

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



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February 4, 2010

Karen Norcross
Michigan Public Service Commission
6545 Mercantile Way #7
Lansing, MI 48910

Via email

Re: Michigan State 9-1-1 Committee Reply Comment to proposed rulemaking

Dear Ms. Norcross:

Please allow me, as counsel to the State 911 Committee, to offer the following on behalf of the Committee as its reply comment to the 2nd draft of rules pertaining to PSAP personnel training, due February 5, 2010:

The State 911 Committee (SNC) is established under chapter VII of the Emergency Service 9-1-1 Enabling Act. MCL 484.1712 states that it is created "to develop statewide standards and model systems and make recommendations for emergency telephone services." MCL 484.1714 sets forth the SNC's duties, including (1) (d): "Provide recommendations to public safety answering points on statewide technical and operational standards for PSAPs and secondary PSAPs."

Rulemaking authority is granted under chapter IV, specifically MCL 484.1413, which says:

(1) The commission [PSC] may promulgate rules to establish 1 or more of the following:

* * *

(b) Standards for the training of PSAP personnel.

* * *

(2) The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under this section.

(3) The commission's rule-making authority is limited to that expressly granted under this section.

On July 1, 2009 the SNC forwarded to the PSC a request for rulemaking on training standards for PSAP personnel, and included a recommended set of guidelines to establish those

standards. On August 13, 2009 the PSC staff released a proposed draft in rulemaking form to the SNC and other interested parties. The proposed draft contained a significant amount of material, the subject matter of which the SNC did not request, need, nor desire. This included Part 3, "Standards for Approval of Courses", Part 4, "Training Fund Distribution", and Part 6, "Administrative Process".

The SNC made comment and reply comment to the first draft rule, attaching exhibits that supported those comments, including a marked up copy of the rules as Exhibit 1 to its reply comment. In those comments the SNC recommended removal of Part 3, Part 4 and Part 6.

The SNC's comments were adopted and supported by 911 professional organizations including the Arenac County Central Dispatch, Chippewa County Central Dispatch, Clinton County Central Dispatch, Kent County Dispatch Authority, Marquette County Central Dispatch, Midland County Central Dispatch Authority, Ottawa County Central Dispatch Authority, the Michigan Association of Public Communications Officials, Michigan Communication Directors' Association, and the Michigan Chapter of the National Emergency Number Association.

Nevertheless, the second informal draft rules issued by PSC staff retained the objectionable provisions. In response to the SNC's and the professional community's expressed desire to have these removed, PSC staff observed that some parties had commented on the provisions, and since they had received comment they must be retained.

The SNC has submitted comments to the second informal draft, and presents this reply comment.

The issues are these:

- 1) Training programs/courses are specifically to be certified by the SNC under MCL 484.1408(4)(c). The SNC did not request rulemaking on this subject, and its comments and those of the organizations listed above indicate that the current course designation process works effectively and does need another layer of requirements.
- 2) Although training funds distribution is one area for which the PSC "may" promulgate rules (see MCL 484.1413(1) (c)), it was not asked to do so in this particular request. Again, as indicated by the SNC's comments and those of the organizations listed above, the procedures in place are adequate and effective and do not need further elaboration at this time.
- 3) By proposing subject matter outside of the SNC's original request for rulemaking pertaining to PSAP personnel training standards, the PSC staff has failed to "consult with and consider the recommendations of" the SNC.

4) The retention of provisions within the proposed rules based on a some parties having commented on those provisions, when the provisions shouldn't have been present in the first place, and despite the overwhelming support for the SNC's comments from the professional 911 community, results in a classic "Catch-22": If, as the SNC maintains, these provisions shouldn't have been included in the proposed rules, the parties in question would not have commented on them. Put another way, their comments are likely based on their belief that the offending provisions belonged in the proposed rules, despite the SNC's position that they do not.

For these reasons, the SNC urges the PSC to re-examine the SNC's previous comments and proposed drafts and, in keeping with its role of consultation with and consideration of the recommendations by the SNC, return a set of rules in keeping with the original request, addressed solely to training standards for PSAP personnel.

Sincerely,



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