

COUNTY OF KANE

Christopher J. Lauzen
Kane County Board Chairman



Kane County Government Center
719 South Batavia Avenue
Geneva, IL 60134
P: (630) 232-5930
F: (630) 232-9188
clauzen@kanecoboard.org
www.countyofkane.org

DOCUMENT VET SHEET

for
Christopher J. Lauzen
Chairman, Kane County Board

Name of Document: Intergovernmental Agreement Between Resolution No.: 13-185

The County of DuPage and The County of Kane
For Provision of Emergency Telephone Wireline Surcharge

Submitted by: Roger Fahnestock Dept. Head Signature: Roger Fahnestock

Date Submitted: 6/26/2013 Dept. Head Sign-off Date: 6/26/2013

Examined by: Joseph Lulves
(Print name)

[Signature]
(Signature)

6-27-13
(Date)

RECEIVED

JUN 26 2013

KANE COUNTY BOARD

Post on the Web: YES NO Atty. Initials: [Signature]

Comments:

Chairman signed: YES NO 6/27/13
(Date)

Document returned to: [Signature] Clerk for signature/
(Name/Department) Seal

STATE OF ILLINOIS

COUNTY OF KANE

RESOLUTION NO. 13 - 185

**AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN
THE COUNTY OF DUPAGE AND THE COUNTY OF KANE
FOR THE PROVISION OF EMERGENCY TELEPHONE WIRELINE SURCHARGE**

WHEREAS, the Illinois Constitution and the Intergovernmental Cooperation Act (5 ILCS 220/ et. seq) authorize units of local government, including counties, to contract or otherwise associate among themselves in any manner not prohibited by law and to jointly exercise any power, privilege or authority conferred upon them by law; and

WHEREAS, in 1989, a majority of electors in both the County of DuPage and the County of Kane authorized their respective county boards to impose a monthly surcharge upon billed subscribers of certain wired telephone network connections provided by telecommunication carriers for the purpose installing or improving an emergency telephone service to respond to calls to 9-1-1; and

WHEREAS, each county subsequently created an Emergency Telephone System Board (ETSB) in accordance with The Emergency Telephone System Act (50 ILCS 750/et. seq.) to expend the surcharge collected pursuant to the referenda to deliver emergency telephone service within their respective service regions; and

WHEREAS, due to the limitations of the technology which existed at the time, the then-sole provider of wired telephone network connections determined that certain residents in the geographical service area of one county's emergency telephone system would receive emergency telephone service from the other county; and

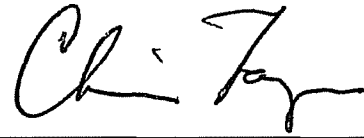
WHEREAS, the County of DuPage and the County of Kane entered into an Intergovernmental Agreement on June 12, 1990 (DuPage County Resolution PS-0009-90 and Kane County Resolution 90-137, hereinafter "the Agreement of 1990") to permit the ETSB of DuPage County to reimburse the ETSB of Kane County ETSB for wireline surcharge received by DuPage County ETSB for surcharge on billed subscribers of network connections provided by Competitive Local Exchange Carriers (CLECs) for the delivery of 9-1-1 emergency telephone services to certain network connections located in the portions of the City of Aurora and the Village of Wayne located within the corporate limits of DuPage County ("Designated Service Area"); and

WHEREAS, advances in technology, changes in population, as well as deregulation of the wired telecommunication industry, have required the ETSBs reexamine the Agreement of 1990; and

WHEREAS, the ETSBs believe that the provisions of the proposed Intergovernmental Agreement attached to and incorporated in this resolution represent a more efficient and equitable means of determining the amount of expenses incurred by one ETSB in providing services to residents who reside in the Designated Service Area of the other ETSB than currently exists under the 1990 Agreement.

NOW, THEREFORE, BE IT RESOLVED that the County of DuPage and the County of Kane on their own behalf and on behalf of their respective emergency telephone system boards do hereby enter into an intergovernmental agreement for the provision of emergency telephone wireline surcharge with copies of said agreement to be on file in the County Clerk's office.

Passed by the Kane County Board on June 11, 2013



John A. Cunningham
Clerk, County Board
Kane County, Illinois

Christopher J. Lauzen
Chairman, County Board
Kane County, Illinois

Vote: 24
Yes 0
No 0
Voice 0
Abstentions 0

5IGA-PhoneSurcharge

**Intergovernmental Agreement Between The County Of DuPage and The County Of Kane for the provision of
Emergency Telephone Wireline Surcharge**

The following Intergovernmental Agreement (Agreement) is entered into by the County of DuPage, Illinois (DuPage County) and the County of Kane, Illinois (Kane County) on their own behalf (collectively "the Counties") and on behalf of their Emergency Telephone System Boards (collectively "the ETSBs").

Recitals

WHEREAS, the Illinois Constitution and the Intergovernmental Cooperation Act (5 ILCS 220/ *et. seq*) authorize units of local government, including counties, to contract or otherwise associate among themselves in any manner not prohibited by law and to jointly exercise any power, privilege or authority conferred upon them by law; and

WHEREAS, in 1989, a majority of electors in both the County of DuPage and the County of Kane authorized their respective county boards to impose a monthly surcharge upon billed subscribers of certain wired telephone network connections provided by telecommunication carriers for the purpose installing or improving an emergency telephone service to respond to calls to 9-1-1; and

WHEREAS, each county subsequently created an Emergency Telephone System Board (ETSB) in accordance with The Emergency Telephone System Act (50 ILCS 750/*et. seq.*) to expend the surcharge collected pursuant to the referenda to deliver emergency telephone service within their respective service regions; and

WHEREAS, due to the limitations of the technology which existed at the time, the then-sole provider of wired telephone network connections determined that certain residents in the geographical service area of one county's emergency telephone system would receive emergency telephone service from the other county; and

WHEREAS, the County of DuPage and the County of Kane entered into an Intergovernmental Agreement on June 12, 1990 (DuPage County Resolution PS-0009-90 and Kane County Resolution 90-137, hereinafter "the Agreement of 1990") to permit the ETSB of DuPage County to reimburse the ETSB of Kane County ETSB for wireline surcharge received by DuPage County ETSB for surcharge on billed subscribers of network connections provided by Competitive Local Exchange Carriers (CLECs) for the delivery of 9-1-1 emergency telephone services to certain network connections located in the portions of the City of Aurora and the Village of Wayne located within the corporate limits of DuPage County ("Designated Service Area"); and

WHEREAS, advances in technology, changes in population, as well as deregulation of the wired telecommunication industry, have required the ETSBs reexamine the Agreement of 1990; and

WHEREAS, the ETSBs believe that the provisions of the proposed Intergovernmental Agreement attached to and incorporated in this resolution represent a more efficient and equitable means of determining the amount of expenses incurred by one ETSB in providing services to residents who reside in the Designated Service Area of the other ETSB than currently exists under the 1990 Agreement; now therefore

BE IT RESOLVED THAT the County of DuPage and the County of Kane on their own behalf and on behalf of their respective emergency telephone system boards do hereby enter into an intergovernmental agreement as set forth as follows:

Section 1 – General Provisions

Section 1.1 – Withdrawal From Previous Agreement. Upon the effective date of this Intergovernmental Agreement, (1) the County of DuPage withdraws from its previous agreement with the County of Kane (the Agreement of 1990), entered into pursuant to DuPage County Board Resolution PS-0000-90 on June 12, 1990, and the County of Kane consents to such withdrawal; (2) the County of Kane withdraws from its previous agreement with the County of DuPage (the Agreement of 1990), entered pursuant to Kane County Board Resolution 90-137 on June 12, 1990, and the County of DuPage consents to such withdrawal.

Section 1.2 – Effective Date. This Agreement shall become effective upon its approval by the county boards of DuPage and Kane Counties. The parties agree that this Agreement shall become effective beginning fiscal year 2012. The parties further agree that payments made prior to FY12 reimbursement shall be considered final.

Section 1.3 – Terminology of Agreement

9-1-1 System: *The geographic area that has been granted an order of authority by the Illinois Commerce Commission to use "9-1-1" as the primary emergency telephone number. [50 ILCS 750/2.19*

Access Line: The connection facility between a customer's premises network interface device and the local exchange carrier's facility that provides access to the switching network for local exchange and interexchange telecommunications service.

AT&T: The Illinois Commerce Commission designated *System Provider* for the State of Illinois.

CLEC: Competitive Local Exchange Carrier. In the United States, a CLEC (competitive local exchange carrier) is a telephone company that competes with the already established local telephone business by providing its own network and switching. The term distinguishes new or potential competitors from established local exchange carriers (LECs) and arises from the Telecommunications Act of 1996, which was intended to promote competition among both long-distance and local phone service providers.]

Call Handling Agreement: Agreements between the PSAP and the public agencies and/or public safety agencies in a single system. Copies of the proposed agreements between PSAPs in adjacent systems or, in the absence of a PSAP, the public agencies or public safety agencies whose jurisdictional boundaries are contiguous. These agreements shall indicate the primary and secondary methods to be employed for notification of emergency calls received from requesting parties within their respective jurisdictions and shall include either direct dispatch, call referral, call relay, or call transfer.

CLC: Access line count for the Designated Service Area as provided by AT&T to Kane ETSB as of December 1 of the DuPage County Fiscal Year for reimbursement year. The CLC Access Line Count shall be determined using ESN: 408 Wayne (DuPage County) and ESN: 437 Aurora (DuPage County)

Designated Service Area: The Village of Wayne which, by referendum, pays wireline surcharge to DuPage County ETSB but elects to receive 9-1-1 emergency service from a Kane County PSAP and those portions of the City of Aurora which, by referendum, reside in the County of DuPage and pay wireline surcharge to DuPage ETSB but elects to receive 9-1-1 emergency service from a Kane County PSAP.

- ESN: Emergency Service Number. An ESN is a three to five digit number representing a unique combination of public safety agencies (police, fire, and emergency medical service) designated to serve a specific range of addresses within a particular geographical area. The ESN facilitates the selective routing of calls to appropriate PSAPs.
- PSAP: Public Safety Answering Point, sometimes called a "Center" or "9-1-1 Center"; the initial answering location of a 9-1-1 call.
- System Provider: The contracted entity that is certified as a telecommunications carrier by the Commission providing 9-1-1 network and database services.
- TCL: Total access line count for DuPage County as provided by AT&T to DuPage ETSB for required filing for the ICC Annual Report as required by the Illinois Commerce Commission.
- TSC: Total wireline surcharge collected by DuPage ETSB for the reimbursement year based on the DuPage County fiscal year of December 1 to November 30 annually.
- Wireline Surcharge: An amount levied by the corporate authorities of any municipality or county on billed subscribers of wired network connections for installing and maintaining an Enhanced 9-1-1 system.

Section 2 – Designated Service Areas

Section 2.1 – Generally. The ETSBs, by joint resolution, agree that the municipalities affected by this Agreement have chosen utilize Kane County PSAPs to provide 9-1-1 emergency telephone service to wired network connections.

The ETSBs, by joint resolution, agree to allocate wireline surcharge collected for the municipalities affected by this Agreement for the purposes of providing 9-1-1 emergency telephone service to wired network connections located within the County of DuPage or the County of Kane amongst themselves in any manner they deem appropriate so as to ensure the efficient delivery of 9-1-1 emergency telephone service within the service areas of the respective emergency telephone systems.

Section 2.2 – Designated Service Areas Under the Agreement of 1990. Unless otherwise required by a joint resolution of the ETSBs pursuant to Section 2.1 of this Agreement, the Kane ETSB shall provide 9-1-1 emergency telephone service to Access Lines located within the County of DuPage and the corporate limits of the City of Aurora and the Village of Wayne.

Both parties agree that the execution of Call Handling agreements from the public safety agencies within the Designated Service Area that are approved by the Illinois Commerce Commission that change the PSAP which provides for the delivery of 9-1-1 emergency service may affect the terms of this Agreement.

Section 2.3 – Village of St. Charles within the County of DuPage. Unless otherwise required by a joint resolution of the ETSBs pursuant to Section 2.1 of this Agreement, the Kane ETSB shall provide 9-1-1 emergency telephone service to wired network connections located within the County of DuPage and the corporate limits of the Village of St. Charles. Per documentation of March 14, 2003, wireline surcharge for the Village of St. Charles is paid directly to Kane County by CLECs.

Section 3 – Reimbursement for the Provision of 9-1-1 Service Outside ETS Service Area

Section 3.1 – Generally. Where the ETSBs have determined that one ETSB shall provide 9-1-1 emergency telephone service within the service area of the other pursuant to Section 2 of this Agreement, the joint resolution authorizing Kane County ETSB to provide 9-1-1 service to the Designated Service Area shall result in the wireline surcharge for the Designated Service Area to be remitted to Kane County ETSB from DuPage County ETSB. Said joint resolution shall provide for the manner in which the amount of payment for surcharge remittance is calculated and when payment is due.

Section 3.2 – Calculation of Fee for Services. In the absence of an agreement providing for the manner in which one ETSB shall reimburse the other for the provision of 9-1-1 emergency telephone service to Access Lines within its service area, the ETSBs shall calculate the reimbursement as follows:

$$\% \text{ of Reimbursement} = \left(\left(\frac{CLC}{TCL + CLC} \right) \right)$$
$$\text{Reimbursement} = (TSC \times \% \text{ of Reimbursement})$$

As defined in Section 1.3 of this Agreement:
TCL = Total access line count for DuPage ETSB
CLC= Access line count in Designated Service Area
TSC = Total surcharge collected by DuPage ETSB

For Fiscal Year FY12 both parties agree to accept the following data:

TCL = 779,329 [per ATT Dec 2011 letter for Annual Report for 2012]
CLC = 23,763 [Kane County Documentation September 11, 2012]
TSC = November 30, 2012 DuPage County Treasurer’s Trial Balance

$$.029 = \left(\left(\frac{23,763}{803,092} \right) \right)$$

$$\text{Reimbursement} = (TSC \times .029)$$

Section 3.3 – Source of Network Connection Data. In the absence of agreement to the contrary, the ETSBs shall rely on data provided by AT&T for Access Line Count for submission as part of their annual report filed with the Illinois Commerce Commission to determine the number of network connections in the DuPage County 9-1-1 System.

In the absence of agreement to the contrary, the ETSBs shall rely on data provided by AT&T as requested by Kane County for total access line count to determine the number of network connections in the Designated Service Area.

Both ETSBs agree to provide the other ETSB with the above stated documentation annually.

Section 3.4 – Time of Reimbursement. In the absence of an agreement to the contrary, reimbursement for wireline surcharge pursuant to this agreement shall be invoiced by Kane County ETSB in December of the following fiscal year based on the posted DuPage County Treasurer’s Trial Balance for the period ending November 30 of the reimbursement year. The DuPage ETSB shall process such invoices in accordance with the provisions of any applicable procurement ordinance and shall pay such invoices in accordance with the provisions of the Local Government Prompt Payment Act 50 ILCS 505/1 *et. seq.*

Part 4 – Term and Termination

Section 4.1 – Term. Upon its effective date as set forth herein, this Agreement shall remain in effect until December 1, 2017, at which time it shall renew for successive periods of five (5) years except as provided herein.

Section 4.2 – Termination by Withdrawal. A party may withdraw from this Agreement by providing written notice to the other not less than sixty (60) days prior to the date on which the Agreement is scheduled to renew pursuant to this Part 4.

Section 4.3 – Termination by Operation of Law. This Agreement shall cease to be effective upon the enactment of any federal or state statute, rule, or regulation that materially impairs the ability of one or both parties to perform their obligations under the Agreement.

Part 5 – Miscellaneous Terms

Section 5.1 – No Joint Venture. This Agreement shall not be construed in such a way that either County or its ESTB, is or deemed to be, the representative, agent, employee, partner, or joint venture of the other. The parties shall not have the authority to enter into any agreement, nor to assume any liability, on behalf of the other party, nor to bind or commit the other party in any manner, except as expressly provided herein.

Section 5.2 – Notice. Any notices required to be given pursuant to this Agreement shall be in writing and addressed to the parties at their respective addresses set forth below. All such notices shall be deemed duly given if personally delivered, or if deposited in the United States mail, registered or certified return receipt requested, or upon receipt of facsimile transmission. Notice given as provided herein does not waive service of summons or process.

If to DuPage County:

Attention: DuPage County
c/o Emergency Telephone System Board
421 County Farm Road
Wheaton, IL 60187

If to Kane County:

Attention: Kane County
c/o Emergency Telephone System Board
P.O. Box 191
Geneva, IL 60134

Section 5.3 – Entire Agreement. This Agreement constitutes the entire agreement on behalf of the parties with respect to the subject matter hereof and supersedes all other prior and contemporary agreements, understandings, representations, negotiations, and commitments between parties with respect to the subject matter hereof.

Section 5.4 – Representations. Each party represents that it the authority to enter into this Agreement and undertake the duties and obligations contemplated by this Agreement and that it has taken or caused to be taken all necessary action to authorize the execution and delivery of this Agreement.

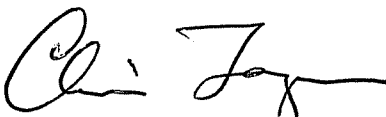
Section 5.5 – Covenant Not to Sue. The parties hereby covenant and agree that each shall not sue, institute, cause to be instituted or permit to be instituted on its behalf, or by or on behalf of its past, present or future officials, officers, employees, attorneys, agents or assigns, any proceeding or other action with or before any local, state and/or federal agency, court or other tribunal, against the other party, its board members, officers, commissioners, employees, attorneys, agents or assigns, arising out of, or from, or otherwise relating, directly or indirectly, to this Agreement to the extent authorized by law.

Section 5.6 – Indemnification. The parties hereby release and agree that each shall indemnify and hold harmless the other party and all of its present, former and future officers, including board members, commissioners, employees, attorneys, agents and assigns from and against any and all losses, liabilities, damages, claims, demands, fines, penalties, causes of action, costs and expenses whatsoever, including, but not limited to, attorneys' fees and court costs, present or future, known or unknown, sounding in law or equity that arise out of or from or otherwise relate, directly or indirectly, to this Agreement to the extent authorized by law.

Section 5.7 – Amendments. The Parties may amend this Agreement upon their mutual written consent.

Section 5.8 – Execution in Counterparts. The Parties may execute this Agreement in counterparts (each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement) and shall become effective when one counterparts has been signed by each of the parties and delivered to the other party.

By: _____
Daniel J. Cronin, Chairman
DuPage County Board

By: 
Chris Lauzen, Chairman
Kane County Board

Attest: _____
Gary A. King
DuPage County Clerk

Attest: _____
John A. Cunningham
Kane County Clerk

Date: _____

Date: _____