



**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

D.T.C. 23-3

November 30, 2023

Petition of the State 911 Department for Approval to Maintain the Monthly Enhanced 911  
Surcharge at \$1.50

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**FINAL ORDER**

**APPEARANCES:**

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FOR: STATE 911 DEPARTMENT  
Petitioner

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## I. INTRODUCTION

The Massachusetts State 911 Department (“911 Department”) oversees and maintains the statewide 9-1-1 system for emergency services, including the Next Generation 9-1-1 (“NG911”) system.<sup>1</sup> NG911 services allow Massachusetts residents to reach emergency services by dialing the digits “9-1-1.” The Massachusetts Legislature provided the 911 Department with the authority to administer these emergency services. G.L. c. 6A §§ 18A-18J; G.L. c. 166 §§ 14A, 15E. Additionally, the 911 Department supervises certain statutorily mandated grant programs, which assist Public Safety Answering Points (PSAPs) and Regional Emergency Communication Centers (RECCs) to provide enhanced 911 services and to provide for the development of regional PSAPs, secondary PSAPs and RECCs. *See* G.L. c. 6A § 18B(i)(1)-(5) (for a list of grant programs the 911 Department must fund). The 911 Departments funds these activities through the Enhanced 911 fund. G.L. 6A § 18 H(d).

Revenue for the Enhanced 911 Fund is derived from a monthly surcharge assessed on each subscriber or end user whose communication services are capable of accessing and utilizing an enhanced 911 system. G.L. c. 6A, § 18H(a)-(b). State law requires the 911 Department to petition the Department of Telecommunications and Cable (“DTC”) for approval to adjust the surcharge, which the statute otherwise fixes at seventy-five cents per month per subscriber or end user. *Id.* In 2015, DTC approved a one-year increase in the surcharge to \$1.25 followed by an adjustment downward to \$1.00. *See* 15-2 Order.

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<sup>1</sup> Next Generation 9-1-1 is a digital, internet protocol based system that has replaced the legacy analog 9-1-1 infrastructure in Massachusetts. *See* 17-1 Order at 19.

## II. PROCEDURAL HISTORY

This proceeding arises out of the expiration of the 911 Department's monthly surcharge increase that DTC permitted to take effect on January 1, 2019, for a period of five years. *See 18-2 Order* at 33. In that proceeding, DTC granted the 911 Department's request to increase the surcharge from \$1.00 per month to \$1.50 per month, which expires on January 1, 2024, unless DTC approves an extension. In that order, DTC stated that an increase was appropriate to fund the Commonwealth Interoperable Radio System (CoMIRs) project and that the surcharge should revert to \$1.00 with the completion of the CoMIRs project at the end of the five-year period. *See 18-2 Order* at 28-29. The 911 Department filed its petition ("Petition") on September 1, 2023, to maintain the surcharge at \$1.50. The 911 Department asserted that the surcharge should remain at \$1.50 because of the public safety improvements that resulted from grant programs funded by the surcharge and to account for inflation. *See* Petition at 1.<sup>2</sup>

DTC issued a Notice of Public Hearing, Order of Notice and Notice of Intent to Investigate on September 14, 2023. DTC issued its First Set of Information Requests ("IR") to the 911 Department on September 28, 2023, and received responses from the 911 Department on October 12, 2023. A public hearing occurred in this matter on October 18, 2023. At the hearing, the hearing officer granted a petition of the New England Connectivity and Telecommunications Association (NECTA) for limited participant status. *See* Transcript at 4. No comments were made, either for or against maintaining the surcharge, at the public hearing. *Id* at 6-7. Due to a large volume of written comments, the Department extended the written comment deadline from October 18, 2023, to October 25, 2023. These written comments are summarized below.

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<sup>2</sup> DTC has 90 days to issue a decision or the Petition is deemed granted automatically. M.G.L. c. 6A, § 18H(b).

For the following reasons, the 911 Department's Petition is ALLOWED for a period of five years and the surcharge will remain at \$1.50 from the date of this Order until December 31, 2028.

### **III. SUMMARY OF PUBLIC COMMENT**

DTC received a significant number of written comments from representatives of a variety of municipal and public safety agencies who favored maintaining the surcharge at \$1.50 because reducing the surcharge would lead to lowering the amount of grant funding these organizations receive. In particular, DTC received written comments from the Secretary of Executive Office of Technology Services and Security, Jason Snyder, on October 17, 2023 and the Secretary of the Executive Office of Public Safety, Terrence Reidy, on October 18, 2023. Other state agency leaders who wrote in support of the petition included the Commissioner of the Department of Mental Health, Brook Doyle, (Sept. 26, 2023), the Director of Telecommunications at the Massachusetts Department of State Police, Matthew Barstow, (Oct. 6, 2023), and Chairperson of the Massachusetts State 911 Commission, Kerry Collins, (Oct. 6, 2023).

In addition, DTC received written comments supporting the petition from the following organizations. As these comments were substantially similar, we do not describe their contents in detail. The date of each entity's filing is listed in parentheses below.

- Robert G. Reardon, Duxbury Fire Department (Sept. 18, 2023)
- Robert W. Ogden, Dukes County (Sept. 22, 2023)
- Stephen A. Hooke, Holbrook Regional Emergency Communications Center (Sept. 26, 2023)
- Anne Camaro, Nashoba Regional Valley Regional Dispatch District (Sept. 27, 2023)
- Erin Hastings, Massachusetts Communications Supervisors Association (Sept. 29, 2023)
- Jack D. Buckley, Massachusetts Major City Chiefs of Police Association (Oct. 2, 2023)
- Thomas W. Fowler, Massachusetts Chief of Police Association, Inc. (Oct. 2, 2023)

- Thomas Bowler, Berkshire County Office (Oct. 4, 2023)
- Donna D. Buckley, Barnstable County (Oct. 4, 2023)
- Randhi Belain, Martha's Vineyard Law Enforcement Council, Inc. (Oct. 4, 2023)
- Robert A. Verdone, Southern Massachusetts Regional 911 District (Oct. 5, 2023)
- Aaron M. Smith, South Shore Regional Emergency Communications Center (Oct. 9, 2023)
- David J. Kean, Norwell Fire Department (Oct. 9, 2023)
- Richard E. Patterson Jr., Dracut Fire Department (Oct. 10, 2023)
- Charles R. Goodwin, Worcester Department of Emergency Communications & Emergency Management (Oct. 10, 2023)
- Darleen Sullivan, Town of Norwell (Oct. 10, 2023)
- James J. Dolan, M.P.A. Massachusetts Police Association (Oct. 10, 2023)
- Michael A. Cox, Boston Police Department (Oct. 10, 2023)
- William W. Frazier III, Town of Hull Department of Fire/Rescue & Emergency Services (Oct. 11, 2023)
- Lyn Simmons, Westcomm Board of Directors (Oct. 13, 2023)
- Gregory Lynskey, South Worcester County Communications Center (Oct. 15, 2023).
- Nicholas Cocchi, Massachusetts Sheriff Association (Oct. 17, 2023)
- Kevin Lessard and Richard Montuori, Northern Middlesex Regional Emergency Communications Center (Oct. 17, 2023)
- Adam Chapdelaine, Massachusetts Municipal Association (Oct. 25, 2023)

NECTA stated in its comments on October 18, 2023, that the 911 Department should balance the interests of consumers who pay the surcharge with those of municipalities who rely on the enhanced funding that the 911 surcharge supports.

#### **IV. ANALYSIS AND FINDINGS**

##### **A. Standard of Review**

State law requires the 911 Department to petition DTC for approval to adjust the surcharge, which the statute otherwise fixes at seventy-five cents. G.L. c. 6A, § 18H(a)-(b). The statute does not articulate a standard upon which DTC should base its decision to approve or deny such an adjustment, directing DTC to “adopt rules that provide for the funding of prudently incurred expenditures associated with services provided by sections 18A to 18J, inclusive, and

sections 14A and 15E of chapter 166, by means of the surcharge.” G.L. c. 6A, § 18H(b). DTC is also responsible for establishing all future surcharges. *Id.*

When reviewing 911 Department petitions to increase expenditures or allocations or to adjust the surcharge, DTC determines whether the 911 Department’s expenditures are, or will be, prudently incurred. *See Petition of the State 911 Dep’t to Adjust the Enhanced 911 Surcharge*, D.T.C. 15-2, *Order* at 4-5 (June 18, 2015) (“15-2 Order”). When examining whether an expense is, or will be, prudently incurred, DTC assesses whether circumstances, at the time the decision was made, adequately justified the reasonableness of the expense. *See Petition of the Statewide Emergency Telecomms. Bd. to establish a wireline surcharge, for the period Jan. 1, 2008 to June 30, 2008, to recover prudently incurred costs associated with the provision of wireline Enhanced 911 servs., relay servs. for TDD/TTY users, commc’ns equip. distribution for people with disabilities, & amplified handsets at pay tels.*, D.T.C. 07-7, *Order* at 7, 9, 19 (Feb. 8, 2008) (“07-7 Order”).

Given the potentially competing interests of ensuring modern, robust 911 services and maintaining a stable surcharge, DTC has stated that the 911 Department has the authority to determine what is necessary for the provisioning of 911 service, but that the necessity must be viewed in relation to cost. *See Petition of the State 911 Dep’t for Approval of the Fiscal Year 2011 Dev. Grant Amount, & Fiscal Year 2010 Expenditures*, D.T.C. 10-1, *Order* at 8 (Apr. 5, 2010) (“10-1 Order”); 07-7 *Order* at 7. Accordingly, DTC’s mandate is to maintain a reasonable, stable surcharge in order to protect the interests of communications service ratepayers “and to serve as a counterweight to the 911 Department’s authority.” *See Petition of the State 911 Dep’t for Approval of Fiscal Year 2012 Incentive Grant Reg’l Emergency Commc’ns Ctr. Category Amount; State 911 Dep’t Emergency Med. Dispatch Grant; & Fiscal Year 2011 Expenditures*,

D.T.C. 11-2, *Order* at 4-5 (May 27, 2011) (“11-2 Order”). DTC thus must oversee the costs of provisioning 911 services, but that oversight is limited to determining whether the 911 Department’s expenditures are prudently incurred. *See id.* If DTC determines that the 911 Department’s expenditures such as the provisioning of 911 services and programs, supporting Public Safety Answering Points (“PSAPs”), various grant programs, and disability access programs are, or will be, prudently incurred, DTC establishes a surcharge that will fund such expenditures. *See* G.L. c. 6A, § 18H(b) (“The department of telecommunications and cable shall adopt rules that provide for the funding of prudently incurred expenditures associated with services provided by sections 18A to 18J, inclusive, and sections 14A and 15E of chapter 166, by means of the surcharge.”)

## **B. Adjustment to the Enhanced 911 Surcharge**

### **1. Review of Projected Revenues for Five Years**

To determine an appropriate surcharge level, the DTC examines the reasonableness of the 911 Department’s revenue projections. *See 15-2 Order* at 34. Revenues for the Enhanced 911 Fund (the “Fund”) are generated primarily from the Enhanced 911 Surcharge, which is “imposed on each subscriber or end user whose communication services are capable of accessing and utilizing an enhanced 911 system.” G.L. c. 6A § 18(H)(a). According to the 911 Department, the estimate of the net revenue for each fiscal year is based on multiplying the then current surcharge and the then estimated number of subscribers and subtracting carrier administrative fees. *See 23-2 Petition* at 3.

The 911 Department submitted Attachment A, which projects the effect of reducing the surcharge to \$1.00 without reduction to the grant programs and the subsequent negative ending balances that would result starting in FY 2026. Attachment B, which assumes that the surcharge

is maintained at \$1.50, forecasts that the 911 Department would have a positive ending balance for the Fund in each projected year. Attachment C suggests how grant programs would be cut if the surcharge reverted to \$1.00. According to the 911 Department's projections, grant funding would be reduced by \$56.7 million in FY 2025 and by \$70.5 million in both FY 2026 and FY 2027 from current funding levels. *See* Petition at 6-7. With Attachment A and Attachment C, the 911 Department forecasts that it would either be required to reduce grant funding or incur a deficit if the surcharge reverted to \$1.00.

The 911 Department states that it would be unable to fund PSAPs, regional PSAPs and Regional Emergency Communications Centers ("RECC") at the current level through various grant programs if the surcharge reverted to \$1.00. *See* Petition at 3. The 911 Department contends that a reduction in surcharge revenues would lead to a reduction in grant funding, which would have a detrimental impact on PSAPs, regional PSAPs and RECCs and their ability to provide valuable public safety services to its residents. *Id.* The 911 Department also provided surcharge revenue projections and grant allocation estimates if the surcharge is lowered to \$1.25. IR 1-1 ("Updated Attachment B"). In this projection, all expenditures are funded at the same level as if the surcharge remained at \$1.50. Consistent with the forecasts presented in Attachments A and C, the Fund balance would turn negative by FY 2026 and further decline in FY 2027. *Id.* The 911 Department explains that a positive Fund balance helps the 911 Department meet Development Grant and other project obligations that are carried forward from year-to-year and that without a positive balance the 911 Department would need to petition annually for surcharge increases to meet Commonwealth's 911 needs. *See* Petition at 5-6.



## **2. Review of Projected Expenditures for Five Years**

The 911 Department projected expenditures will exceed the projected surcharge revenues regardless of whether the surcharge remains at \$1.50 or reverts to \$1.25 or \$1.00. However, if the surcharge reverted to \$1.25 or \$1.00, the 911 Department would face a smaller yearly ending balance. For example, if the surcharge reverted to \$1.25, the 911 Department would face a negative fund balance starting in FY 2026 and the same would be true if the surcharge reverted to \$1.00 if funding for all line items remained level. *Compare* Updated Attachment B with Attachment A. According to the 911 Department, this ending balance allows the 911 Department to address ongoing statutory requirements it faces and ensures that communities can have adequate grant funding so its PSAPs, regional PSAPs, and RECCs can offer effective service to its residents. *See* Petition at 3. As an example, the Massachusetts Municipal Association (“MMA”) articulated that grant funding helps pay for next generation technology that allows first responders, working with PSAPs located within police departments throughout the state, to address the 911 needs of its residents. *See Comments of Massachusetts Municipal Association* (Oct. 25, 2023). The MMA asserts that this funding helps decrease response times and provides video imagery of the site first responders will encounter at the emergency scene. *Id.*

According to the 911 Department, the higher revenue from a \$1.50 surcharge will also help the 911 Department address inflation, which has raised the cost of goods and services in recent years. *See* Petition at 1-2. The 911 Department notes an inflation rate of 21.7%, which if applied to the surcharge would raise it to \$1.83. *Id.*

## **3. Continuing the Enhanced Surcharge at \$1.50 for Five Years**

DTC finds that the surcharge should remain at \$1.50, as the 911 Department’s projections only forecast that the Fund will remain solvent with the surcharge remaining at

\$1.50. The 911 Department’s budget projections for FY2023 through FY2027 show that maintaining a surcharge level of \$1.50 per subscriber per month would result in projected expenditures exceeding projected revenues by an accumulated total of \$239 million over the five-year period. *See* Petition at Attachment B, comparing the sum for the line item titled “Revenue” (Row 5) with the sum for the line item marked “Total Estimated Expenditures” (Row 61). This gap between expenditures and revenue suggests that, if the surcharge reverted to \$1.00 or was reduced to \$1.25, the 911 Department would face an even greater challenge to maintain current funding to support 911 service throughout the Commonwealth.

DTC recognizes that five years ago it recommended a temporary increase to \$1.50 and that the surcharge should revert to \$1.00 after a five-year period. However, the 911 Department has articulated in this petition that circumstances have changed given the continuing need for the 911 Department to provide adequate grant funding to communities to support its 911 services. Numerous municipalities and public safety organizations recommended the surcharge remain at \$1.50 because of their reliance on this grant funding. Furthermore, no organization or individual argued that the 911 Department’s projections are unsound.

If the surcharge is not maintained at \$1.50, the 911 Department forecasts reducing the grant funding for communities that rely on this funding. Reducing the surcharge from \$1.50 to \$1.00 will also fail to provide the 911 Department with necessary funding to address the inflationary pressures that continue to be a challenge for all public organizations. Based on the 911 Department’s projected revenues and expenditures, DTC finds that approving the \$1.50 surcharge for another five years is a reasonable course of action.

When evaluating the level of surcharge, the DTC must weigh the reasonableness of the 911 Department’s proposed expenditures against the interests of telecommunications consumers

and of public safety. *See, e.g., 11-2 Order* at 4-5. Indeed, the statute expressly envisions adjustments to the surcharge to fund prudently incurred expenditures. *See* G.L. c. 6A, § 18H(b). Here, the DTC has weighed the likely desire of consumers to reduce the surcharge with the needs of communities to receive adequate grant funding and the effect that inflation has had on the 911 Department's expenditures. DTC has determined that maintaining the surcharge at \$1.50 will balance the interests of consumers for a surcharge that is not prohibitive with the interests of the 911 Department to have sufficient funding.

## **V. CONCLUSION**

After careful analysis, DTC determines that it is appropriate to maintain the surcharge at \$1.50 until December 31, 2028. As the 911 Department has not provided projections for revenue and expenditures beyond five years, DTC does not grant a longer adjustment to the surcharge at this time. Therefore, the surcharge will revert to \$1.00 on January 1, 2029, unless the 911 Department petitions the DTC for a further extension.

## **VI. ORDER**

Accordingly, after hearing, notice and due consideration, it is:

ORDERED: That the petition to maintain the Enhanced 911 Surcharge at \$1.50 per month is APPROVED and shall remain in effect from the date of this Order through December 31, 2028;

FURTHER ORDERED: That the Enhanced 911 Surcharge shall revert to \$1.00 per month on January 1, 2029, unless the 911 Department petitions DTC for a further extension.

By Order of DTC,



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Karen Charles  
Commissioner

## **RIGHT OF APPEAL**

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of Department Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may also be brought pursuant to 47 C.F.R. § 76.944.