

**MINNESOTA PUBLIC UTILITIES COMMISSION
SUITE 350
121 SEVENTH PLACE EAST
ST. PAUL, MINNESOTA 55101-2147**

Katie Sieben	Chair
Joseph Sullivan	Vice Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
John Tuma	Commissioner

Minnesota Department of Public Safety,

Complainant,

Docket No. _____

vs.

VERIFIED COMPLAINT

Christensen Communication Company;
Johnson Telephone Company; KMTelecom;
Park Region Telephone Charitable Trust, Inc.,
d/b/a Park Region Telephone Co.; Valley
Telephone Company; Rothsay Telephone
Company, Inc; Otter Tail Telecom, LLC;
Wikstrom Telephone Company, Incorporated;
Gardenville Cooperative Telephone
Association; and Bevcomm Inc.,

Respondents.

The Minnesota Department of Public Safety (“DPS”), for its Verified Complaint, pursuant to Minn. R. 7829.1700-.1800 (2021), against the Respondents, states as follows:

SUMMARY OF THE CASE

1. DPS is responsible for operating Minnesota’s 911 emergency communications network. The agency is currently transitioning the network from aging, legacy systems to next-generation technology that will ensure Minnesotans continue to have reliable 911 service while also adding new functionalities at reduced costs. This transition requires that Local Exchange

Carriers (“LECs”) modify how and where they interconnect with the 911 network. In connection with implementing the updated system, DPS has contacted LECs to discuss arrangements for migrating to new points of interconnection (“POIs”). Most LECs have cooperated with that effort and DPS has agreed to pay individual case-based rates that reasonably compensate those LECs for their costs of delivering 911 calls to the new POIs. The Respondents, however, have conditioned their willingness to interconnect at the DPS-designated POIs on DPS’s agreement to pay charges based on tariffs that are outdated because they no longer reflect the way that they provide their customers with access to the 911 network or that are otherwise not applicable to 911 service. Accordingly, DPS has brought this Verified Complaint to remedy the unreasonable conditions and rates that the Respondents seek to impose on their provision of 911 interconnectivity for their customers.

THE PARTIES

2. The Department of Public Safety is the state agency that is responsible for managing and maintaining the 911 system. DPS is located at 445 Minnesota Street, St. Paul, MN 55101.

3. Each of the respondents is a Minnesota company authorized by the Minnesota Public Utilities Commission to provide local exchange service, including basic local service, to Minnesota retail customers.

a. Christensen Communications Company (“Christensen”) is located in Madelia and provides service to customers in Watonwan county. Christensen’s address on file with the Minnesota Secretary of State is 104 W. Main St., Madelia, MN 56062.

- b. Johnson Telephone Company (“Johnson”) is located in Remer and provides service to customers in Cass county. Johnson’s address on file with the Minnesota Secretary of State is 205 1st Ave. NE, P.O. Box 39, Remer, MN 56672.
- c. KMTelecom is located in Kasson and provides service to customers in Blue Earth, Faribault, Fillmore, Houston, Le Sueur, Martin, Nicollet, and Dodge counties. KMTelecom’s address on file with the Minnesota Secretary of State is 18 2nd Ave NW, Kasson, MN 55944.
- d. Park Region Telephone Charitable Trust, Inc., d/b/a Park Region Telephone Co. (“Park Region”), is located in Underwood and provides service to customers in Douglas, Grant, Otter Tail, Pope, Stevens, Todd, and Traverse counties. Park Region’s address on file with the Minnesota Secretary of State is 100 Main St. N., P.O. Box 277, Underwood, MN 56586.
- e. Valley Telephone Company (“Valley”) is located in Underwood. Valley does not have its own account with DPS; rather, DPS works with Valley through its affiliate, Park Region . Valley’s address on file with the Minnesota Secretary of State is 100 Main St. N., P.O. Box 277, Underwood, MN 56586.
- f. Rothsay Telephone Company (“Rothsay”) is located in Underwood and provides service to customers in Otter Tail and Wilkin counties. Rothsay’s address on file with the Minnesota Secretary of State is 100 Main N., P.O. Box 277, Underwood, MN 56586.
- g. Otter Tail Telecom, LLC (“Otter Tail”) is located in Fergus Falls and provides service to customers in Otter Tail and Wilkin counties. Otter Tail’s address on file with the Minnesota Secretary of State is 230 W. Lincoln Ave., Fergus Falls, MN 56537.
- h. Wikstrom Telephone Company, Incorporated (“Wikstrom”) is located in Karlstad and provides services to Kittson, Lake of the Woods, Marshall, Roseau, and Polk counties.

Wikstrom's address on file with the Minnesota Secretary of State is 225 S. Main St., P.O. Box 217, Karlstad, MN 56732-5673.

- i. Gardenville Cooperative Telephone Association ("Gardenville") is located in Brandon and provides service to customers in Douglas and Todd counties. Gardenville's address on file with the Minnesota Secretary of State is 800 Central Ave. N., Brandon, MN 56315.
- j. Bevcomm Inc. ("Bevcomm") is located in Blue Earth and provides service to customers in Faribault, Freeborn, Goodhue, Martin, Olmstead, Rice, Steele, and Scott counties. Bevcomm's address on file with the Minnesota Secretary of State is 123 W. 7th, Blue Earth, MN 56315.

FACTS

4. The ability of Minnesota residents to contact first responders in case of an emergency by dialing 911 is critically important for protecting public health and safety.

5. Telecommunications service providers must provide access to the 911 network as part of their basic local service offering. Minn. R. 7811.0600, subp. 1(B), 7812.0600, subp. 1(B) (2021). All telephone providers are required to "design and maintain" the system that enables their customers to dial 911 without charge. Minn. Stat. § 403.025, subd. 3 (2020).

6. LECs collect a per line 911 fee from their subscribers and remit those fees to DPS. DPS uses the fees to pay the costs of maintaining the 911 system and to compensate LECs for their costs associated with maintaining and operating the 911 network. Compensation to be paid the LECs must be established by tariff or price list filed with the Commission or as agreed to between the parties. Minn. Stat. § 403.025, subd. 7(b).

The Legacy 911 System

7. Historically, LECs carried 911 calls from their subscribers to a Public Safety Answering Point (“PSAP”), which was responsible for dispatching the appropriate emergency services to the caller’s location. Under the legacy 911 system, LECs transported 911 calls via dedicated 911 trunks from the LEC central office to the selective router. The selective router then directed the call to the proper PSAP, based on the caller’s location. Depending on the geographic area served, the LEC would often need to connect to multiple selective routers, in some cases as many as twelve. After the selective router determined the correct PSAP destination, the LEC would transport the call to that PSAP, via dedicated trunks, using either its own network or the network of another carrier. Attached to this Complaint as **Exhibit A** is a diagram that generally depicts the legacy 911 system.

The Transition to Next Generation 911 – Phase 1

8. In 2011, DPS began implementing a Next Generation 911 network architecture. To that end, DPS contracted with a third party to provide a dedicated 911 network (referred to as an “Emergency Services Internet Protocol Network” or “ESInet”). The ESInet is a private, secure IP-based network that offers increased functionality, including the ability of PSAPs to receive text messages, photos, and video in addition to voice calls.

9. In Phase 1 of this project, the LECs continue to transport 911 calls on dedicated trunks to the selective router, as under the legacy network. However, instead of the LEC carrying the call from the selective router to the PSAP, the selective router functions as a point of interconnection (i.e., meet point or POI) for the transfer of calls from the LEC network to the ESInet and the ESInet carries 911 calls from the selective router to the PSAPs. Attached to this

Complaint as **Exhibit B** is a diagram that generally depicts Phase 1 of the Next Generation 911 system.

10. This migration to the ESInet represents a significant change in the role of the LECs. They no longer have any responsibility or liability to provide a network that delivers calls directly to the PSAPs. The role of the 911 service provider and the associated service level agreements were awarded to a single vendor who has the responsibility and liability for routing all 911 calls (wireless, wireline, text, and VoIP) and for the continuous monitoring and management of the ESInet.

11. Since 2011, the state has been in transition to a full Next Generation 911 network architecture and the role of the LECs has been limited to providing 911 network access for calls placed by their subscribers.

Next Generation 911 – Phase 2

12. In 2019, to begin Phase 2 of the Next Generation 911 network, DPS contracted with a company to update technology at the POIs/legacy selective routers. In connection with this effort, DPS will begin phasing out the legacy selective routers, which are obsolete and present reliability concerns, which will modify the way that the LECs interconnect with the ESInet.

13. To implement Phase 2, each LEC will interconnect to the ESInet at two POIs (one primary path and one redundant path) instead of at multiple (up to twelve) legacy selective routers. In Phase 2, the POIs are located on the edge of the ESInet and will serve not only as a point of interconnection between the LEC network and the ESInet, but will also convert the call to an IP signal and provide default routing instructions, when necessary. Rather than there being a hand-off of 911 calls from the POI to the ESInet, the POI will be a part of the ESInet that DPS's contracted 911 network provider will be responsible for operating and maintaining.

14. This Phase 2 upgrade will substantially reduce the LEC facilities that are needed to provide their customers with 911 access (thus greatly reducing the cost) and is consistent with best practices in the 911 field. Attached to this Complaint as **Exhibit C** is a diagram that generally depicts Phase 2 of the Next Generation 911 system.

The Dispute with Respondent LECs

15. In connection with implementing Phase 2, DPS has contacted LECs to facilitate the cutover from the legacy selective routers to the ESInet POIs and, for purposes of establishing compensation, determining what, if any, additional costs the LECs will incur in order to deliver 911 calls from their subscribers to the new POIs.

16. Most LECs have cooperated with this effort and DPS has agreed with those LECs to pay individual case-based rates that reasonably compensate the LECs for their costs of delivering 911 traffic.

17. Respondents, however, have conditioned their willingness to deliver traffic to the designated POIs on DPS's willingness to pay charges under tariffs that do not reflect how 911 service will be provided under the Next Generation 911 network. These tariffed rates reflect the legacy system where LECs were responsible and liable for delivering 911 calls all the way to the PSAP. In other words, Respondents insist that DPS pay tariffed rates that no longer reflect how 911 calls are routed or the Respondents' responsibility for delivering 911 calls placed by their customers.

18. Although DPS is willing to compensate the LECs for any additional costs that they must incur to deliver traffic to the DPS-designated POIs, the LECs are not entitled to recover from DPS costs that the LECs do not incur to provision the 911 network.

VIOLATIONS OF LAW

19. DPS incorporates the above paragraphs 1-18 by reference.

20. The Commission is authorized to conduct an investigation “whenever it believes that a service is inadequate or cannot be obtained or that an investigation of any matter relating to any telephone service should for any reason be made” Minn. Stat. § 237.081, subd.1 (2020).

21. If, following an investigation, the Commission finds that any tariff, charge, practice, act, or omission affecting telephone service is in any respect unreasonable, insufficient, or unjustly discriminatory or that service is inadequate, the Commission shall make an order respecting the unreasonable tariff, charge, practice, act, or omission, or service that is just and reasonable. Minn. Stat. § 237.081, subd. 4.

22. Respondents’ demand that DPS pay out-dated, inflated, and inapplicable tariff rates in order to interconnect to the 911 network at the DPS-designated POI is impeding DPS’s ability to implement the state-of-the-art Next Generation 911 system and is otherwise unreasonable and inadequate.

23. If permitted to charge inappropriate and inapplicable tariff rates to interconnect with the 911 system, the Respondents will receive an unreasonable and undeserved windfall at public expense.

REQUEST FOR EXPEDITED PROCEEDING

24. DPS is currently in the process of scheduling cutovers from the legacy POIs to the new POIs located within the ESInet. It is expected that this process will be completed within ten months.

25. The Respondents' continued refusal to interconnect at the ESInet POIs unless DPS agrees to pay inapplicable and outdated tariff charges to deliver their customers 911 calls to the ESInet POIs is delaying the transition to full Next Generation 911.

26. This delay will not only force DPS to incur unnecessary expense associated with having to maintain two parallel 911 networks, but it will delay the complete adoption of new technology that will replace obsolete technology at the legacy selective routers/POIs.

27. Unnecessary delay in transitioning away from the existing obsolete technology selective routers to the ESInet POIs will create a potential risk to the reliability of the 911 system.

28. To assure the continued reliability of the 911 system and Respondents' customers' access to the 911 network, the Commission should conduct an expedited proceeding, pursuant to Minn. R. 7829.1200, to address and establish the obligation of LECs to deliver 911 calls of their customers to the POIs designated by DPS.

29. In order to avoid disrupting the implementation of Phase 2 of the Next Generation 911 transition, DPS needs a decision from the Commission not later than August 2022.

REQUEST FOR RELIEF

WHEREFORE, the Department of Public Safety, requests that the Commission:

1. Open an investigation of the matters alleged in this complaint, including an expedited investigation regarding the Respondent's obligation to deliver 911 calls from their customers to the POIs designated by DPS;

2. Require Respondents to deliver 911 calls to the 911 network points of interconnection designated by DPS;

3. Prohibit Respondents from charging DPS rates that exceed the Respondents' costs of delivering 911 calls to the designed points of interconnection by requiring the Respondents to

demonstrate their costs in connection with contract negotiations with DPS, rather than demanding tariff rates that do not reflect how LECs interface with the 911 network;

4. Grant to DPS such other relief as the Commission may find appropriate.

Dated: May 27, 2022

Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

/s/ Greg Merz

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ATTORNEY FOR MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

VERIFICATION

I, Dana Wahlberg, am employed as director of the Department of Public Safety, Emergency Communications Network Division, and state under penalty of perjury that the facts set forth in this attached Complaint are true to the best of my knowledge.



Dated: 05/25/2022

DANA WAHLBERG

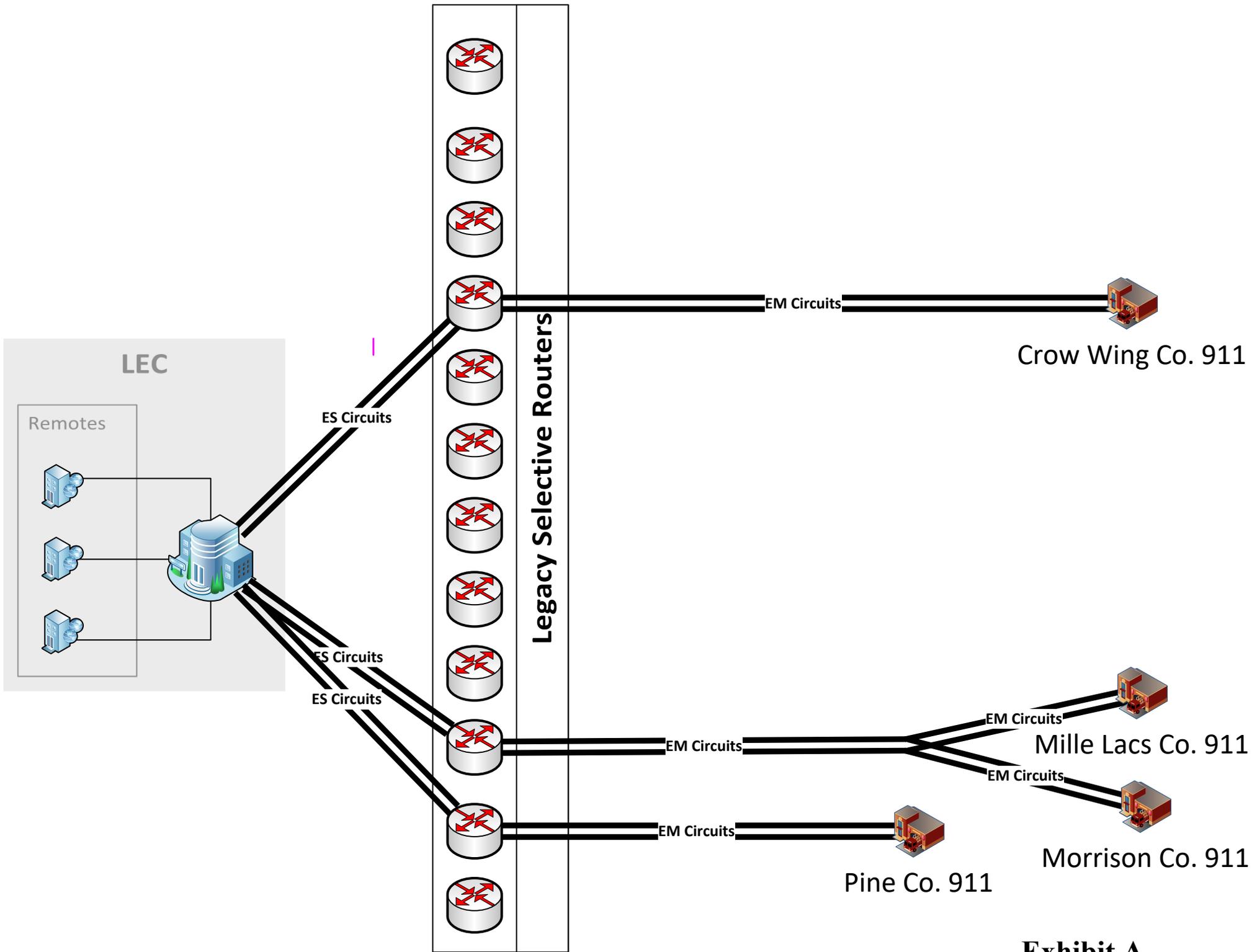


Exhibit A

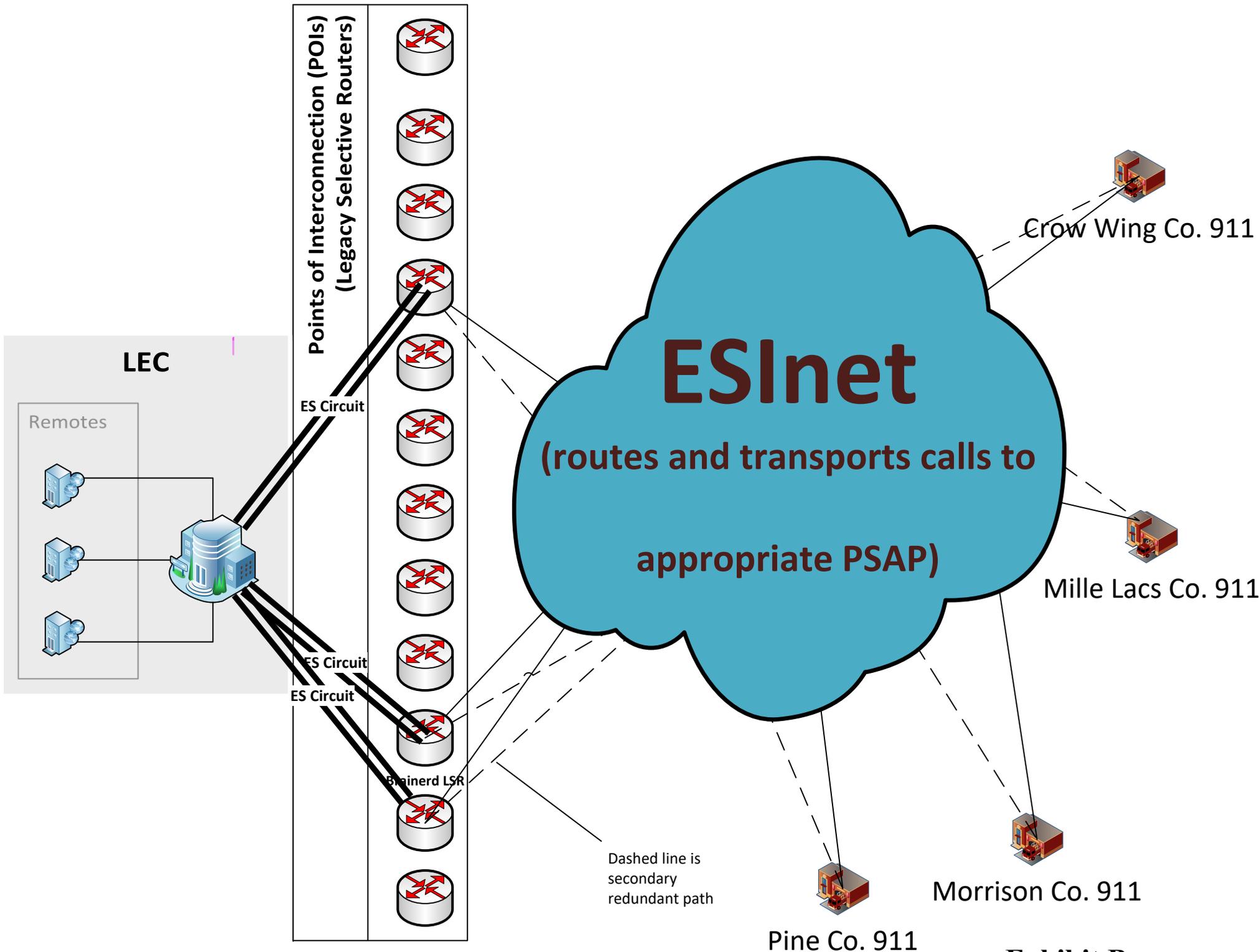


Exhibit B

