



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON DC

May 13, 2020

Mike O'Rielly  
Commissioner

Mr. Justin Luna  
Chief, Division of Emergency Management  
Nevada Department of Public Safety  
2478 Fairview Drive  
Carson City, Nevada 89701

Dear Mr. Luna:

Every year, millions of Americans reach out to local emergency call centers for critical assistance in some of life's toughest moments. Particularly as our nation faces the current COVID-19 pandemic, the availability of 9-1-1 services throughout America is a lifesaver. I want to commend you, your staff, and all of Nevada's public servants for their efforts during this challenging time.

As leaders like you continue fighting on the front lines of our nation's unprecedented public health emergency, the Federal Communications Commission (FCC or Commission) must carry on with our work as well. This includes gathering information to compile our statutorily required annual report on state 9-1-1 fees. As Nevada was listed as a diverting state in our last report, my hope is to rectify any outstanding issues prior to publication of the next report. Some press stories indicate that Next Generation 9-1-1 (NG911) funding could be part of a future legislative effort by the U.S. Congress, and I am committed to helping Nevada become eligible for this potential funding, as diverting states would likely be prohibited from applying by law.

By way of background, the troubling reality is that a handful of leaders in certain states inexplicably believe that it is acceptable to siphon-off critical 9-1-1 fees for unrelated purposes. American consumers remit these fees with the expectation that they are paying into accounts that are tapped for uses directly related to 9-1-1 communications systems and staffing. In addition to undermining the integrity and accountability of the consumer fee mechanism, directing these funds elsewhere can shortchange and deprive the respective call centers of needed resources, whether for standard maintenance, to upgrade to NG911 communications systems, or to ensure adequate compensation for dedicated personnel who are answering calls.

Unfortunately, due to the actions of at least a few of its counties, Nevada was found guilty of diverting 9-1-1 fees for the 2018 calendar year. Based on the limited information submitted to the Commission in Nevada's annual filing, our staff was able to determine that "at least one local jurisdiction in Nevada has diverted a portion of the 911/E911 fees it collected in 2018 to a non-911 public safety use."<sup>1</sup> For Nevada's leaders to allow this to occur is unacceptable; the fact that it was effectively blessed by the Governor and state legislature is even more disturbing.<sup>2</sup>

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<sup>1</sup> FCC, Eleventh Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges for the Period January 1, 2018 to December 31, 2018 at 43 (2019), <https://www.fcc.gov/files/11thannual911feereport2019pdf> (CY2018 Report).

<sup>2</sup> See Letter from Michael O'Rielly, Commissioner, FCC, to Steve Sisolak, Governor, State of Nevada (September 19, 2019) (on file at <https://docs.fcc.gov/public/attachments/DOC-359780A1.pdf>).

Following the publication of last year's report, I took it upon myself to personally review your state's Calendar Year 2018 filing to the Commission incorporating the individual responses of Nevada's counties. The following represents my understanding of the submitted information:<sup>3</sup>

- Carson City – self-admitted diverter
- Churchill County – no information submitted
- Clark County – no information submitted
- Las Vegas and Unincorporated Clark County – insufficient information submitted
- Douglas County – self-admitted diverter
- Elko County – no information submitted
- Esmeralda County – no information submitted
- Eureka County – no information submitted
- Humboldt County – no information submitted
- Lander County – insufficient information submitted
- Las Vegas Paiute Reservation – insufficient information submitted
- Lincoln County – no information submitted
- Lyon County – not a diverter
- Mineral County – no information submitted
- Nye County – not a diverter
- Pershing County – no information submitted
- Storey County – insufficient information submitted
- Washoe County – no information submitted
- White Pine County – no information submitted

In summary, at least two of Nevada's political subdivisions are actively diverting 9-1-1 fees pursuant to state law (Carson City and Douglas County); two subdivisions are not diverting fees (Lyon and Nye Counties); four subdivisions or partial subdivisions submitted information, but not nearly enough to be determinative (Lander County, Las Vegas and Unincorporated Clark County, Las Vegas Paiute Reservation, and Storey County); and eleven subdivisions or partial subdivisions did not provide any information at all (Churchill County, larger Clark County, Elko County, Esmeralda County, Eureka County, Humboldt County, Lincoln County, Mineral County, Pershing County, Washoe County, and White Pine County). Admittedly, I am unable to provide a more complete picture of the situation, because much of the relevant county information is incomplete, unclear, or completely missing. Based on your cover letter attached to last year's submission, I understand that not all jurisdictions may collect 9-1-1 fees at the local level, but this is information that the Commission needs to know as well.<sup>4</sup>

States have flexibility in how they structure their 9-1-1 systems, and while Nevada has implemented a relatively decentralized 9-1-1 system, there needs to be some semblance of cohesion throughout such a system to ensure emergency call centers are being properly funded and that Nevada consumers are not being deceived or ripped off by their government(s). Unfortunately, such cohesion seems to be lacking in Nevada. It appears, based on your submission, that your office may not adequately oversee the diversionary practices of Nevada's individual political subdivisions, which is concerning not least of all because it has unintended ramifications for your state at large, including being ineligible for potential NG911 grant funding. Moreover, the filing does not appear to reflect a concerted effort by your office to ascertain this important information, beyond compiling and submitting the collected materials, which in several cases were lacking in substance.

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<sup>3</sup> CY2018 Report at 50, n.90.

<sup>4</sup> See Letter from Michael O'Rielly, Commissioner, FCC, to Lolo Matalasi Moliga, Governor, U.S. Territory of American Samoa (February 3, 2020) (on file at <https://docs.fcc.gov/public/attachments/DOC-362245A1.pdf>).

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Accordingly, I respectfully request answers to the following questions by the first week of June 2020:

1. Does the State of Nevada have legal authority to require its political subdivisions to provide the information it needs to comply with the FCC's annual information collection pertaining to 9-1-1 fees? If so, please state the origin of such authority and whether it has been utilized previously in other contexts. If not, please explain all relevant limitations on such authority (e.g. statutory, regulatory, state constitutional, etc.).
2. To the best of your knowledge, does the information I summarized above regarding the diversionary practices of Nevada's political subdivisions match your understanding of the relevant circumstances? If so, should the Commission conclude that the four counties that submitted incomplete information to the state are 9-1-1 fee diverters? If not, please explain why.
3. Your office compiled filings from at least several political subdivisions and submitted them to the Commission, with certain localities also filing separately with the Commission. Do you believe that the CY2018 filings made by Nevada and its political subdivisions were of sufficient quality and detail to allow the Commission to fulfill its statutory obligations to Congress?
  - a. Beyond submitting the single compilation of filings with the Commission, did your office request and facilitate the filing of individual responses by Nevada political subdivisions as part of the FCC's CY2018 request for information?
  - b. Did your office encourage entities to fill out the material and submit it in a timely manner? If so, please explain any and all efforts, including specific dates and responses received from the local governments. If not, please explain why.
4. The Commission has commenced its CY2019 data collection process. Can you or your office assist in directing each political subdivision to submit all necessary information? Alternatively, would your office be willing to collect such information itself and submit a complete filing to the Commission?

Thank you for your timely response. I am hopeful that Nevada's current status as a diverting state can be rectified in order to make it eligible for future potential grants, and to ensure that all intended funds are being used legitimately to protect Nevada's citizens during this time of need.

Sincerely,



Michael O'Rielly