

ALABAMA 9-1-1 BOARD MEETING
Bailey Building
4th Floor Conference Room
400 South Union Street
Montgomery, Alabama 36104

Minutes of November 20, 2013

Prior notice of this regularly scheduled meeting of the Alabama 9-1-1- Board was given in accordance with the Alabama Open Meetings Act.

The roll was called and the following members were present:

Roger Wilson, Chairman
Riley Blount, Vice Chairman
Ernie Blair
Bill Brodeur
Mark Brown - absent
Chris Heger
Melissa Dove
Fred Johnson - absent
Johnny Hart
Wayne Hutchens
John Nettles - absent
Jerry Renfroe
Donnie Smith

A quorum was established. The meeting was called to order at 10:00 a.m. by Chairman Roger Wilson who acted as presiding officer of the meeting.

Chairman Roger Wilson asked that the Board remember John Nettles in their prayers as he is dealing with an illness.

Donnie Smith requested that the AUM presentation be moved to item four on the agenda due to time constraints.

Upon motion by Jerry Renfroe and seconded by Bill Brodeur, the amended agenda was unanimously approved.

Chairman Wilson introduced Cathy Crabtree and Tom Petee of Auburn University Montgomery's Center for Government.

Ms. Crabtree reported that her office was hired to do the original rate studies. Dr. Tom Petee conducted the study. The original study came from methodology based on the information that they received. She stated that they are a research and consulting company and that they do not implement any policies or rules after the research is

completed. The company, in this case the Alabama 9-1-1 Board, is responsible for utilizing the information that the AUM CoG provides to them.

Dr. Petee stated that they conducted a study by creating different types of surveys, which were given to the ECDs throughout the state. They divided the ECDs into a couple of different groups depending on what their surcharges are on phone lines. He stated that they collected this information in order to determine the annual surcharges of 2012. Dr. Petee stated that at the initial meeting in January with the committee, they had a number of ECDs that had not reported back to them. Chairman Wilson, at that time, contacted the ECDs that had not reported and obtained the information required by Dr. Petee. Dr. Petee stated that, in the end, they had a wireline surcharge fee estimation of \$72,964,000.00 and some odd dollars and a wireless amount of \$32,188,151.00. The total surcharge estimated revenue was \$105,000,000.00 and some odd dollars. He stated that adjustments were made to that figure based on a 2% revenue buffer, a 20% cost recovery for wireless, a 7% add-on for prepaid wireless sales and a fee for the Examiners of Public Accounts for auditing the money. The targeted revenue estimate was \$115,421,291.00. He stated that, in addition to this figure, they calculated the number of telephone lines that were being charged fees and determined an average fee to charge individual lines. Dr. Petee stated that the wireless data was provided directly to them, but that the landline and VoIP data had to be obtained by the various phone providers directly. They arrived at an estimate of \$64,265,012.00 surcharge. Dr. Petee stated that these figures were provided to the committee and, at some point, an adjustment was made to the revenue figure and a new fee was calculated as a consequence. At that time, a surcharge of \$1.60 was determined. He stated that he thinks that the lawsuit money was deleted from the initial formula.

Chairman Wilson asked if anyone had questions or comments.

Donnie Smith asked if Dr. Petee had the spreadsheet showing the annual traditional baseline. He asked Dr. Petee if he was confident that these numbers are correct. He stated that these numbers, the amount collected, should be confirmed by each ECD. Dr. Petee stated that he had not seen this spreadsheet. Chairman Wilson stated that the spreadsheet that Mr. Smith had was the full spreadsheet. The spreadsheet sent to Dr. Petee was a reduced version, a simplified version. Mr. Smith asked Dr. Petee and Chairman Wilson if the \$66,577,675.93 was the right amount per ECD.

Johnny Hart stated that the original figure provided by Dr. Petee was \$1.80. He asked Roger Humphrey, who was on the rate study committee, how the fee of \$1.70 was determined. Roger Humphrey stated that the \$1.70 rate was determined by the Legislative Oversight Committee based on a couple of elements. Johnny Hart asked if this committee had anything to do with the end fee of \$1.60. Dr. Petee interjected that he thought that figure came out of the original formula. He stated that some adjustments were made to the total revenue. Mr. Hart asked if AUM had anything to do with that adjustment. Dr. Petee stated that they did not have anything to do with the adjustment.

Chairman Wilson stated that they received additional information. He stated that the oversight committee asked them to go back to the providers and have them verify their line counts and to verify the information provided by the ECDs. He stated that during that process, they found some additional lines and some double counting. He stated that these were taken out and corrected at approximately \$10,000,000.00. This corrected information was sent to Dr. Petee at which time he was asked to make sure all of the formulas were correct. Dr. Petee stated that he thought it was plugged back into the formula.

Mr. Hart stated that he was concerned about the \$1.60 rate. He stated that he knew about the \$1.70 reduced rate and knew that Dr. Petee was concerned about reducing the rate from the original \$1.80 rate. He questioned if the \$1.60 was based on a penny per million dollars, ending at \$10,000,000.00. Mr. Hart asked if this was the formula.

Ms. Crabtree stepped in and provided the summation. She stated that the only way to get a truly, accurate, down to the penny figure was to have every single individual thing counted that exists. Then you have to back out anything that is going to come off the top like a settlement in order to have an accurate calculation. The original report was provided to you based on the information provided to us.

Ms. Blount asked Dr. Petee if he could provide the spreadsheet that went with the original report. She stated that she still had her copy of the original report but would like to have a copy of that spreadsheet as well. John Ellison stated that the original report was on the website and that he could place the report back at the top to make it easier to find. Chairman Wilson stated that each Board Member was emailed a copy of the report when it was completed. Ms. Blount stated that she just wanted the spreadsheet. Chairman Wilson stated that he would send her the spreadsheet.

Chairman Wilson thanked Ms. Crabtree and Dr. Petee for their presentation. He then asked for a motion to approve the minutes from the October 23, 2013 Board meeting. Bill Brodeur made the motion, which was seconded by Jerry Renfroe. The motion was passed unanimously.

The Secretary/Treasurer's Report:

Donnie Smith stated that Winks Kelley, Executive Assistant for the Board, and he were coming up with a deadline for turning in Board expenses so that a comprehensive report can be emailed to each Board Member for review in a timely manner.

Mr. Smith stated that there were contract fees totaling \$63,032.41, which included expenses for Jason for \$412.16 and two payments to John Ellison for \$200.00 each totaling \$400.00. Mr. Sasser, Attorney for the Board, presented fees for the month of \$8,870.41. Winks had out of pocket expenses of \$41.61 and the billing for Bandwidth of \$53,450.00. The contract expenses totaled \$63,032.41. He stated that he just received billing for MDA for \$8,720.20. Mr. Smith stated that the 1% of the fund was transferred

to the operating account in the amount of \$52,332.60. He presented the payments to those ECDs that did not participate in the loan program from the Wireless Board.

City of Adamsville	-	\$20,889.41
City of Gardendale	-	\$64,427.29
Bibb County	-	\$105,324.38

The following expenses were presented:

Donnie Smith:	\$644.89
Bill Brodeur:	\$391.84
Ernie Blair:	\$374.88
Melissa Dove:	\$180.77
Chris Heger:	\$411.75
Johnny Hart:	\$672.92
John Nettles:	\$305.10
Roger Wilson:	\$514.95

Billing for the Alabama Supercomputer Authority for three months at \$6,366.00 per month for a total of \$23,975.00. The AUM contract for \$1,710.00 spread over several invoices. The invoice for the vehicle purchased for the Board is \$30,404.00.

Mr. Smith presented the credit card statement of \$5,053.93 stating that it was itemized and reconciled with receipts. He presented the payments to the Retirement System of Alabama of \$1,196.16 and two payments to the Department of Finance for \$1.00 and for \$12.25. These payments were in addition to the administrative fee that is taken off the top by the Department of Finance to process the payment checks. Mr. Smith recommended that we approve the financial report, but see if Jason can have these charges deleted. If he cannot, then these will already be approved to be paid by the Board.

Johnny Hart made a motion to approve the financial report, which was seconded by Chris Heger. The motion was carried unanimously.

Cost Recovery Report:

Bill Brodeur reported that Phase I cost recovery from September 30, 2013 paid during the month of November is Pinebelt - \$7,134.08 recurring, Southern Link - \$93,826.61, Sprint - \$8,946.00 non-recurring and \$7,853.54 recurring. All of those were in line with their plans. He also reported that Phase II reimbursements were requested from Pinebelt - \$4,928.00 recurring and Southern Link - \$20,131.54 recurring. He recommended approval of this report.

Chris Heger made a motion to approve this report, which was seconded by Ernie Blair. A vote was taken and the motion was approved unanimously.

Legal Report:

Mr. Sasser reported on the Administrative Rules workshop that was held in Birmingham on November 13, 2013. Topics discussed during this meeting were:

- the rule regarding the definition of a subscriber,
- the rule regarding termination of active voice communication connections that are subject to 9-1-1 charges,
- the requirements of carriers in their remitting forms and the contents thereof, and
- the Lifeline issue as it related to the definition of subscriber.

The committee did not make any changes to the rule of Lifeline. The primary change that was presented in August 2013 at the public hearing was to take out the language “or receives”. We added the language “a person to person voice communication service including Lifeline or other similar service”. We are cognizant of the comments from Tracfone and CTIA about this issue, however, the committee felt very strongly about adding this language to the rule in order to be compliant with the statute and to have a uniform application of the fee. Wireline Lifeline subscribers are required to pay this fee so the committee felt that all wireless connections should be required to do the same. We included the language of the two emergency rules regarding independent school boards and those public authorities that are created by municipality or county such as hospital boards to be excluded from those persons described as a subscriber. The termination of active voice communication connections subject to the fee was discussed. There was a good turnout from carriers for this workshop. They reiterated their concerns as previously stated at the public hearing in August. Going by the LDN, Local Directory Network, which was the attack that we had taken before. The carriers indicated that they could not technically do that at this time. It would be cost prohibitive. The committee went back to the language of emergency rule one, which was the method by which the original line counts were supposed to be calculated by the carriers. Under 585 -x- 4.01 we talk about broadband connections and those carriers that have a digital platform such as PRI. We are going to count 23 lines under PRI. It was suggested that PRI is probably on its way out and that carriers are going to a totally IP based system. However, that is the way that the original lines were counted and we asked the carriers to use that formula for the original line counts. A letter from Mark Wilkerson, a representative for Telecommunication Association of the Southeast, stated that TASE has withdrawn its objections to the proposed rule with this language that we’ve got in here. Mr. Sasser reported that he has not received anything from CenturyLink or Windstream, but that their representative has also withdrawn its objection to the rule and that this will not have an overwhelmingly negative impact on its carriers. He stated that this situation requires monitoring very closely as technology changes so rapidly. The chairman asked for questions or comments regarding the legal report.

Ernie Blair stated that he is not completely satisfied that this Board is following the letter of the law which states that we are to charge every line that is capable of accessing 9-1-1.

He stated that the way it works now, we are not charging the lines behind the switchboard. We are counting the PRIs. He challenged the Board and the rules committee to revisit the issue of counting lines soon. It was agreed that the T1 technology is transitional and that IP based technology is the future. He stated that the Board needs another funding model. He suggested that the committee look at other states' policies. Mr. Blair stated that Wayne Humphrey had suggestions for a different model based on the revenue coming in as opposed to the actual lines. He stated that in the IP world you could continuously compress lines, which would skew the current formula used by this Board.

Mr. Sasser discussed one more topic. Rule 585 -x- 4.02 regarding the form submitted by carriers and stated that it had been altered. The language "under penalty of perjury" was removed. He stated that whoever signs the document from the reporting carrier certifies that the document is accurate. This particular rule was an emergency rule propounded in August of this year. This issue has got to be advertised in the Administrative Monthly, filed with Legislative Reference Service and scheduled for a public hearing.

Chairman Wilson requested a motion to approve the legal report at this time.

Mr. Sasser added one more comment. In regard to the process for Board Members to overturn actions previously taken by the Board, the current language was deleted and now a majority vote of the Board can overturn actions previously taken by the Board.

A motion to approve the legal report, with the exception of 585 -x- 4.02, was made by Jerry Renfroe and seconded by Johnny Hart. A vote was taken and the motion was carried unanimously.

Accountant Report:

Ralph Dowdy presented the cash based statement, with few exceptions, for the month of October 2013. He reported that the "cash in bank revenue" is the bank account that handles the payments that go out to the ECDs. He reported that there are 78 ECDs that get ACH transfers and 10 that get paper checks, which will be signed during this meeting. There is \$3,000,000.00 in that fund to make the payments to these ECDs. Next item is the operating account for the Board fund. This is where the 1% will go and where Board expenses will be paid. The cost recovery escrow account is at \$13,387,000.00. This month we will add another \$508,000.00 to that so there will be \$3,129,000.00 in excess. He stated that the \$13,000,000.00 would cover the cost of the \$10,000,000.00 that is owed to AT&T, which is \$10,728,050.00. The payroll clearing account covers Jason and Winks' payroll. We added a fixed assets column for office equipment and Board vehicle. These will depreciate over time. The accounts payable ECDs is specifically for those districts that did not participate in the CMRS loan program, the City of Gardendale, the City of Adamsville and Bibb County. The payroll tax liability is the withholdings for taxes for Jason and Winks to be paid to the tax agency. The retirement payable is the withholding taken out of their paychecks that will be paid into the Retirement Systems of Alabama.

Mr. Dowdy reported that the income statements or statement of revenue and expenses are as follows:

the service charges collected for the month \$2,500,000.00,
some interest on the income in that account,
the 80% paid to the ECDs of \$2,900,000.00,
the payments of providers during the month of October of \$77,292.00, and
the accounting fees, legal fees, office supplies, insurance expense, website
maintenance, conference fees, telephone calls, travel expenses, salaries and
related payroll taxes, the depreciation of the car and office equipment, the
ANGEN payment, Bandwidth payment, and the AUM payment.

Mr. Dowdy reported excess revenue for the month of October as \$342,000.00.

He discussed the summary of connections. MDA continues to track wireless connections and Tracfone connections, which run approximately 3.8 million. He stated that the balance of the report is simply the escrow accounts in which we deposit the money collected followed by the payments to the ECDs.

Chairman Wilson asked for questions or comments. A question regarding the wireless connections in the CMRS report was received. Mr. Dowdy reported that landline was 4,772,042, postpaid wireless 2,967,487 and prepaid wireless 810,158, totaling approximately 5,000,000.

Bill Brodeur made a motion to approve the accountant report, which was seconded by Jerry Renfro. A vote was taken and the motion was carried unanimously.

Ralph Dowdy addressed a concern regarding the upcoming payments to the ECDs. He stated that the finance committee agreed to leave the account open until the next Board meeting on December 18th at which time the committee can reconcile this account so that the ECDs will not have a dropdown during the month of December. He stated that once we get to January, we should be receiving approximately \$9,000,000.00 per month.

ANGEN report:

John Ellison reported that T-Mobile has 7 PSAPs up and is going to switch to Level 3 as their provider in January. Verizon has some trunks in place and is testing them, as is Southern Link. AT&T is looking at January or February. Sprint is still confident that they will meet their deadline. Pinebelt has their circuits ordered. Still no word on Ceasefire.

Mr. Ellison reported that CPE testing is going slow. He stated that he has spoken with Soltron and CallWorks, which are the major providers in the state. He is trying to work out an agreement with them.

Mr. Ellison stated that the Board should expect a big report from Bandwidth in 2014. They have added a new project manager, Teri Thornbury. He also stated that they are trying to get a first connection going in Morgan County. Mr. Ellison reported that a new software release on the ANGEN system is going to come out on December 9-12, 2013. This will give us the ability to corral calls. Each PSAP will be able to determine the number of calls received before they are redirected. That is the ANGEN report.

State Plan report:

There will be a session this afternoon between 1:00-4:00 with providers about the state plan. Writing has begun on the background information to be included in the plan. That's one of John's many jobs and he is hoping that by December he will have an initial draft for the Board.

Finance Report:

Donnie Smith reported that the Finance Committee met last night in an open meeting that had been previously advertised. The distribution model was discussed. Mr. Smith stated that he wants to be assured that Mr. Dowdy and his staff and Mr. Jackson and his staff have a crystal clear distribution of how the system works. The critical column is the annual traditional baseline. Chairman Wilson assured me that these numbers are set in stone. Each ECD baseline is that hard number in the distribution. He discussed a remittance form that will go out to each ECD that explains how much the check is for and how we arrived at this amount. It will be 1/12 of their annual traditional baseline. Anything other than that will be a population number. He provided a chart. (Exhibit 1)

Mr. Smith discussed tracking those distributions to make sure that we are meeting the "make whole" clause in the law. It will require tracking these from day one. If \$1.60 is not enough to fulfill that clause, then we need to address that sooner than later. After three months of tracking, we need to look at the rate and if we are going to fall short, we need to address alternatives. If we have to raise the rate, we will need to do that as soon as possible. It will take three months to implement a change which means that six months will be all we will have to make the districts whole.

Jerry Renfroe discussed the Examiners of Public Accounts' budget. Chairman Wilson assured him that they will only be paid for actual expenses and will have to provide a detailed report. Mr. Smith stated that the number included in the finance report for them is for planning purposes only. We will not know how much this will cost until we receive the first bill.

Mr. Smith reported that he requested a simple policy on distribution from Jason Jackson and Ralph Dowdy. He reported that Policy 8 (Exhibit 2) has done that. The finance committee recommends that the Board adopt Policy 8 as the distribution model.

The Chairman asked for questions or comments. Melissa Dove requested to address the population formula. She stated that during the past two years her district lost 1,100

people according to the study performed by the University of Alabama. She requested that a different formula be adopted. This was discussed by the Board. Mr. Dowdy stated that the population number is very important because each ECD receives extra money based on a population formula. He stated that ADECA/UofA's study is updated around May of each year and that's what we use. Chris Heger stated that the Board needs a policy in place in order to distribute this money to the ECDs. She requested that the Board pass the current policy and if, at a later date we need to change the policy, we can.

Bill Brodeur made a motion to adopt Policy 8, which was seconded by Chris Heger. A vote was taken and the motion carried unanimously.

Donnie Smith discussed the possibility of a hardship grant for those districts in need during the month of December. He deferred to Jason Jackson. Mr. Jackson reported that he received a few emails regarding ECD hardships. He stated that he sent these districts letters outlining the necessary information required to determine hardship. Wilcox County provided this information, as their monthly revenue was approximately \$24,000.00 and expenses of approximately \$23,000.00. In October, they were \$8,000.00 short and cashed in one of their CDs. To date, Wilcox County is approximately \$18,000.00 short which puts it at approximately \$7,000.00 in need. The district has approximately \$38,000.00 in CDs. Melissa Dove, Coordinator for Wilcox County, stated that for months she has asked if there would be a delay in distribution. She stated that she was assured that there would not be a delay and that if she had known that there would be a delay, her district would have cashed in the CDs as they matured and put the money in savings. Now, she will have to take a penalty for cashing them. Chairman Wilson stated that an email was sent to every district informing them to plan for a thirty to sixty day lag time in receiving their revenue. He stated that it was discussed at a previous Board meeting. Johnny Hart stated that, as the Board has not developed a policy or program for providing hardship grants to districts, that he did not think that they should provide grants until one is developed. He questioned whether the Board could loan money to the districts until they are made whole. Mr. Sasser stated that on the CMRS Board, they loaned money out of the operating expense until the AL 9-1-1 Board came into effect. This Board probably could do this because a lot of things are paid through the operating budget.

Jerry Renfroe asked, again, if the Board had a policy on this issue. The answer was no. Ernie Blair stated that Wilcox County should obtain a loan with the CDs as collateral with a low interest rate until they are back on their feet. Melissa Dove stated that the chairman of her Board is also the bank president and he is very upset with the thought of cashing in those CDs. A discussion ensued. Chairman Wilson expressed his concern that this issue would snowball. Mr. Hart stated that he wants it to be fair to each district and that they directors/coordinators knew that this was coming. Mr. Smith asked the Board if a grant could be counted into the "make it whole" number at the end of the year. Chris Heger stated that she was uneasy about giving grants without firm rules applied to all ECDs.

Next, Donnie Smith discussed having a cut-off day to turn in expense forms. He also discussed having the ECDs report their income/expense reports to the main office monthly.

Chairman Wilson asked that Jason Jackson review and provide a report on the attorney's documents regarding policies. As requested by the board during the previous board meeting, Mr. Jackson provided several lease options for the main offices of the Alabama 911 Board. The board unanimously agreed to place the state office in 1 Commerce Street, Suite 610, Montgomery, Alabama 36104. Mr. Jackson presented the Employee Benefit Package and the board agreed to pay the difference between LGHIP and SEIB rates through the operating fund. The Chairman asked that Mr. Jackson review the Bandwidth contract and asked him to request reviews of AUM and ASA. Mr. Jackson stated that this would take approximately a month to review and project.

Chairman Wilson stated that once the Policy and Procedures document is completed, a copy should be mailed to the board members. This document and the Employee Policy were tabled until the next board meeting.

The next board meeting was scheduled for December 18, 2013 in the main conference room of the new Alabama 911 Board offices at 10:00 AM.

Upon motion by Johnny Hart and seconded by Donnie Smith, the meeting was adjourned.

Approved this 22ND day of January, 2014



SECRETARY



CHAIRMAN

Guests: Statewide 9-1-1 Bd Meeting - 11/20/2013

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Thomas Summerfield Jeff Co. 911

JOHN ELLISON ANGEN

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