

Adirondack Daily Enterprise

Essex County may sue telecom companies

Board may ask law firm to investigate 911 payments

ELIZABETHTOWN — Essex County is exploring the possibility of joining a multi-county lawsuit against four telecom companies.

The lawsuit alleges that local 911 services are underfunded as a result of the apparent failure of AT&T, Frontier Communications, Time Warner Cable and Verizon to accurately bill, collect and hand over revenue generated from 911 calls. The lawsuit was filed in state Supreme Court in Nassau County, Long Island on May 1.

The Essex County Board of Supervisors is considering hiring the New York City law firm Napoli Shkolnik — which is representing the counties of Fulton, Nassau, Otsego, Schoharie, Sullivan and Wyoming in the lawsuit — to “*look into representing (the county) over the possible failure of telecom companies to remit and collect our portion of the 911 tax,*” Essex County Attorney Daniel Manning said.

It’s unclear how much revenue may have been lost by Essex County as a result of the companies’ alleged practices, according to Manning.

It’s also unclear at this time how much each county would pay to retain the law firm, according to county board Chairman Shaun Gilliland.

At the county board’s Ways and Means Committee on Tuesday, supervisors moved forward a resolution that would authorize county officials to hire Napoli Shkolnik to investigate whether there are possible damages.

Napoli Shkolnik is also representing some New York counties in a lawsuit against opioid drug manufacturers, according to Manning.

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Lawsuit alleges fraud

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The lawsuit alleges that the four telecom companies committed fraud, violated the state False Claims Act and the state’s 911 statute — which the counties say requires telecom companies collect a monthly surcharge of up to 30 cents on wireless service and voice-over-internet calls and up to 35 cents on landlines — by understating the number of lines used by each customer and failing to accurately report how much money had been collected from users.

The companies have “*made multiple material misstatements of fact*” to the counties, the lawsuit says, and have either failed to file reports or provided “*false monthly and annual reports.*” The lawsuit also cites a 2018 report from the state comptroller’s office that found a number of

discrepancies in how companies' administrative fees were calculated and how payments were recorded or reported.

“(The companies) repeatedly underbilled and under-collected with respect to customers who have multi-line capability and, thus, have multiple phone numbers associated with one line,” the lawsuit reads. “In many cases, (the companies) have purposely understated the amounts due so they can appear to be more competitive on pricing than their competitors.

“As a result of (the companies’) malfeasance, (counties’) 911 emergency services are not properly and adequately funded, which leads to budget shortfalls that can have dire consequences for the public. The public is harmed when New York’s local governments cannot fund their 911 emergency services in the manner that the New York legislature intended.”

A representative of Verizon said the company does not comment on litigation. Representatives from Time Warner Cable and Frontier Communications did not respond to requests for comment before deadline.

Brandy Bell-Truskey, a spokesperson for AT&T, pushed back against the claims in the lawsuit.

“The 911 system is vital to the public’s safety and we take our 911 obligations seriously,” Bell-Truskey said in an email. *“Our role is to collect 911 charges from our customers in New York and turn the charges over to the government. We did that here and will fight this.”*

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Treasurer: ‘No way’ to tell if accurate

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Revenue generated through 911 surcharges is *“the only funding that goes directly to financing 911 centers in New York state,”* the lawsuit says.

Gilliland said he believes Essex County's 911 service is underfunded. He did not have evidence to share at the time but said, given the companies' evident failure to accurately collect and remit the surcharge in other counties, *"it's likely endemic across the state."*

In Essex County, companies are required to collect the maximum 35 cent fee on calls from landlines and 30 cents on wireless calls, according to county Treasurer Michael Diskin.

Residents will sometimes see that charge on their monthly bill if they've called for help, he said.

In 2018, the county received \$136,976 from telecom companies as a result of the surcharge, Diskin said.

Telecom companies that collect the surcharge are allowed to keep 2% of the revenue.

But counties are left to trust telecom companies to accurately report both the number of lines that've used 911 services and the amount of money they've collected from the charge, Diskin said.

"There's no way for me or anyone else on the (county) Board of Supervisors to know if we're getting the right amount of money," he said. *"We don't know how many subscribers they have. They have to report what they're getting, but we just have to depend on them to tell us how many lines they have — and it can change from month to month."*
