



STATE OF TENNESSEE  
**TENNESSEE EMERGENCY COMMUNICATIONS BOARD**  
DEPARTMENT OF COMMERCE & INSURANCE  
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### **Policy Advisory Committee Meeting Summary**

The Policy Advisory Committee (Committee) of the Tennessee Emergency Communications Board (TECB or Board) held a meeting on July 23, 2009 at 11:00 a.m.

The following committee members were present: Wayne Anderson (Sheriff & ECD Member, Sullivan County), Johnny Cheatwood (Lawrence Co. ECD), Raymond Chiozza (Shelby Co. ECD), David Connor (TN County Cmsrs. Assoc.), Chris Masiongale (Director, Overton-Pickett ECD), Kim Augustine (Director, Madison Co. ECD), Jimmy Turnbow (Wayne Co. ECD), John Lowry (TN Assoc. Chiefs of Police), Mark Blackwood (Director, Maury Co. EMA) and Daryl Blair (Chief, Putnam Co. Fire Department).

#### **I. Introduction**

Lynn Questell, Executive Director of the TECB, gave welcoming remarks. She stated that the Committee would be discussing 911 funding and explained that a factual overview of that topic would be provided in order to establish a record for any recommendation the Committee might make. Ms. Questell explained that because the TECB was interested in opinions from ECD directors on 911 funding, staff held three hearings across the state and submitted surveys to the districts. She noted that the surveys and testimony from the hearings showed that the districts that dispatch are in much worse financial shape than those that do not. She noted that during the West Tennessee hearing, a participant proposed to stop providing cost recovery to wireless carriers. Ms. Questell introduced the Board's new General Counsel, Curtis Sutton, and welcomed him.

#### **II. Overview of how 911 Fees are Collected and Distributed**

Mr. Sutton gave an overview and PowerPoint presentation on 911 funding.<sup>1</sup> He reviewed the mission of the Board, structure of landline fees and non-wireline fees.

#### **III. Overview of Revenue Standards**

Mr. Sutton stated that the state law requires that all funds received by the ECDs must be used in the operation of the district. He noted that dispatching is a permissible, but not required item. He also reported that whether the law permitted 911 to pay for dispatching salaries was a controversial issue until the Attorney General issued opinions (1989, 1995, 1997) holding that 911 could pay for dispatcher salaries and even radios, so long as the ECD's board of directors had elected to dispatch

#### **IV. Overview of TECB Budget and Obligations**

Mr. Sutton briefly discussed dispatching, noting that the law does not require districts to dispatch and that certain expenses, such as dispatcher salaries and radios, are allowable if a district dispatches, but not required expenditures. Mr. Sutton made the point that if an ECD has

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<sup>1</sup> The powerpoint is available on the TECB website at <http://tn.gov/commerce/911/index.shtml>, as are all the filings and transcripts of Committee meetings.

entered into a cooperative agreement to dispatch for local governments, it should be assured that local government provides adequate compensation to the ECD.

Mr. Sutton reviewed the TECB's expenditures from last year, the current year and the proposed budget for FY 09-10. He also reviewed the various funding programs of the Board including the recurring \$14 million operation funding, the dispatcher training pilot program as well as various one-time funding programs. Mr. Sutton discussed the history of cost recovery and stated that cost recovery is no longer required by the FCC and some carriers don't even accept it. In Tennessee, the TECB has spent over \$115,200,000 in cost recovery since 2000. Wireless carriers received over \$11 million in cost recovery in FY2008 and over \$9 million in FY2009.

#### **V. Status Report on NG911**

Lastly, Mr. Sutton reviewed the Next Generation project and discussed the TECB's proposed budget to fund this project. Mr. Sutton stressed the importance of the NG911 program because of the need to digitalize the 911 infrastructure.

#### **VI. Evidentiary Overview of the Financial Condition of ECDs**

##### **➤ Analysis of Audits:**

Kim Augustine, Director of Madison Co. ECD, presented a report on the financial status of the ECD's based on the 2007 and 2008 audit reports. The report reflected that the majority of the State's 100 ECD's realized a decrease in landline revenue during this time period and all ECD's realized an increase in wireless revenue (25% statutory distribution only) during this time period. Ms. Augustine noted that the increase in wireless revenue from the 25% distribution was not sufficient to fully offset the decrease in landline revenue for some ECD's. She noted that after each ECD received their portion of the \$14 million additional operational funding, all ECD's realized an increase in revenue for FY 07-08.

##### **➤ Analysis of ECD Questionnaires:**

Jim Barnes, TECB Accounting Manager, discussed certain results of his analysis of the surveys sent to the ECDs in May 2009. Mr. Barnes pointed out that 27 PSAPs had sufficient financial resources to have moved in the last 3 years or have plans to move. At least 22 ECDs expressed concern that if they received more money from the TECB, financial support from the local government would be reduced. Mr. Barnes also noted that while 15 of the ECDs responding to staff's survey rated their financial health as fair and none rated it as poor, only 2 responded that they were at risk of becoming financially distressed. Mr. Barnes stated that 39 ECDs responded that dispatcher training had increased because of TECB's increased funding and 64 ECDs thought that the dispatcher training program should continue.

#### **VII. Discussion of 911 Funding Solutions**

The Committee agreed to structure its study of 911 funding solutions into two tiers: short term and long term. Issues of interest included the TECB's current budget priorities, the current needs of ECDs, the cost of NG-911, TECB obligations and the mandate that the non-wireline fee is to be at "the lowest rate practicable."

The Policy Committee voted to consider short term funding concerns first.

##### **➤ Cost Recovery**

A Committee member asked what would happen if the Board stopped paying cost recovery to the carriers. Mr. Sutton explained that the cost recovery agreements have a 45-day notice termination clause. In addition, the carriers would have 60 days to appeal a decision by the TECB to terminate the cost recovery program to an administrative law judge. The 45 and 60

days would run concurrently. It was also noted that T-Mobile appeared to be completing the state's most recent build out project and neither T-Mobile nor Verizon accept cost recovery.

There was a motion and a second by the Committee to cease paying cost recovery to the carriers. There was some concern about how to protect the money so the local governments don't decrease their contributions to the ECD. Ms. Questell stated that the Committee should consider that there should be two prongs to how any additional money would be divided because while the ECDs need additional revenue, more revenue could also be required to fully realize all aspects of the Next Generation 911 project to modernize the state's 911 infrastructure. Ms. Questell suggested that maybe the Committee should look at the funding on a year-to-year basis to determine how best to distribute the additional funding. Many of the Committee members disagreed with this concept and thought that the money should go to the ECDs because they had the greater need and to assure that they had a recurring, unchanging revenue stream on which they could rely year after year, just as the carriers receiving cost recovery had.

The issue came up regarding whether the Committee should hear from the wireless carriers prior to recommending that the TECB terminate the carrier cost recovery program. Some members thought they should go ahead with the vote and the carriers could voice their comments to the Board. Some Committee members felt that federal law requires the carriers to provide Phase 1 and Phase 2 service and there weren't any potential detrimental effects expressed so the Committee should go ahead and move forward with the recommendation to end cost recovery.

Ms. Questell expressed a need to hear from the wireless carriers so that all of the issues could be fleshed out. She pointed out that the Committee was created to fully research the issues and make recommendations to the Board. The Board should be able to be confident that the issue was fully vetted and be comfortable that they can place a lot of weight on the Committee's recommendation. Other Committee members agreed that they wanted to hear all sides of the issue before they voted on a recommendation.

In response, the motion to end cost recovery was withdrawn. Another motion was made and the Committee voted to notify all wireless carriers that the Policy Committee is considering ending cost recovery and invite them to express their views to the Committee on August 10, 2009.