@edwardswildman.com

October 16, 2014