Senate Energy & Telecomm.Comm.
Exhibit No. 3
Date 3-10-2009
Bill No. HB 82

HB0082
Revise Deposit of Stranded 9-1-1 Revenue

Proponent Testimony by Becky Berger
Information Technology Services Division (ITSD) - Department of Administration
444-1966

Before the Senate Energy & Telecommunications Committee
March 10, 2009

Mr. Chairman, members of the committee, for the record my name is Becky Berger. I am the 9-1-1 Program Manager in the Information Technology Services Division (ITSD), within the Department of Administration. The Statewide 9-1-1 Program is administered by the Department.

A Legislative Audit Division Performance Audit in November 2007 recommended the Legislature revise state law to ensure all 9-1-1 surcharge revenues are only used for 911. The Department of Administration agreed to bring this legislation forward as a part of the Agency's legislative proposals. The general fund impact reflected in the fiscal note is included in the Executive budget and the Sub-Committee deferred their decision until HB82 passed.

This proposal reduces the percent to fund the 9-1-1 Program Office from 3.74% to 2.74%; creates *a special revenue fund for the administrative costs and distributes any unused administrative funds to the 9-1-1 jurisdictions at the end of each fiscal year.*

Current statute provides the Department of Administration 3.74% of the 9-1-1 revenues to pay for program administrative costs. Remittance of 9-1-1 fees and corresponding general fund deposits have outpaced the budget appropriation established for the 9-1-1 program resulting in "stranded" 9-1-1 funds left in the general fund. The LAD performance audit recommended the legislature revise state law to ensure all 9-1-1 surcharge revenues are only used for 9-1-1 system development and operations.

The New and Emerging Technologies 9-1-1 Improvement Act of 2008 (NET 9-1-1 Act) requires the FCC to report to Congress annually regarding the collection of fees established by states. The primary objective is to ensure that 9-1-1 fees are being used for purposes designated by the funding mechanism. I have provided you a copy of the FCC Public Notice. Subsequent to the notice, Governor Schweitzer received a request for information due March 23. Passage of HB82 with an effective date of July 2009 will meet the FCC requirements. I encourage the Committee to take action on this bill expeditiously so we can respond to the FCC.

Other federal legislation requires any state or local jurisdiction that diverts 9-1-1 fees to be ineligible for federal funding. In recent years, private grants and federal funding have contributed significantly to the progress of our deployment of enhanced landline and wireless 9-1-1 in Montana. We have received over $4 million in federal and private funding for projects currently underway. We want to continue to be eligible for these kinds of funding opportunities.

This proposal will ensure that all 9-1-1 fees collected from citizens go to providing 9-1-1 services and administering the program. We believe that the legislative intent of the original 9-1-1 legislation was that all 9-1-1 fees go to providing 9-1-1 services.

There will be no increase in FTEs and the proposal has been endorsed by the 9-1-1 Advisory Council.

I want to thank Representative Driscoll for sponsoring this bill. I urge your support for this legislation. I am available to answer any questions.

Thank you.

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PUBLIC NOTICE

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
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DA 09-205
February 6, 2009
OMB Control Number 3060-1122

INFORMATION COLLECTION MANDATED BY THE NEW AND EMERGING TECHNOLOGIES IMPROVEMENT ACT OF 2008

PS DOCKET NO. 09-14

The New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act) became law on July 23, 2008, requiring Internet Protocol (IP) enabled voice service providers to provide 911 and enhanced 911 (E911) services, and requiring various regulatory undertakings by the Federal Communications Commission.[1] Pursuant to Section 6(f)(2) of the NET 911 Act, the Commission must collect information regarding any fees collected by the states or other jurisdictions in connection with 911/E911 services, specifically, information "detailing the status in each State of the collection and distribution of such fees or charges, and including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any such fees or charges are specified."[2] On January 26, 2009, the Commission received authorization from the Office of Management Budget to implement a data collection program.[3] Pursuant to that authorization, the Public Safety and Homeland Security Bureau seeks the following specific information in order to fulfill the Commission's obligations under Section 6(f)(2) of the NET 911 Act:

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[1] New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 122 Stat. 2620 (2008) (NET 911 Act).

[2] *Id.* at §6(f)(2). Section 6(f)(1) of the NET 911 Act affirms the ability of "[a] State, political subdivision thereof, Indian tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act, as amended ..." to collect fees or charges "[applicable] to commercial mobile services or IP-enabled voice services ... for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge. For each class of subscribers to IP-enabled voice services, the fee or charge may not exceed the amount of any such fee or charge applicable to the same class of subscribers to telecommunications services." NET 911 Act at §6(f)(1).

[3] Letter from Kevin F. Neyland, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, OMB Control Number 200812-3060-008 (Jan 26, 2009).

- A statement as to whether or not the state or other entity as defined by Section 6(f)(1) of the NET 911 Act has established a funding mechanism designated for or imposed for the purposes of 911 or E911 support or implementation (including a citation to the legal authority for such mechanism).

- The amount of the fees or charges imposed for the implementation and support of 911 and E911 services, and the total amount collected pursuant to the assessed fees or charges, for the annual period ending December 31, 2008.

- A statement describing how the funds collected are made available to localities, and whether the state has established written criteria regarding the allowable uses of the collected funds, including the legal citation to such criteria.

- A statement identifying any entity in the state that has the authority to approve the expenditure of funds collected for 911 or E911 purposes, and a description of any oversight procedures established to determine that collected funds have been made available or used for the purposes designated by the funding mechanism, or otherwise used to implement or support 911 or E911.

- A statement whether all the funds collected for 911 or E911 purposes have been made available or used for the purposes designated by the funding mechanism, or otherwise used for the implementation or support of 911 or E911.

- A statement identifying what amount of funds collected for 911 or E911 purposes were made available or used for any purposes other than the ones designated by the funding mechanism or used for purposes otherwise unrelated to 911 or E911 implementation or support, including a statement identifying the unrelated purposes for which the funds collected for 911 or E911 purposes were made available or used.

- Any other comments the respondent may wish to provide regarding the applicable funding mechanism for 911 and E911.

Letters seeking the information described here will be mailed to the Office of the Governor of each state and territory, and Tribal Government of each Native American Reservation. Copies also will be sent to the Secretary of State, Public Utility Commission Chairman, and 911 Director of each state and equivalent offices in the territories and reservations.

Consistent with Section 6(f) of the NET 911 Act, the Commission requests that state officials report the information identified in this Public Notice with respect to fees and charges collected in connection with the implementation and support of 911 or E911 services within their state, including any political subdivision thereof, Indian tribe and/or village and regional corporation serving any region established pursuant to the Alaska Native Claims Settlement Act that otherwise lie within their state boundaries.[4] In addition, consistent with the definition of "State" set out in 47 U.S.C. 153(40), the Commission will collect this information from states as well as the District of Columbia, and the inhabited U.S. Territories and Possessions.

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[4] *See* NET 911 Act, Section 6(f)(1).

The information hereby collected will be reviewed by the Public Safety and Homeland Security Bureau. Pursuant to Section 6(f)(2) of the NET 911 Act, the Commission is required to file "within 1 year after the date of enactment of the [NET 911 Act], and annually thereafter" a report with the Congress "detailing the status in each State of the collection and distribution of such fees or charges, and including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any such fees or charges are specified."[5]

Information submitted pursuant to this information collection should be submitted in a NET 911 electronic drop box located at https://esupport.fcc.gov/actonline, and should be submitted no later than March 23, 2009. Filed information must include verification and signature by an official identified in the filing. The information filing should be submitted on an official (letterhead) document of the signatory's agency which is then uploaded to the electronic drop box by attaching an electronic copy of the document and hitting "send."

Filers may also fax or mail a copy of the signed document to the Commission's Secretary, and should reference PS Docket No. 09-14.

§ Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing.

§ Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to: Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

§ The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

§ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, M.D. 20743.

§ U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

§ Fax Filers: Filings may be faxed to (202) 418-2824.

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[5] *Id.* Section 6(f)(2) specifically directs the Commission to file its reports with the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

§ People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

As required by the Paperwork Reduction act of 1995 (44 U.S.C. § 3507), the FCC is notifying the public that it received OMB approval on January 26, 2009, for the collection of information described in this Public Notice. Public reporting burden for this collection of information is estimated to be ten to fifty hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This collection of information is for the purpose of assisting the Commission in carrying out provisions of the NET 911 Act. This collection is mandatory under the New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 122 Stat. 2620 (2008). Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden to Federal Communications Commission, AMD-PERM, Washington, DC 20554, Paperwork Reduction Project (3060-1122), or via the Internet to PRA@fcc.gov. DO NOT SEND ELECTION LETTERS TO THIS ADDRESS.

Under 5 CFR § 1320, an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB Control Number. **This collection has been assigned OMB Control Number 3060-1122 and its expiration date is January 31, 2012.**

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.

-- FCC --

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FEB 1 7 2009

DEPARTMENT OF ADMINISTRATION
Information Technology Services Division