

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Petition of the State 911 Department for : RE: D.T.C. 15-2
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"), to increase the surcharge 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 March 26, 2015.

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.

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>.

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.

9. Please include the following individuals on the service list for this proceeding as representatives of CTIA:

David W. Bogan
Locke Lord LLP
20 Church Street
Hartford, CT 06108
Telephone: (860) 541-7711
david.bogan@lockelord.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
Locke Lord LLP
20 Church Street
Hartford, CT 06108
Telephone: (860) 541-7740
tara.trifon@lockelord.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
Locke Lord LLP
20 Church Street
Hartford, CT 06108
Telephone: (860) 541-7711
david.bogan@lockelord.com

April 16, 2015

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding, dated at Hartford, Connecticut this 16th day of April, 2015.

A handwritten signature in black ink, appearing to read 'David W. Bogan', written over a horizontal line.

David W. Bogan