



North Carolina Department of Public Safety

State Highway Patrol

Roy Cooper, Governor
Eddie M. Buffaloe, Jr., Secretary

Freddy L. Johnson, Jr.
Commander

MEMORANDUM

To: Chairs of Joint Legislative Oversight Committee on Justice and Public Safety

From: Eddie M. Buffaloe, Jr., Secretary, DPS *Eddie M. Buffaloe Jr.*
Freddy L. Johnson, Jr., Commander, State Highway Patrol *Col. F.L. Johnson Jr.*

Subject: VIPER Quarterly Report

Date: February 15, 2024

Pursuant to Session Law 2016-94, Section 17B.1, The Department of Public Safety shall report annually no later than March 1 and quarterly thereafter to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the progress of the State's VIPER system.

Network Status - 241 total sites planned for statewide coverage of which 240 sites are constructed and on-the-air representing 99% completion. VIPER is nearing the completion of the 241st tower site and will then have reached the total number of sites identified in the 2004 Legislative Report. The system currently supports 180,427 emergency users. This quarter gain represented slightly more than 3,376 additional user radios. This continues to clearly demonstrate the growing use of the VIPER network and should serve to solidify the need for the system growth and to be supported both financially and through the additional support positions requested, both of which have been included in the last several DPS/SHP budget requests without further action. An additional statistic that we are also beginning to track is how many county console sites are directly connected to the VIPER network. The number currently stands at 56. We have four further counties with orders for consoles, which will bring the total in CY24 to 60 console sites. Integration of the direct connection consoles greatly enhances the ability for local PSAPs to be able to reroute VIPER radio calls in the event of the loss of a 911 PSAP during emergencies or other unusual occurrences.

New Tower Construction Progress – One site is currently under construction. Hawshaw Mountain (Avery County), has the tower steel ready to deliver however the ability to move forward with the foundation work is pending completion of site construction which is hampered by inclement weather during the winter months. VIPER projects that the site will be on the air by the end of Q2 2024.

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Other Significant Projects/Funding Needs:

- **VIPER Site Coverage Analysis:** With the upcoming completion of all the 241 Legislatively funded sites submitted as part of the 2004 VIPER study delivered to the Legislature, VIPER staff have begun to identify areas of the state where the minimum 95% portable radio in the street coverage has not been met. The 2004 plan provided a “best estimate” of the needed number of sites and now with the 241 sites fully located and under construction, it is now possible, aided by more modern and comprehensive coverage mapping programs, for VIPER to be able to identify these areas lacking sufficient coverage and to prepare a remediation strategy to bring back to the Legislature for consideration. VIPER has determined that an additional thirty-one (31) sites are needed in Western North Carolina and will present that in a written document to the Legislature for consideration in CY24 for a recommendation on potential future funding. VIPER hopes to host a meeting in late February 2024 to which all the affected counties, along with key Congressional and Legislative leaders, the US Forest Service, the National Park Service, the Blue Ridge Parkway, the North Carolina Department of Agriculture and Consumer Services, and other allied agencies, will be invited to attend to discuss site locations and restrictions, funding opportunities and the challenges associated with a project of this magnitude. The cost of new tower related construction costs continues to skyrocket, and VIPER believes that the sooner that the state were able to lock in a funding source and a commitment from the Legislature to support the additional infrastructure, that this will lessen the financial blow resulting from any delays to the potential project.
- **Personnel:** VIPER has requested additional support personnel in the past two budget cycles. As we reached the number of legislatively funded sites, we are in desperate need of the additional support positions that were identified in the Legislative plan. VIPER needs an additional thirty-one (31) positions across multiple job classifications, to support the growing number of users. This is a slight increase over the previous request of 28 new positions and reflects changes in the requirements for annual testing of coverage enhancement systems installed in commercial structures to support emergency responses inside those buildings. VIPER also requires salary adjustment funds to remain competitive in both retention and recruitment. VIPER currently has multiple vacancies in our field staff and recently lost several key employees to local government agencies and to the private sector where the compensation for similar positions was almost double of what the state pays its employees. VIPER, like all the North Carolina State Highway Patrol’s civilian employees, is prohibited by Legislative action from receiving any portion of Labor Market Adjustment funds as defined within SL2022-74; HB103 Section 39.2.(a); 39.2.(b) which directs that the Labor Market Adjustment Reserve section does not apply to the State Highway Patrol or the State Bureau of Investigation. VIPER certainly understands the reasoning behind the exemption of sworn members of the Patrol that are covered in a step payment plan, but VIPER respectfully requests that the Legislature inserts language in the Labor Market Adjustment terms to allow for Civilian Members (Employees) of the Patrol to be eligible to receive a portion of the funds, when applicable. VIPER has also submitted a salary adjustment fund request specific to its FTE’s and remains hopeful that this will be funded by the Legislature during any upcoming budget negotiations.

- **Microwave Upgrade Project:** VIPER continues to attempt to move forward with the most significant portion of the previously legislatively funded Microwave Upgrade project, which involves the replacement of the legacy microwave radios that have reached their end of manufacturer support life and do not support the transition to Ethernet network topology. The procurement of the replacement microwave radios has been greatly hindered by numerous factors; to include the overall procurement process, legal disagreements on who is ultimately charged with the approval of technology projects tasked to the Patrol, and a complete change to the North Carolina Accounting System and the E-Procurement process. Recent Legislative law changes have helped to clarify where the responsibilities for IT projects related to the Patrol indeed which has allowed the Patrol to submit a new RFP to the potential vendors. Bids have been received and our staff is reviewing those bids and hopes to bring a recommendation for award before the Joint Legislative Oversight Committee for Justice and Public Safety in March, 2024.
- **Operations and Maintenance:** VIPER continues to request additional operations and maintenance recurring funds as part of its annual budget request. These funds support multiple areas (non-personnel) to include; equipment repair, lease costs, electricity, insurance, fuel costs, vehicle maintenance and replacement cycles, structural related costs, cyclic replacement costs, and many more. The Legislative plan delivered in 2004 defined an increasing recurring cost that was tied to the continual increase in costs as additional sites became operational along with shifting recurring capital (construction) costs into O&M once sites were built. With the goal of 241 sites virtually achieved, VIPER needs a significant increase in these O&M line items. Without an increase, VIPER will be unable to maintain system readiness or make timely repairs when outages occur which leaves all levels of public safety agencies (State, Local and Federal) that rely on VIPER without adequate communications and places their personnel at an increased risk as they serve the public. VIPER predicts that in the current FY24 budget cycle that it will be over \$4M in the negative in its Operations and Maintenance budget. Based upon already identified needs for the FY25 budget and beyond this number will likely exceed \$9M. Costs for many materials continue to rise and due to the insufficient funding to support the overall VIPER project, VIPER has had to defer many replacement items to future year budgets which results in the realization of higher costs when the actual work is performed, or replacement items are purchased.
- **One time non-recurring funds:** Due to the overall lack of additional operating funds for VIPER, the Patrol has a serious need for one time funds to support the replacement of towers in the state that have already had their annual inspections performed and the determination made that they are structurally unsound. This includes a site in Ellerbe (Montgomery County) where the tower anchor point suffered physical damage and the tower is deemed to be in imminent danger of collapse and is unsafe. We also have a site in eastern Hyde County where the tower dates back to 1966 and requires replacement due to age. The tower is currently over 400% overloaded when measured against modern certification levels. VIPER has attempted to replace the tower over the past three budget years, however it has been forced to use funds slated for tower construction to supplement its limited operations and maintenance funds which has forced VIPER to continue to push the replacement of the tower out year after year. Both of these scenarios along with the addition of three more towers identified in the past two budget years that require replacement as well, leaves VIPER in a position where it needs a one-time infusion of over \$10M just to catch up on sites already identified for tower replacements.
- **Site Security Issues:** VIPER over the past several years has experienced an increase in site damage at the hands of criminals, intent on committing theft or willful damage to our tower sites. Typically this is not an organized effort targeting multiple VIPER site locations over a short period, nor does the criminal element rise to the level of domestic terrorism, however the costs associated with the repair and remediation exist regardless of the perpetrators or the damage causes. On average, VIPER spends at least \$15K per instance to rectify the damages. Typically we experience

damages every few months, however at the time of this report, we have had two occurrences within a week, one of which will cost in excess of \$20K. Recent Legislation addressed an increase in the level of criminal charge related to damages to critical infrastructure and VIPER did submit a request to the Legislature to be added to the types of occurrences that would rise to the level of a more significant penalty, however we were not included in the bill language (SESSION LAW 2023-47, SECTION 3, G.S.§ 14-154). VIPER respectfully requests that the Legislature reconsider the inclusion of critical state and locally owned communications infrastructure as part of the overall critical infrastructure criminal penalties bill.