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PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

THIS DOCUMENT IS CURRENT THROUGH THE END OF THE 2008 REGULAR SESSION AND THE 2008 SPECIAL SESSIONS

*** June 10, 2009 Annotation Service ***

PENNSYLVANIA STATUTES
TITLE 35. HEALTH AND SAFETY
CHAPTER 38A. PUBLIC SAFETY EMERGENCY TELEPHONE ACT

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35 P.S. § 7011 (2008)

§ 7011. Short title

This act shall be known and may be cited as the Public Safety Emergency Telephone Act.

HISTORY: Act 1990-78 (S.B. 576), § 1, approved July 9, 1990, eff. in 60 days.

NOTES:

PENNSYLVANIA ADMINISTRATIVE CODE REFERENCES.

1. *4 Pa. Code § 89.1* (2008), Definitions.

2. *4 Pa. Code § 120b.102* (2008), Definitions.

3. *4 Pa. Code § 120c.102* (2008), Definitions.

4. *4 Pa. Code § 120d.102* (2008), Definitions.

5. *4 Pa. Code § 113.1* (2008), Definitions.

6. *4 Pa. Code § 113.305* (2008), Equipment compliance. LexisNexis (R) Notes:

LAW REVIEWS

1. 7 *Widener J. Pub. L. 739*, SURVEY OF SELECTED COURT DECISION: Public Utilities: City of Philadelphia v. Pennsylvania Public Utility Commission: Balancing Overlapping Powers in the Interests of Deregulation and Public Safety.

LexisNexis (R) Notes:

LAW REVIEWS

1. 7 *Widener J. Pub. L. 739*, SURVEY OF SELECTED COURT DECISION: Public Utilities: City of Philadelphia v. Pennsylvania Public Utility Commission: Balancing Overlapping Powers in the Interests of Deregulation and Public Safety.



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35 P.S. § 7012 (2008)

§ 7012. Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"911 emergency communication system" or "911 system." A system, including enhanced 911 service but excluding a wireless E-911 system, which permits a person dialing 911 by telephone to be connected to a public safety answering point, via normal telephone facilities, for the reporting of police, fire, medical or other emergency situations.

"Active prepaid wireless account." A prepaid wireless account that has been used by the customer during the month to complete a telephone call for which the customer's card or account was reduced.

"Advisory committee." The wireless E-911 Emergency Services Advisory Committee established in section 11.3

"Agency." The Pennsylvania Emergency Management Agency.

"Associated with Pennsylvania."

(1) In the case of the mobile telephone number (MTN) the geographical location associated with the first six digits or NPA/NXX of the MTN;
or

(2) in the case of a customer service address, the physical location of the address.

"Automatic location information" or "ALI." The delivery or receipt of the street address of the telephone, or the geographic location of the wireless device, as specified in the FCC E-911 Order, being used to place a call to a 911 system or to a wireless E-911 system.

"Automatic number identification" or "ANI." The delivery or receipt of the telephone number assigned to the telephone or wireless device being used to place a call to a 911 system or to a wireless E-911 system.

"Commission." The Pennsylvania Public Utility Commission.

"Competitive local exchange carrier." A local exchange carrier that has been certificated as a competitive local exchange carrier by the Pennsylvania Public Utility Commission.

"Contribution rate." A fee assessed against a telephone subscriber for the nonrecurring costs, maintenance and operating costs of a 911 system. Counties of the first through second class A may impose a monthly contribution rate in an amount not to exceed \$ 1 per line on each local exchange access line. Counties of the third through fifth class may impose monthly contribution rates in an amount not to exceed \$ 1.25 per line on each local exchange access line. Counties of the sixth through eighth class may impose a monthly contribution rate in an amount not to exceed \$ 1.50 per line on each local exchange access line. The contribution rate may be used by counties for the expenses of implementing, expanding or upgrading a 911 system. Expenses eligible for reimbursement through the contribution rate shall include telephone terminal equipment, trunk line service installation, network changes, building of initial data base and any other nonrecurring costs to establish a 911 system. The contribution rate may also be used to fund recurring costs pursuant to section 8(b) Expenses not eligible for reimbursement through the contribution rate shall include purchase of real estate, cosmetic remodeling, central office upgrades, hiring of dispatchers, ambulances, fire engines or other emergency vehicles, utilities, taxes and other expenses as determined by the Pennsylvania Emergency Management Agency.

"Council." The Pennsylvania Emergency Management Council.

"County." The term shall include a city of the first class coterminous with a county.

"County plan." A document submitted by the county on a triennial basis to the Pennsylvania Emergency Management Agency, outlining its proposed and existing wireline and wireless 911 and enhanced 911 systems and procedures, including a contribution rate, for the forthcoming three years.

"Emergency notification services." Services provided by authorized agencies of Federal, State, county or local governments, or by persons authorized by such governments, that notify the public, using ANI/ALI data base information, of emergencies declared by such governments.

"Emergency support services." Information or data base management services provided by authorized agencies of Federal, State, county or local governments, or by persons authorized by such governments, that are used in support of PSAPs or emergency notification services.

"Enhanced 911 service" or "E-911." Emergency telephone service providing for automatic identification of caller location and calling number.

"FCC E-911 Order." All orders issued by the Federal Communications Commission pursuant to the proceeding entitled "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems" (CC Docket No. 94-102) codified at *47 CFR 20.18* (relating to 911 Service), any successor proceeding and any other FCC order that affects the provision of wireless E-911 service to wireless service customers.

"Fund." The Wireless E-911 Emergency Services Fund established in section 11.4

"Interconnected Voice over Internet Protocol service customer" or "VoIP service customer." A person who is billed by an interconnected Voice over Internet Protocol provider, is the end user of VoIP service and who has designated a primary place of use within this Commonwealth.

"Interconnected Voice over Internet Protocol provider" or "VoIP provider." A person engaged in the business of providing VoIP service to end-use customers in this Commonwealth, including resellers.

"Interconnected Voice over Internet Protocol service" or "VoIP service." Service as defined by all orders issued by the Federal Communications Commission pursuant to the proceeding entitled "IP-Enabled Services", (WC Docket No. 04-36; FCC 05-116), codified at 47 CFR Part 9 (relating to interconnected Voice over Internet Protocol services), any successor proceeding and any other FCC order that affects the provision of 911 service or E-911 service to VoIP service customers or further defines interconnected Voice over Internet Protocol service.

"Interexchange carrier." A person that is authorized by the Pennsylvania Public Utility Commission to provide long-distance telecommunications service.

"Local exchange carrier." A person, including a competitive local exchange carrier, that is authorized by the Pennsylvania Public Utility Commission to provide local exchange telecommunications service or exchange access.

"Local exchange telephone service." The provision of telephonic message transmission within an exchange, as such is defined and described in tariffs filed with and approved by the commission.

"Mobile telephone number" or "MTN." The telephone number assigned to a wireless telephone at the time of initial activation.

"NPA-NXX." The first six digits of a ten-digit telephone number, including a mobile telephone number, representing the area code and exchange of the telephone number.

"Person." The term includes a corporation, a partnership, an association, the Federal Government, the State government, a political subdivision, a municipal or other local authority, as well as a natural person.

"Prepaid wireless telephone service." A wireless telephone service which is activated in advance by payment of a finite dollar amount or for a finite set of minutes and which, unless an additional finite dollar amount or finite set of minutes is paid in advance, terminates either upon use by a customer and delivery by the wireless carrier of an agreed-upon amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following initial purchase or activation.

"Primary place of use." The street address representative of where the customer's use of the VoIP service primarily occurs. For the purpose of VoIP 911 fees, primary place of use is the customer's registered location on the date the customer is billed.

"Public agency." The Commonwealth or a political subdivision, public authority, municipal authority or any organization located in whole or in part within this Commonwealth which provides or has the authority to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services.

"Public safety answering point" or "PSAP." The agency-approved first point at which calls for emergency assistance from individuals are answered, operated 24 hours a day.

"Sufficient positive balance." A dollar amount greater than or equal to the monthly wireless surcharge amount.

"Telecommunications carrier." Any provider of telecommunications services as defined by the Telecommunications Act of 1996 (Public Law 104-104, *110 Stat. 56*)

"Telephone subscriber." A person who contracts with a local exchange carrier within this Commonwealth for local exchange telephone service, either residential or commercial. When the same person has several telephone dial tone access lines, each dial tone access line shall constitute a separate subscription. For purposes of the contribution rate, the term shall not include pay stations owned or operated by a regulated public utility, or nonpublic utilities as the term is used in *66 Pa.C.S. § 2913(b)* (relating to minimum service requirement).

"Vendor." A person other than a local exchange carrier or a wireless provider who supplies 911 or wireless E-911 system services or equipment.

"Wireless E-911 service." Service provided by a wireless provider, pursuant to the FCC E-911 Order.

"Wireless E-911 State plan." A document to be prepared, maintained and kept current by the Pennsylvania Emergency Management Agency providing for all aspects of the development, implementation, operation and maintenance of a Statewide integrated wireless E-911 system, including the exclusive authority to formulate technical standards and de-

termine permitted uses of and amounts disbursed from the Wireless E-911 Emergency Services Fund established by section 11.4(a).

"Wireless E-911 surcharge." A monthly fee assessed upon each wireless service customer for each wireless two-way communication device for which that customer is charged by a wireless provider for wireless service.

"Wireless E-911 system." An E-911 system which permits wireless service customers dialing 911 to be connected to a public safety answering point for the reporting of police, fire, medical or other emergency situations.

"Wireless provider." A person engaged in the business of providing wireless service to end-use customers in this Commonwealth, including resellers.

"Wireless service." Commercial mobile radio service as defined under section 332(d) of the Communications Act of 1934 (47 U.S.C. § 332(d)) and which provides real-time, two-way voice service that is interconnected with the public switched telephone network.

"Wireless service customer." A person who is billed by a wireless provider or who receives prepaid wireless telephone service from a wireless provider for wireless service within this Commonwealth.

HISTORY: Act 1990-78 (S.B. 576), § 2, approved July 9, 1990, eff. in 60 days; Act 1992-170 (S.B. 1525), § 1, approved Dec. 18, 1992, eff. Sept. 7, 1992; Act 1998-17 (H.B. 911), § 1, approved Feb. 12, 1998, eff. in 60 days; Act 2003-56 (H.B. 1018), § 1, approved Dec. 30, 2003, eff. in 90 days.; Act 2008-72 (S.B. 385), § 1, approved July 9, 2008, eff. in 120 days.



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35 P.S. § 7013 (2008)

§ 7013. Telecommunications management

(a) POWERS AND DUTIES OF AGENCY.-- The agency shall have the following powers and duties:

(1) To adopt rules and regulations pursuant to this act: Provided, That the agency shall have the power and authority to promulgate, adopt, publish and use guidelines for the implementation of this act. Guidelines and rules and regulations proposed under the authority of this section shall be subject to review by the General Counsel and the Attorney General in the manner provided for the review of proposed rules and regulations pursuant to the act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act, and the act of June 25, 1982 (P.L. 633, No. 181), known as the Regulatory Review Act.

(2) To establish guidelines and application procedures for the establishment of contribution rates.

(3) To receive, review and approve or disapprove all 911 system county plans.

(4) To forward a copy of each county plan application to the council and the commission for their review as required by this act.

(5) To submit an annual report, not later than March 1 of each year, to the Governor and the General Assembly and include at least the following:

(i) The extent to which 911 systems currently exist in Pennsylvania.

(ii) Those counties which completed installation, and costs and expenses for installation.

(iii) An anticipated schedule for installing a 911 system on a county

basis for that year.

(6) To establish minimum training and certification standards for emergency dispatchers, call takers and supervisors.

(7) To establish technical standards for all county plans.

(8) To establish standards for performance review and quality assurance programs for 911 systems to ensure public safety and improve the performance of 911 systems.

(9) To establish standards for accuracy of 911 database systems.

(10) To establish a program of communication between the agency and county 911 coordinators for the purpose of sharing information between counties and to develop recommendations to improve 911 systems throughout this Commonwealth.

(11) To prescribe, in cooperation with the council and the commission, such applications and forms as may be necessary to carry out the provisions of this act.

(12) To take all actions necessary to implement, administer and enforce the provisions of this act.

(b) **POWERS AND DUTIES OF THE COUNCIL.**-- The council shall have the following powers and duties:

(1) To review all county plans, including the initial application forwarded by the agency for conformity to the minimum standards.

(2) To review county plans to determine if equipment conforms to the technical standards.

(3) To recommend approval of plans or indicate deficiencies in plans to the agency.

(c) **POWERS AND DUTIES OF THE COMMISSION.**-- The commission shall have the following powers and duties:

(1) Review the contribution rate requested by the county based on the costs of the plan.

(2) Approve or modify the contribution rate requested by the county and forward its decision to the agency.

(d) **EXEMPTION.**-- The Pennsylvania State Police telecommunications facilities are exempt from the telecommunications management of the agency, council and the commission.

HISTORY: Act 1990-78 (S.B. 576), § 3, approved July 9, 1990, eff. in 60 days; Act 1998-17 (H.B. 911), § 2, approved Feb. 12, 1998, eff. in 60 days; Act 2003-56 (H.B. 1018), § 2, approved Dec. 30, 2003, eff. in 90 days.

NOTES:

PENNSYLVANIA ADMINISTRATIVE CODE REFERENCES.

1. 4 Pa. Code Part V, Ch 120b (2008), Part V. Emergency Management Agency.

2. 4 Pa. Code § 120c.101 (2008), Purpose.

3. 4 Pa. Code § 120d.101 (2008), Purpose.

LexisNexis (R) Notes:

CASE NOTES

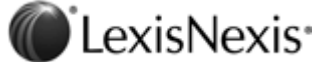
1. Public utility commission (PUC) had primary jurisdiction to regulate local exchange carrier's (LEC) tariffs under 66 Pa.C.S. § 1501, was designated to handle "911" emergency call issues under 35 P.S. § 7013(c) and 35 P.S. § 7015(e) and (h), and could impose and enforce 66 Pa.C.S. § 501 and 66 Pa.C.S. § 1312 remedies, so a county's case against the LEC involving "911" rates was, in the exercise of discretion, to be transferred to PUC under the doctrine of primary jurisdiction even though (1) the county requested legal and equitable remedies, and (2) the court had jurisdiction under 42 Pa.C.S. § 931. *County of Erie v. Verizon North, Inc.*, 879 A.2d 357, 2005 Pa. Commw. LEXIS 354 (Pa. Commw. Ct. 2005).

2. Public utility commission (PUC) had primary jurisdiction to regulate local exchange carrier's (LEC) tariffs under 66 Pa.C.S. § 1501, was designated to handle "911" emergency call issues under 35 P.S. § 7013(c) and 35 P.S. § 7015(e) and (h), and could impose and enforce 66 Pa.C.S. § 501 and 66 Pa.C.S. § 1312 remedies, so a county's case against the LEC involving "911" rates was, in the exercise of discretion, to be transferred to PUC under the doctrine of primary jurisdiction even though (1) the county requested legal and equitable remedies, and (2) the court had jurisdiction under 42 Pa.C.S. § 931. *County of Erie v. Verizon North, Inc.*, 879 A.2d 357, 2005 Pa. Commw. LEXIS 354 (Pa. Commw. Ct. 2005).

3. Public utility commission (PUC) had primary jurisdiction to regulate local exchange carrier's (LEC) tariffs under 66 Pa.C.S. § 1501, was designated to handle "911" emergency call issues under 35 P.S. § 7013(c) and 35 P.S. § 7015(e) and (h), and could impose and enforce 66 Pa.C.S. § 501 and 66 Pa.C.S. § 1312 remedies, so a county's case against the LEC involving "911" rates was, in the exercise of discretion, to be transferred to PUC under the doctrine of primary jurisdiction even though (1) the county requested legal and equitable remedies, and (2) the court had jurisdiction under 42 Pa.C.S. § 931. *County of Erie v. Verizon North, Inc.*, 879 A.2d 357, 2005 Pa. Commw. LEXIS 354 (Pa. Commw. Ct. 2005).

LAW REVIEWS

1. 4 *Widener J. Pub. L.* 917, 1994 REGULATORY REVIEW: FINAL REGULATIONS OF 1994.



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35 P.S. § 7014 (2008)

§ 7014. Counties

(a) **POWERS AND DUTIES.**-- The board of county commissioners, or, in a home rule county, the appropriate body according to the home rule charter, shall have the following powers and duties in relation to a 911 system and wireless E-911 system:

- (1) To designate a member of county government as a county 911 coordinator who shall serve as a point of contact with the agency and shall develop a county plan for the implementation, operation and maintenance of a 911 system. Where technologically feasible, the county plan shall be adequate to provide service for the entire county.
- (2) To make arrangements with each telephone company providing local exchange telephone service within the county's jurisdiction to provide 911 service.
- (3) To send a copy of the proposed county plan to the appropriate telephone company upon submission of the plan to the agency.
- (4) To cooperate with the agency, the council and the commission in preparation and submission of the county plan and contribution rate.
- (5) To execute all contracts, mutual aid agreements, cross-service agreements and all other necessary documents which may be required in the implementation of the county plan.
- (6) To annually request from each telephone service provider who shall provide a list of the provider's local telephone exchanges within the county and the addresses of that provider's central offices serving those exchanges.
- (7) To notify the agency and all adjacent counties of all local telephone exchanges which provide telephone service to residents within the county, specifically noting any such exchanges known to provide

telephone service to residents of more than one county. Such notice shall be provided at the time the county plan is submitted to the agency and when local telephone service is newly initiated for local telephone exchange within the county.

(8) To cooperate with the Pennsylvania State Police. Subject to subparagraphs (i) through (iii), a county that utilizes ANI/ALI data base services shall, upon request of the Commissioner of the Pennsylvania State Police or the designee of the commissioner, provide authority to access all ANI/ALI data base information relating to 911 calls for emergency services, whether the data base is held by the county or by a commercial entity.

(i) In order to ensure that no county or PSAP experiences degradation of service or additional costs as a result of complying with this subsection:

(A) the Pennsylvania State Police shall provide, at its cost, any equipment, computer software or telecommunications equipment or services, exclusive of recurring personnel costs for county personnel, that are necessary to enable its access to any ANI/ALI data base information; and

(B) all such means of access must be approved by the county, PSAP and the Pennsylvania State Police before the county is required to authorize or provide the access. In the event of a dispute between the Pennsylvania State Police and a county or PSAP regarding approval by the county and PSAP, the dispute shall be mediated by the Office of Information Technology of the Commonwealth's Office of Administration. The Office of Information Technology may bring in a Commonwealth mediator from the Office of General Counsel to provide assistance in resolving the dispute.

(ii) The ANI/ALI data base information to which access is authorized or enabled under this paragraph or section 4.1(a)(3) shall be used only in providing emergency response services to a 911 call. A person who uses or discloses such ANI/ALI data base information for any other purpose commits a misdemeanor of the third degree.

(iii) Nothing contained in this paragraph shall be construed to impose on wireless providers any obligations beyond those created by applicable Federal Communications Commission orders and regulations. Public agencies, counties, PSAPs and wireless providers shall not be liable to any person for errors in any of the ANI/ALI data base information which may be accessed by or provided to the Pennsylvania State Police under this paragraph.

(9) To comply with reporting requirements established by the agency.

(b) PERSONS OUTSIDE THE COUNTY.-- When an individual physically resides in an adjacent county, but receives local exchange telephone service from a central office in a county which provides 911 service, it shall be the responsibility of the county with the 911 service to notify the appropriate public agency of a request for emergency service from such an individual.

(c) CITIES OF THE SECOND CLASS, SECOND CLASS A AND THIRD CLASS.-- Any city of the second class, second class A or third class that has established a 911 system prior to the effective date of this act may exercise the powers and duties of counties under this act. Any city of the second class, second class A or third class that has not established a 911 system prior to the effective date of this act may exercise the powers and duties of counties under this act only when the county has chosen not to exercise those powers and duties. The powers and duties granted to cities under this section shall be applicable and may be exercised only within the boundaries of the city. No action by a city pursuant to this section shall preempt the powers and duties of a county to establish a 911 system outside the boundaries of the city at any time. The agency may establish regulations governing the exercise of powers and duties granted to cities of the second class, second class A and third class by this section.

HISTORY: Act 1990-78 (S.B. 576), § 4, approved July 9, 1990, eff. in 60 days; Act 1998-17 (H.B. 911), § 2, approved Feb. 12, 1998, eff. in 60 days; Act 2003-56 (H.B. 1018), § 3, approved Dec. 30, 2003, eff. in 90 days.

LexisNexis (R) Notes:

LAW REVIEWS

1. 7 *Widener J. Pub. L.* 739, SURVEY OF SELECTED COURT DECISION: Public Utilities: City of Philadelphia v. Pennsylvania Public Utility Commission: Balancing Overlapping Powers in the Interests of Deregulation and Public Safety.



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35 P.S. § 7014.1 (2008)

§ 7014.1. Pennsylvania State Police

(a) **POWERS AND DUTIES.**-- The Commissioner of the Pennsylvania State Police, or the designee of the commissioner, shall have the following powers and duties in relation to a Pennsylvania State Police telecommunications facility:

- (1) To designate, with specificity, which Pennsylvania State Police facilities shall be considered Pennsylvania State Police telecommunications facilities under this act.
- (2) To designate a commander of a Pennsylvania State Police telecommunications facility who shall serve as the point of contact with the agency and the counties and shall oversee the implementation, operation and maintenance of a Pennsylvania State Police telecommunications facility. A Pennsylvania State Police facility shall, where technologically feasible, be adequate to provide service to the designated area of coverage.
- (3) To request authority to access ANI/ALI data base information relating to 911 calls for emergency services from the counties and PSAPs within the designated area of coverage of a Pennsylvania State Police telecommunications facility; provided, that no county or PSAP shall be required to comply with such a request unless it is made by the Commissioner of the Pennsylvania State Police or the designee of the commissioner pursuant to section 4(a)(8); and provided further that section 4(a)(8) shall apply to any such request.
- (4) To provide training and certification for all call-takers/dispatchers and call-taker/dispatcher supervisors that meets or exceeds the training and certification standards that are provided for in 4 Pa. Code Ch. 120c (relating to training and certification standards for 911 emergency communications personnel) or any successor standard.

35 P.S. § 7014.1

(b) **INELIGIBLE REIMBURSEMENT.**-- The Pennsylvania State Police are not eligible to receive any reimbursement from the moneys collected from the contribution rate or wireless E-911 surcharge, nor may the Pennsylvania State Police impose a monthly contribution rate upon the telephone subscribers on the local exchange access line or any wireless E-911-related surcharge upon wireless service customers.

HISTORY: Act 2003-56 (H.B. 1018), § 4, approved Dec. 30, 2003, eff. in 90 days.



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35 P.S. § 7015 (2008)

§ 7015. County plan

(a) **MINIMUM STANDARDS.**-- Upon the agreement of the governing authority of a county to establish a 911 system, a plan shall be drafted meeting at least the standards promulgated by the agency. The county may obtain technical assistance from the agency in formulating its plan. Each 911 plan shall be designed to meet the individual circumstances of each community and the public agencies participating in the 911 system.

(b) **COMPLETION.**-- Upon completion of the plan, it shall be forwarded to the agency, with a copy of the plan being sent to those telephone companies affected by the plan. At such time as the plan is submitted to the agency, the county shall also provide each adjacent county with a list of local telephone exchanges included in the plan, specifically noting any such exchanges known to provide telephone service to residents of more than one county.

(c) **AGENCY REVIEW.**-- The agency shall review each county plan for completeness. The agency shall forward a copy of the county plan and the proposed contribution rate to the council and the commission for review as required by this section. After the county plan has been reviewed by the council and the commission, the agency shall approve or reject a county plan based on the recommendations of the council and the commission. If the county plan is rejected, the agency shall return the county plan and explain the deficiencies that caused the rejection.

(d) **COUNCIL REVIEW.**-- The council shall have 90 days to review the plan and make suggested revisions of the plan. The agency may act as agent for the council in the administration of the plan approval process.

(e) **COMMISSION REVIEW.**-- The commission shall review the county plan only in relation to the contribution rate and may modify only those contribution rates which it finds excessive to meet the costs stated in the plan. The rates shall be reviewed and a decision forwarded to the agency within 90 days of the date of submission. If the commission fails to review the contribution rate within 90 days, the contribution rate will be deemed approved by the commission.

(f) **PRESENT SYSTEMS.**-- Those counties that presently have 911 systems may establish a contribution rate to cover nonrecurring and operating costs of an existing 911 system by using the same contribution rate approval mechanism as a new 911 system for the purposes of this act. A county which does not have a 911 system in operation on the effective date of this act but which awarded a contract for such a system prior to the effective date of this act shall be considered to have a present system.

(g) REGIONAL SYSTEMS.-- Nothing in this act shall be construed to prohibit the formation of multijurisdictional or regional 911 systems, and any regional system established under this act shall include the territory of two or more counties.

(h) CONTRIBUTION RATE CHANGES.-- Once a plan and contribution rate has been established, the contribution rate shall remain fixed for a period of at least three years. Updating and expanding the present system shall require an amended plan to be filed with the agency. The contribution rate shall remain fixed for three years even if the present system is updated and expanded. Requests for contribution rate changes shall be submitted to the agency to be forwarded to the commission for approval as provided by subsection (e). Contribution rate increases shall not be permitted more often than every three years and shall not take effect unless approved by the commission.

(i) ASSESSMENT.-- The moneys collected from the telephone contribution rate shall be utilized for payments of non-recurring and recurring costs of a 911 system. The contribution rate may be imposed at any time subsequent to the execution of a contract with the provider of a 911 service at the discretion of the governing body and pursuant to approval of the county plan and contribution rate under the provisions of this section. The money collected from the contribution rate is a county fee collected by the telephone company; the money is not subject to taxes or charges levied on or by the telephone company. The money collected from the contribution rate shall not be considered revenue of the telephone company for any purpose.

HISTORY: Act 1990-78 (S.B. 576), § 5, approved July 9, 1990, eff. in 60 days; Act 1998-17 (H.B. 911), § 2, approved Feb. 12, 1998, eff. in 60 days.

LexisNexis (R) Notes:

CASE NOTES

1. Public utility commission (PUC) had primary jurisdiction to regulate local exchange carrier's (LEC) tariffs under 66 Pa.C.S. § 1501, was designated to handle "911" emergency call issues under 35 P.S. § 7013(c) and 35 P.S. § 7015(e) and (h), and could impose and enforce 66 Pa.C.S. § 501 and 66 Pa.C.S. § 1312 remedies, so a county's case against the LEC involving "911" rates was, in the exercise of discretion, to be transferred to PUC under the doctrine of primary jurisdiction even though (1) the county requested legal and equitable remedies, and (2) the court had jurisdiction under 42 Pa.C.S. § 931. *County of Erie v. Verizon North, Inc.*, 879 A.2d 357, 2005 Pa. Commw. LEXIS 354 (Pa. Commw. Ct. 2005).

2. Public utility commission (PUC) had primary jurisdiction to regulate local exchange carrier's (LEC) tariffs under 66 Pa.C.S. § 1501, was designated to handle "911" emergency call issues under 35 P.S. § 7013(c) and 35 P.S. § 7015(e) and (h), and could impose and enforce 66 Pa.C.S. § 501 and 66 Pa.C.S. § 1312 remedies, so a county's case against the LEC involving "911" rates was, in the exercise of discretion, to be transferred to PUC under the doctrine of primary jurisdiction even though (1) the county requested legal and equitable remedies, and (2) the court had jurisdiction under 42 Pa.C.S. § 931. *County of Erie v. Verizon North, Inc.*, 879 A.2d 357, 2005 Pa. Commw. LEXIS 354 (Pa. Commw. Ct. 2005).

3. Public utility commission (PUC) had primary jurisdiction to regulate local exchange carrier's (LEC) tariffs under 66 Pa.C.S. § 1501, was designated to handle "911" emergency call issues under 35 P.S. § 7013(c) and 35 P.S. § 7015(e) and (h), and could impose and enforce 66 Pa.C.S. § 501 and 66 Pa.C.S. § 1312 remedies, so a county's case against the

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35 P.S. § 7016 (2008)

§ 7016. Special public meeting

(a) PUBLIC COMMENT.-- Before any county may establish a contribution rate for nonrecurring and recurring costs under this act, it shall obtain public comment from the residents of the county.

(b) REQUIREMENTS.-- The proposed contribution rate shall be fixed by the county commissioners in the following manner:

(1) The county commissioners shall cause notices of intention to fix the contribution rate at a special public meeting on a date certain to be published in a newspaper of general circulation at least 10 days in advance of the special public meeting. The notice shall include the precise amount of the proposed monthly contribution rate.

(2) The special public meeting shall be held during the hours of 6:00 p.m. to 9:00 p.m., prevailing time, so as to afford the public the greatest opportunity to attend.

(3) The special meeting shall be held in a centrally located area of the county.

HISTORY: Act 1990-78 (S.B. 576), § 6, approved July 9, 1990, eff. in 60 days.



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35 P.S. § 7017 (2008)

§ 7017. Collection and disbursement of contribution

(a) **SUBSCRIBERS' CONTRIBUTION.**-- Each service supplier providing local exchange telephone service within the county shall collect the contribution from each subscriber and forward the collection quarterly less the actual uncollectibles experienced by the local exchange telephone companies to the county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds. The amount of the subscribers' contribution shall be stated separately in the telephone subscribers' billing. Each service supplier shall retain the fair and reasonable cost to establish the 911 contribution rate billing system and an amount not to exceed 2% of the gross receipts collected to cover actual administrative costs.

(b) **SUBSCRIBERS' CONTRIBUTION FOR MULTIPLE LINE SYSTEMS.**-- In the case of Centrex or similar multiple line system subscribers, except PBX subscribers, the following multipliers shall be applied to determine the contribution rate of each such subscriber:

- (1) For the first 25 lines, each line shall be billed at the approved contribution rate.
- (2) For lines 26 through 100, each line shall be billed at 0.75 of the approved contribution rate.
- (3) For lines 101 through 250, each line shall be billed at 0.50 of the approved contribution rate.
- (4) For lines 251 through 500, each line shall be billed at 0.20 of the approved contribution rate.
- (5) For lines 501 or more, each line shall be billed at 0.172 of the approved contribution rate.

(c) **RESTRICTED ACCOUNT.**-- The county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds shall deposit the moneys received in an interest-bearing restricted account used solely for the purpose of nonrecurring and recurring charges billed for the 911 system and for the purpose of making payments under subsection (d). The governing body of the county shall make an annual appropriation from such account for the 911 system, subject to the provisions of subsection (d), and may retain up to 1% of the gross receipts col-

lected to cover administrative costs. If the 911 system is discontinued or a county fails to implement a 911 system within three years from the imposition of a monthly contribution rate, any money remaining in the restricted account after all payments to the 911 service supplier have been made shall be transferred to the general fund of the county or proportionately to the general funds of each participating public agency.

(d) REIMBURSEMENT TO MUNICIPALITIES.-- The county treasurer shall, on a quarterly basis, pay from funds of the restricted account to a municipality which operates a 911 system, a sum of money not less than that contributed by the telephone subscribers of that municipality to the county 911 system, less the applicable service supplier administrative cost provided by subsection (a) and the applicable county administrative cost provided by subsection (c).

(e) COLLECTION ENFORCEMENT.-- The local exchange telephone company has no obligation to take any legal action to enforce the collection of any charge imposed pursuant to this act. Such action may be brought by or on behalf of the public agency imposing the charge. The local exchange telephone company shall annually provide, upon request of the governing body, a list of the names and addresses of those service users which carry a balance that can be determined by the telephone company to be the nonpayment of any charge imposed pursuant to this act. The local exchange telephone company is not liable for uncollectible amounts.

(f) PROHIBITION AGAINST RELEASE OF INFORMATION.-- Neither the county treasurer, the agency, nor any employee, agent or representative of a PSAP or public agency shall divulge any information acquired with respect to any wire line telephone service provider, its customers, revenues or expenses, trade secrets, access line counts, commercial information and such other proprietary information while acting or claiming to act as such employee, agent or representative, and all such information is hereby required to be kept confidential except that aggregations of information which do not identify or effectively identify numbers of customers, revenues or expenses, trade secrets, access lines, commercial information and such other proprietary information attributable to any individual wire line telephone service provider may be made public.

HISTORY: Act 1990-78 (S.B. 576), § 7, approved July 9, 1990, eff. in 60 days.; Act 2008-72 (S.B. 385), § 1.1, approved July 9, 2008, eff. in 120 days.



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35 P.S. § 7018 (2008)

§ 7018. Expenditures for nonrecurring costs, training, mobile communications equipment, maintenance and operation of 911 systems

(a) EXPENDITURES AUTHORIZED.-- During each county's fiscal year, the county may expend the amounts distributed to it from the contribution rate for the nonrecurring costs, training, costs for mobile communications equipment, maintenance and operation of a county 911 system.

(b) ITEMS INCLUDED IN NONRECURRING COSTS, TRAINING, MOBILE COMMUNICATIONS EQUIPMENT, MAINTENANCE AND OPERATION COSTS.-- Maintenance and operation costs may include telephone company charges, equipment costs or equipment lease charges, repairs, utilities, development and maintenance of a master street address guide, erection of street signs on State and local highways, data base maintenance costs, personnel training, salary and benefit costs which are directly related to the provision of 911 services and costs for mobile communications equipment, audit costs and appropriate carryover costs from previous years. Maintenance and operation costs shall not include any cost necessary to house the 911 system. No more than 70% of the contribution rate collected during each county's fiscal year may be utilized to fund personnel training, salary and benefit costs.

(c) LIMITATIONS ON EXPENDITURES.-- The agency shall adopt procedures to assure that the total amount collected from the 911 contribution rate shall be expended only for the nonrecurring costs, costs for mobile communications equipment, maintenance and operation of a county 911 system. Nonrecurring costs shall be amortized over a minimum of three years.

(d) TRIENNIAL FINANCIAL AUDIT.-- The agency shall require a triennial audit of each county's collection and disbursement of contribution rate funds and expenditures for the nonrecurring costs, training, costs for mobile communications equipment, maintenance and operation of 911 systems. The triennial audit cost shall be paid by the respective county from contribution rate revenues. The audit shall be consistent with guidelines established by the agency.

(e) PUBLIC EDUCATION.-- Each county may use moneys received from the imposition of the contribution rate to educate the public on the 911 system. Education may include, but is not limited to, confirming with all residents of the county their actual street addresses.

HISTORY: Act 1990-78 (S.B. 576), § 8, approved July 9, 1990, eff. in 60 days; Act 1998-17 (H.B. 911), § 2, approved Feb. 12, 1998, eff. in 60 days.



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35 P.S. § 7019 (2008)

§ 7019. Telephone records

(a) ACCESS.-- Each telephone service supplier shall provide customer telephone numbers, names and service addresses to PSAPs when requested by them for use in responding to 911 calls and, when required, to providers of emergency notification services and emergency support services, solely for the purposes of delivering or assisting in the delivery of emergency notification services and emergency support services. Each wireless provider shall provide the telephone number and geographical location of the wireless device, as required pursuant to the FCC E-911 Order, to PSAPs when requested by them for use in responding to 911 calls. Although customer telephone numbers, names and service addresses shall be available to PSAPs, providers of emergency notification services and providers of emergency support services, and the telephone numbers and geographical locations of wireless devices shall be available to PSAPs, such information shall remain the property of the disclosing service supplier. The total cost of the 911 system or wireless E-911 system shall include expenses to reimburse telephone service suppliers for providing and maintaining 911 information; provided, however, that nothing in this section shall permit a telephone service supplier to be reimbursed directly from the fund for providing and maintaining 911 information. This information shall be used only in providing emergency response services to a 911 call or for purposes of delivering or assisting in the delivery of emergency notification services or emergency support services except as provided in subsection (c). A person who uses or discloses ANI/ALI data base information for purposes other than providing emergency response services to a 911 call, delivering or assisting in the delivery of emergency notification services or emergency support services, or other than as provided in subsection (c) commits a misdemeanor of the third degree.

(b) PRIVACY WAIVED.-- Private listing service customers in a 911 service district shall waive the privacy afforded by nonlisted and nonpublished numbers with respect to the delivery of emergency services.

(c) IMMUNITY.-- No telephone company, wireless provider or vendor or agent, employee or director of a telephone company, wireless provider or vendor that provides information to PSAPs, providers of emergency notification services or providers of emergency support services shall be liable to any person who directly or indirectly uses the 911 emergency service or wireless E-911 emergency service established under this act or provides information to 911 systems or wireless E-911 systems with respect to the delivery of emergency services:

(1) for release to PSAPs, providers of emergency notification services or providers of emergency support services of information specified in this section, including nonpublished telephone numbers;

(2) for release to the commission, the Federal Communications

Commission or any other Federal or Commonwealth agency with the authority to regulate the provision of telecommunications services, of telephone company information specified in this section that is not already part of public records, including, where applicable information regarding numbers of lines served by an individual company but excluding nonpublic information regarding the company's individual customer names, addresses and telephone numbers; or

(3) for interruptions, omissions, defects, errors, mistakes or delays in transmission occurring in the course of the delivery of emergency services or wireless E-911 service under this act, unless such interruptions, omissions, defects, errors, mistakes or delays are caused by the willful or wanton misconduct of the telephone company, wireless provider or vendor, their agents, employees or directors; provided, however, that nothing herein shall preclude the application of any commission tariff or regulation within its jurisdiction pertaining to allowances for telephone service interruptions.

HISTORY: Act 1990-78 (S.B. 576), § 9, approved July 9, 1990, eff. in 60 days; Act 1998-17 (H.B. 911), § 2, approved Feb. 12, 1998, eff. in 60 days; Act 2003-56 (H.B. 1018), § 5, approved Dec. 30, 2003, eff. in 90 days.

LexisNexis (R) Notes:

LAW REVIEWS

1. 7 *Widener J. Pub. L.* 739, SURVEY OF SELECTED COURT DECISION: Public Utilities: City of Philadelphia v. Pennsylvania Public Utility Commission: Balancing Overlapping Powers in the Interests of Deregulation and Public Safety.



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35 P.S. § 7020 (2008)

§ 7020. Penalty

Any person who intentionally calls the 911 emergency number for other than emergency purposes commits a misdemeanor of the third degree.

HISTORY: Act 1990-78 (S.B. 576), § 10, approved July 9, 1990, eff. in 60 days.



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35 P.S. § 7021 (2008)

§ 7021. Deleted by 1998, Feb. 12, P.L. 64, No. 17, § 2, effective in 60 days

HISTORY: Act 1990-78 (S.B. 576), § 11, approved July 9, 1990, eff. in 60 days.

NOTES:

PENNSYLVANIA ADMINISTRATIVE CODE REFERENCES.

1. *4 Pa. Code § 120b.102 (2008)*, Definitions.
2. *4 Pa. Code § 120c.102 (2008)*, Definitions.
3. *4 Pa. Code § 120d.102 (2008)*, Definitions.
4. *4 Pa. Code § 113.1 (2008)*, Definitions.
5. *4 Pa. Code § 113.305 (2008)*, Equipment compliance. LexisNexis (R) Notes:

LAW REVIEWS

1. *7 Widener J. Pub. L. 739*, SURVEY OF SELECTED COURT DECISION: Public Utilities: City of Philadelphia v. Pennsylvania Public Utility Commission: Balancing Overlapping Powers in the Interests of Deregulation and Public Safety.

LexisNexis (R) Notes:

LAW REVIEWS

1. 7 *Widener J. Pub. L. 739*, SURVEY OF SELECTED COURT DECISION: Public Utilities: City of Philadelphia v. Pennsylvania Public Utility Commission: Balancing Overlapping Powers in the Interests of Deregulation and Public Safety.



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35 P.S. § 7021.1 (2008)

§ 7021.1. Immunity

All 911 systems and wireless E-911 systems run by county and local governments shall be local agencies who shall enjoy local governmental immunity as provided under 42 Pa.C.S. Ch. 85 Subch. C (relating to actions against local parties).

HISTORY: Act 1998-17 (H.B. 911), § 3, approved Feb. 12, 1998, eff. in 60 days; Act 2003-56 (H.B. 1018), § 5, approved Dec. 30, 2003, eff. in 90 days.



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35 P.S. § 7021.2 (2008)

§ 7021.2. Powers and duties of agency

(a) ADMINISTRATION.-- The agency shall have the following powers and duties in relation to a wireless E-911 system:

(1) To designate at least one employee of the agency who shall serve as a point of contact at the agency for all matters involving wireless E-911 systems in this Commonwealth.

(2) To oversee the development, implementation, operation and maintenance of a Statewide integrated wireless E-911 system, formulate technical standards and determine permitted uses of and amounts disbursed from the Wireless E-911 Emergency Services Fund established in section 11.4(a), including the costs of PSAPs and wireless providers that are eligible for payment from the fund; and

(3) to approve each county's county plan, or amendment to its agency-approved county plan, incorporating wireless E-911 service capabilities as may be submitted by the county to the agency.

(b) WIRELESS E-911 STATE PLAN.-- The agency shall prepare, maintain and keep current, after adequate public notice and opportunity to comment and after consideration of the recommendations of the wireless subcommittee of the advisory committee, a wireless E-911 State plan providing for all aspects of the development, implementation, operation and maintenance of a Statewide integrated wireless E-911 system in accordance with the FCC E-911 Order. Pursuant to such plan, the agency shall:

(1) Establish model agreements for mutual aid agreements, cross-service agreements, service contracts and all other documents by and among public agencies, PSAPs and wireless providers that may be required in the implementation of the wireless E-911 State plan, review such agreements and documents for consistency with the applicable county plan and assist the parties in assuring their execution.

(2) Require each wireless provider to notify the agency of each county

35 P.S. § 7021.2

in which it is licensed on the effective date of this section and provides wireless service and, at the time new service is initiated, each county in which it is licensed and initiates wireless service; and to notify counties of wireless service within each county, specifically noting wireless service to more than one county. In the event of disputes among PSAPs regarding the PSAP to which a wireless provider routes 911 calls, the routing shall be determined by the agency.

(3) Establish uniform Statewide standards for the format and content of wireless automatic location information and wireless automatic number identification, which standards shall be the standards adopted by the National Emergency Number Association, as from time to time amended by that organization. Wireless providers will use the applicable National Emergency Number Association data transmission format standards to deliver such data to the wireless E-911 system.

(4) Forward a copy of the completed plan and any revision thereof to all affected counties, PSAPs, wireless providers, local exchange carriers, competitive local exchange carriers and interexchange carriers.

(5) Require each wireless provider to provide the agency with a 24-hour, seven-days-a-week contact telephone number or pager number for use by PSAPs in emergency situations.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.



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35 P.S. § 7021.3 (2008)

§ 7021.3. Advisory committees

(a) ESTABLISHMENT OF AN E-911 EMERGENCY SERVICES ADVISORY COMMITTEE.-- There is hereby established an advisory committee to be known as the E-911 Emergency Services Advisory Committee.

(b) MEMBERS.-- The advisory committee shall be comprised of the following persons:

(1) The director of the agency or his designee, who shall act as chairperson.

(2) Two county commissioners.

(3) Four county 911 program managers.

(4) Four wireless providers licensed by the Federal Communications Commission.

(5) Two landline telephone service provider representatives.

(6) Two representatives each from fire services, emergency medical services and police.

(7) The chairman and minority chairman of the Communications and Technology Committee of the Senate and the chairman and minority chairman of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives, or their designees.

The Governor, upon recommendation of the applicable Statewide organizations, associations and industry segments, shall appoint the committee members, who will each serve a two-year term. Advisory committee membership shall be limited to one representative per organization or corporate entity.

(c) ROLES AND RESPONSIBILITIES.-- The advisory committee shall make recommendations to the agency regarding the formulation of technical, administrative and operational standards for use in overseeing 911 programs Statewide.

35 P.S. § 7021.3

(d) REIMBURSEMENT.-- The members of the advisory committee shall serve without compensation but shall be reimbursed for their actual and necessary travel and other expenses in connection with attendance at meetings called by the chairperson.

(e) ADVISORY COMMITTEE SUBCOMMITTEES.-- The chairperson may create, within the committee membership, subcommittees to study and address specific technical and program areas:

(1) A wireless subcommittee shall be created as a permanent subcommittee and shall consist of the following persons:

(i) The advisory committee chairperson.

(ii) Two county commissioners.

(iii) Four county 911 program managers.

(iv) Four representatives of wireless providers licensed by the Federal Communications Commission.

(v) Two landline telephone service provider representatives.

(2) Wireless subcommittee roles and responsibilities:

(i) To advise the agency regarding the development, implementation, operation and maintenance of a Statewide integrated wireless E-911 system.

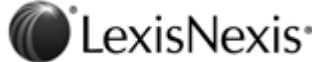
(ii) To make recommendations to the agency regarding the preparation and periodic revision of a wireless E-911 State plan providing for the development, implementation, operation and maintenance of a Statewide integrated wireless E-911 system in accordance with the FCC E-911 Order.

(iii) To make recommendations to the agency regarding the approval or disapproval of wireless provider service agreements and the formulation of technical standards.

(iv) To make recommendations to the agency regarding the development of guidelines, rules and regulations required to address the administration of the Statewide E-911 wireless plan and the disbursement of moneys from the Wireless E-911 Emergency Services Fund.

(v) To make recommendations to the agency regarding the development of the annual report required of the agency by this act, including, but not limited to, recommendations concerning adjustments of the wireless E-911 surcharge.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.



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35 P.S. § 7021.4 (2008)

Legislative Alert: LEXSEE 2009 Pa. HB 718 -- See section 1.

§ 7021.4. Wireless E-911 Emergency Services Fund

(a) ESTABLISHMENT OF FUND.-- There is hereby established in the State Treasury a nonlapsing restricted interest-bearing account to be known as the Wireless E-911 Emergency Services Fund. The fund shall consist of the fees collected under subsection (b), funds appropriated by the General Assembly and of funds from any other source, private or public. Moneys in the fund and the interest it accrues is hereby appropriated to the Pennsylvania Emergency Management Agency to be disbursed by the agency. The moneys in the fund shall be used only for the following costs:

(1) PSAP and wireless provider costs resulting from compliance with the FCC E-911 Order, including development, implementation and testing, operation and maintenance of a Statewide integrated wireless E-911 system. Costs paid from the fund must be eligible recurring or nonrecurring costs as determined by the agency in accordance with sections 11.2(a) and 11.5 for wireless E-911 service provided in accordance with the FCC E-911 Order or a county plan or amended county plan approved by the agency.

(2) The agency-approved costs of PSAPs specified in section 8(b) that relate directly or indirectly to the provision of wireless E-911 service, to the extent:

(i) the costs are not included in the costs paid under section 11.4(a) (1) and the approved E-911 costs provided in section 11.4(a)(1) have been reimbursed; and

(ii) the costs do not exceed the percentage of the actual ratio of demonstrated wireless calls to demonstrated total emergency call volume times the amount of money in the fund, and further:

(A) the amount of the costs that may be reimbursed is limited to 25% of the fund if a majority of wireless providers serving the geographic area covered by the PSAP have been tested and accepted

by the PSAP for wireless E- 911 Phase I service;

(B) the amount of the costs that may be reimbursed is limited to 50% of the fund if all of the wireless providers serving the geographic area covered by the PSAP have been tested and accepted by the PSAP for wireless E- 911 Phase I service;

(C) the amount of the costs that may be reimbursed is limited to 75% of the fund if a majority of wireless providers serving the geographic area covered by the PSAP have been tested and accepted by the PSAP for wireless E- 911 Phase II service; and

(D) the amount of the costs that may be reimbursed is limited to 100% of the fund if all of the wireless providers serving the geographic area covered by the PSAP have been tested and accepted by the PSAP for wireless E- 911 Phase II service.

In the event that, pursuant to an FCC E-911 waiver, a wireless provider is temporarily relieved of its obligation to provide wireless E-911 Phase II service in the geographic area covered by a requesting PSAP, such wireless carrier shall be disregarded in the determinations to be made pursuant to subparagraphs (iii) and (iv) until such time as the wireless carrier's obligation to provide wireless E-911 Phase II service again becomes effective.

(b) WIRELESS E-911 SURCHARGE.-- Each wireless service customer shall pay a fee, to be known as a wireless E-911 surcharge, in an amount of \$ 1 per month for each device that provides wireless service for which that customer is billed by a wireless provider for wireless service or receives prepaid wireless telephone service from a wireless provider. Such fee shall be collected apart from and in addition to any fee levied by the wireless provider in whole or in part for the provision of 911 services.

(1) Wireless providers shall collect the fee on behalf of the agency as part of their billing process and shall have no obligation to take any legal action to enforce the collection of the surcharge. Such action may be brought by or on behalf of the agency. Annually, upon written request of the agency, each wireless provider shall provide a list of the names and addresses of those wireless service customers carrying a balance that have failed to pay the wireless E-911 surcharge. The wireless provider shall not be liable for such unpaid amounts.

(2) If a wireless provider receives a partial payment for a monthly bill from a wireless service customer, the wireless provider shall apply the payment against the amount the wireless service customer owes the wireless provider first and shall remit to the State Treasurer such lesser amount, if any, as shall result therefrom.

(3) The fees collected under this subsection shall not be subject to taxes or charges levied by the Commonwealth or any political subdivision of this Commonwealth, nor shall such fees be considered revenue of the wireless provider for any purpose.

(4) In the case of prepaid wireless telephone service, the monthly wireless 911 surcharge imposed by this section shall be remitted based upon each prepaid wireless account in any manner consistent with the provider's existing operating or technological abilities, such as customer address, location associated with the MTN, or reasonable allocation method based upon other comparable relevant data and associated with Pennsylvania, for each wireless customer with an active

prepaid wireless account and has a sufficient positive balance as of the last day of each month, if such information is available.

(c) REMITTANCE OF FEES.-- On a quarterly basis, each wireless provider shall remit the fees collected under subsection (b) to the State Treasurer for deposit into the fund.

(d) REIMBURSEMENT OF WIRELESS PROVIDER AND PSAP COSTS.--

(1) From every such remittance, the wireless provider shall be entitled to deduct and retain an amount not to exceed 2% of the gross receipts collected as reimbursement for the administrative costs incurred by the wireless provider to bill, collect and remit the surcharge.

(2) Wireless providers and PSAPs shall be entitled to payment from the fund, in the manner provided in section 11.5(c), for the following costs:

(i) Recurring costs approved by the agency pursuant to agency rules associated with the development, implementation, operation and maintenance of wireless E-911 service in the geographic area served by the requesting PSAP; and

(ii) Nonrecurring costs approved by the agency pursuant to agency rules associated with the development, implementation, operation and maintenance of wireless E-911 service in the geographic area served by the requesting PSAP.

(3) In no event shall any costs be paid that are not related to a wireless provider's or PSAP's compliance with requirements established by the wireless E-911 State plan, the FCC E-911 Order or the wireless E-911 provisions of an agency-approved county plan or amended county plan.

(4) Costs incurred by a PSAP or wireless provider for wireless E-911 service shall be paid by the agency provided that the costs comply with the requirements of this section and section 11.5, were incurred after January 1, 1998, and are determined by the agency, after application in accordance with section 11.5(c), to be eligible for payment from the fund. Any such costs that the agency determines to be eligible shall be paid as provided in section 11.5.

(5) Nothing in this act shall prevent a wireless provider from recovering its costs of implementing and maintaining wireless E-911 service directly from its customers, whether itemized on the customer's bill or by any other lawful method. No wireless provider that levies such a separate fee for provision of E-911 wireless service in the geographic area served by the requesting PSAP may receive a reimbursement for the same costs.

(e) REPORTING BY WIRELESS PROVIDERS.-- With each remittance a wireless provider shall supply the following information to the State Treasurer and to the agency:

(1) The total fees collected through the wireless E-911 surcharge from its wireless service customers during the reporting period.

35 P.S. § 7021.4

(2) The total amount retained by it as reimbursement for administrative costs to cover its expenses of billing, collecting and remitting the fees collected from the wireless E-911 surcharge during the reporting period.

(3) Until all nonrecurring costs have been recovered by a wireless provider, the total amount it has been reimbursed by the agency for nonrecurring costs associated with the development, implementation, operation and maintenance of wireless E-911 service during the reporting period.

(f) **INFORMATION TO BE SUPPLIED BY WIRELESS PROVIDERS.**-- All wireless providers shall provide the agency with such information as it shall request in writing in order to discharge its obligations under this section, including, but not limited to, the collection and deposit of the wireless E-911 surcharge and its administration of the fund. Information supplied by wireless providers pursuant to this section shall remain confidential, and release of such information shall be governed by section 11.7.

(g) **PROHIBITION.**-- No part of the fund, including any excess amount under section 11.6(a), shall be used for any purpose unless expressly authorized by this act.

(h) **SURCHARGE SUNSET.**-- The wireless E-911 surcharge fee established in subsection (b) shall terminate on June 30, 2009, unless extended by an act of the General Assembly.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, see § 6 of this Act for eff. date information.; Act 2004-179 (S.B. 432), § 1, approved , eff. immediately.



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35 P.S. § 7021.5 (2008)

§ 7021.5. Disbursement of fund amounts by agency

(a) EXPENDITURES FOR WIRELESS E-911 SYSTEMS.-- During each fiscal year the agency may, only in furtherance of the Wireless E-911 State plan, disburse moneys from the Wireless E-911 Emergency Services Fund to PSAPs with agency-approved county plans or amended county plans and wireless providers for the following purposes:

(1) To pay the costs of PSAPs and wireless providers provided for in section 11.4(a)(1) and (d)(2) and the costs of PSAPs provided for in section 11.4(a)(2).

(2) To train emergency service personnel regarding receipt and use of wireless E-911 service information.

(3) To educate consumers regarding the operations, limitations, role and responsible use of wireless E-911 service.

(b) LIMITATIONS ON USE OF FUND AMOUNTS BY PSAPS.-- No PSAP shall receive a disbursement from the fund for any cost necessary to house the wireless E-911 system or for the purchase of real estate, cosmetic remodeling, ambulances, fire engines or other emergency vehicles, utilities, taxes and other expenses as determined by the agency. No more than 70% of the disbursements which a PSAP receives from the fund during the agency's fiscal year may be utilized to fund personnel training, salary and benefit costs.

(c) MANNER OF PAYMENT.-- Each PSAP and wireless provider shall submit to the agency each year, not later than 120 days before the first day of the agency's fiscal year, the eligible costs it expects to incur for wireless E-911 service during the next fiscal year of the agency. The submission may include eligible costs that the PSAP or wireless provider has already incurred for wireless E-911 service at the time of the submission. The agency shall review the submission, ensure that the costs are eligible for payment from the fund and notify the submitting PSAP or wireless provider, not later than 30 days before the first day of the agency's fiscal year, of the eligible costs. The agency shall pay to each PSAP and wireless provider, from the fund, the amount of the submitted costs the agency determined to be eligible, whether or not the costs have been incurred at or before the time of payment and whether or not the costs, if already incurred, were incurred prior to the effective date of this section. Payment shall be made in four equal payments during the first month of each quarter of the agency's fiscal year as follows:

(1) The agency shall first pay the costs approved for each PSAP that

are payable in the quarter.

(2) Following the payment of approved costs to a PSAP for Phase I deployment of wireless E-911 service, as set forth in the FCC E-911 Order, but only after the PSAP has issued its request to wireless providers to furnish Phase I wireless E-911 service pursuant to the FCC E-911 Order, the agency shall pay the approved costs of wireless providers that are payable in the quarter to provide the requested wireless E-911 service to that PSAP.

(3) Following the payment of approved costs to a PSAP for Phase II deployment of wireless E-911 service, as set forth in the FCC E-911 Order, but only after the PSAP has issued its request to wireless providers to furnish Phase II wireless E-911 service pursuant to the FCC E-911 Order, the agency shall pay the approved costs of wireless providers that are payable in the quarter to provide the requested wireless E-911 service to that PSAP.

(4) In any quarter of the agency's fiscal year, all costs specified in section 11.4(a)(1) that are approved by the agency for payment to PSAPs or wireless providers shall be paid before any other costs payable pursuant to this chapter are paid to any PSAP or wireless provider. In the first quarter of the agency's fiscal year, the agency shall determine whether payments to PSAPs and wireless providers during the preceding fiscal year exceeded or were less than the eligible costs incurred by each PSAP and wireless provider submitting costs during the fiscal year. Each PSAP and wireless provider shall provide verification of such costs as required by the agency. Any overpayment shall be refunded to the agency or, with the agency's approval, may be used to pay agency-approved costs the PSAP or wireless provider submitted for the current fiscal year of the agency. The amount of any underpayment will be paid to the PSAP or wireless provider in accordance with this subsection and subsection (d) within the current fiscal year. The agency shall reconsider a determination of eligible costs pursuant to this subsection upon request by a submitting PSAP or wireless provider and shall provide a procedure for such reconsideration.

(d) PRO RATA SHARING OF FUND AMOUNTS.--

(1) If the total amount of money in the fund in any quarter is insufficient to pay for both agency-approved PSAP costs and agency-approved wireless provider costs which are payable in the quarter under subsection (c) for both Phase I deployment and Phase II deployment of wireless E-911 service, as set forth in the FCC E-911 Order, then payments from the fund for that quarter shall be made as follows:

(i) The agency-approved Phase I deployment costs of a PSAP and those wireless providers to which the PSAP has issued its request for Phase I wireless E-911 service shall be paid before any agency-approved costs for Phase II deployment are paid.

(ii) If, notwithstanding subparagraph (i), the total amount of moneys in the fund in the quarter is insufficient to pay all Phase I

35 P.S. § 7021.5

deployment costs of both PSAPs and wireless providers which are payable in the quarter, then each requesting PSAP and each requesting wireless provider shall receive, for payment of Phase I deployment costs, a pro rata share of the total amount of moneys in the fund in the quarter.

(iii) If the total amount of moneys in the fund in the quarter is insufficient to pay all agency-approved Phase II deployment costs of both PSAPs and wireless providers which are payable in the quarter, then each requesting PSAP and each requesting wireless provider shall receive, for payment of Phase II deployment costs, a pro rata share of the total moneys in the fund which are available in the quarter for payment of Phase II deployment costs.

(2) For any PSAP or wireless provider, pro rata shares shall be computed based upon the total dollar amount of money available in the fund for payment of Phase I or Phase II deployment costs, whichever is applicable, multiplied by the ratio of:

(i) the total dollar amount of agency-approved but unpaid costs of that PSAP or wireless provider for Phase I or Phase II deployment, whichever is applicable; to

(ii) the total dollar amount of all agency-approved but unpaid costs.

(3) Any remaining unpaid agency-approved PSAP costs or wireless provider costs shall be carried forward for payment during the next fiscal quarter. Such carryforward process shall continue each fiscal quarter until all agency-approved PSAP costs and wireless provider costs have been paid. Pro rata and other payments under this subsection, including, but not limited to, payments of costs which are carried forward for payment in subsequent fiscal quarters, shall also be subject to all provisions and requirements of subsection (c) except for subsection (c)(1).

(e) **TRIENNIAL FINANCIAL AUDIT.**-- The agency shall require a triennial financial audit of each PSAP's use of the disbursements it has received from the fund and of a wireless provider's collection, deduction, retention, remittance and use of the amounts collected by the wireless provider under the wireless E-911 surcharge or the disbursements it received from the fund. These triennial financial audits shall be consistent with guidelines established by the agency, and the cost of each audit shall be paid from the fund.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.



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35 P.S. § 7021.6 (2008)

§ 7021.6. Reporting

(a) ANNUAL REPORT BY AGENCY.-- Not later than March 1 of each year, the agency, after consideration of the recommendations of the advisory committee, shall submit an annual report, which may be combined with that required by section 3(a)(5), to the Governor and the General Assembly. Subject to the provisions of section 11.7(b), the report shall include at least the following:

- (1) The extent to which wireless E-911 systems currently exist in this Commonwealth.
- (2) Those PSAPs which completed installation of wireless E-911 systems pursuant to the wireless E-911 State plan and the costs and expenses for installation.
- (3) An itemization by PSAP or wireless provider, project and description and expenditure for each Wireless E-911 Emergency Services Fund disbursement made in the fiscal year just concluded. The itemization shall include an explanation of how each project contributed to the fulfillment of the existing wireless E-911 State plan.
- (4) The planned expenditures for the next fiscal year for installation of wireless E-911 systems pursuant to the wireless E-911 State plan.
- (5) The total aggregate fees collected from all wireless providers in the fiscal year just concluded based upon the reports of such providers submitted under section 11.4(e) and any other funds received by the fund.
- (6) The amount of any unexpended funds carried forward in the fund.
- (7) The amount of any remaining unpaid agency-approved PSAP costs or wireless provider costs being carried forward for payment during the next fiscal quarter.

(8) Any advances in a wireless provider's system technology or expansion of its customer service area which further the goal of providing access to a wireless E-911 system regardless of the customer's geographic location on any interstate highway in this Commonwealth.

(b) **STUDY OF WIRELESS E-911 EMERGENCY SERVICES IMPLEMENTATION AND OPERATION.**-- The agency, after consideration of the recommendations of the advisory committee, shall report to the Governor and the General Assembly no less than triennially its recommendations concerning wireless E-911 implementation and operation, including, but not limited to, necessary or required actions which must be undertaken in response to the Federal Communication Commission's directive in the FCC E-911 Order. The report shall recommend measures to be taken by the General Assembly.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.



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35 P.S. § 7021.7 (2008)

§ 7021.7. Public disclosure and confidentiality of information

(a) ANNUAL REPORT OF THE AGENCY.-- The annual report of the agency shall be a public document.

(b) PROHIBITION AGAINST RELEASE OF INFORMATION.-- Neither the State Treasurer, the agency, nor any employee, agent or representative of a PSAP or public agency shall divulge any information acquired with respect to any wireless provider or VoIP provider, its customers, revenues or expenses, trade secrets, commercial information and such other proprietary information while acting or claiming to act as such employee, agent or representative, and all such information is hereby required to be kept confidential except that aggregations of information which do not identify or effectively identify numbers of customers, revenues or expenses, trade secrets, commercial information and such other proprietary information attributable to any individual wireless provider or VoIP provider may be made public.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.; Act 2008-72 (S.B. 385), § 2, approved July 9, 2008, eff. in 120 days.



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35 P.S. § 7021.8 (2008)

§ 7021.8. Wireless provider and VoIP provider records

(a) ACCESS.-- Upon request from and pursuant to agreement with a PSAP, each wireless provider shall provide E-911 service data base information and each VoIP provider shall provide VoIP service data base information or automatic location information as permitted under the law to the requesting PSAP. Such information shall remain the property of the disclosing wireless provider or VoIP provider and, except as otherwise provided by applicable Federal or State law, shall be used by the PSAP only in connection with providing emergency response services to a call to a 911 system or to a wireless E-911 system.

(b) VIOLATIONS.-- A person commits a misdemeanor of the third degree who:

(1) Uses or discloses wireless E-911 service data base information or VoIP service data base information for purposes other than handling a call to a 911 system or to a wireless E-911 system without the consent of the wireless service customer or VoIP service customer, or as otherwise provided by applicable Federal or State law.

(2) Knowingly uses the telephone number of a 911 system, wireless E-911 system or VoIP service data base information to avoid any charges for the services of a local exchange carrier, competitive local exchange carrier, interexchange carrier, wireless provider or VoIP provider.

(c) PRIVACY WAIVED.-- The provisions of *66 Pa.C.S. § 2906* (relating to dissemination of telephone numbers and other identifying information) shall have no application to wireless providers or VoIP providers to the extent they are engaged in providing wireless E-911 service, 911 service or related services.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.; Act 2008-72 (S.B. 385), § 2, approved July 9, 2008, eff. in 120 days.



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35 P.S. § 7021.9 (2008)

§ 7021.9. Immunity

(a) **GENERALLY.**-- No wireless provider or VoIP provider or its officers, directors, employees, agents or vendors shall be liable to any person for civil damages resulting from or caused by such provider's, its officers', directors', employees', agents' or suppliers' participation in or acts, failure or omissions in connection with that participation in the development, design, installation, operation, maintenance, performance or provision of wireless E-911 service or 911 service, except for willful or wanton misconduct.

(b) **PARITY OF LIABILITY.**-- A wireless provider or VoIP provider shall have the same immunity from liability for transmission errors or failures, network outages or other technical problems that arise in the course of handling emergency calls or providing emergency services, including wireless E-911 service, as a local exchange carrier enjoys in the course of handling such calls or providing such services.

(c) **RELEASE OF INFORMATION.**-- No wireless provider or VoIP provider or its employees or agents shall be liable to any person for releasing wireless service customer information or VoIP service customer information to the agency or to any 911 system or wireless E-911 system, public agency or PSAP as required by this act or any law.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.; Act 2008-72 (S.B. 385), § 2, approved July 9, 2008, eff. in 120 days.



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35 P.S. § 7021.10 (2008)

§ 7021.10. Agency funding for wireless E-911 support

The agency is authorized to retain up to 2% of the annual wireless E-911 surcharge proceeds to pay for agency expenses directly related to administering the wireless E-911 provisions of this act. This will include, but will not be limited to, personnel, travel, administrative, financial auditing and printing costs.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.



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35 P.S. § 7021.11 (2008)

§ 7021.11. Rate regulation

Nothing in this act shall be construed to constitute the regulation of the rates charged by wireless providers for any service or feature which they provide to their wireless service customers or to prohibit a wireless provider from charging a wireless service customer for any service or feature provided to such customer.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.



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35 P.S. § 7021.12 (2008)

§ 7021.12. Rules and regulations

The council shall have the power and authority to issue guidelines and to promulgate, adopt, publish, use and enforce rules and regulations for the implementation of this act and shall, within one year of the effective date of this act, after consideration of the recommendations of the advisory committee, promulgate such guidelines and rules and regulations as may be necessary to implement this act. Guidelines and rules and regulations proposed under the authority of this section shall be subject to review by the General Counsel and the Attorney General in the manner provided for the review of proposed rules and regulations pursuant to the act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act, and the act of June 25, 1982 (P.L. 633, No. 181), known as the Regulatory Review Act.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.



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35 P.S. § 7021.13 (2008)

§ 7021.13. Enforcement of provisions of act

In addition to any powers expressly enumerated in this act, the agency shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its rules and regulations or otherwise, all and singular, the provisions of this act, and the agency may institute injunction, mandamus or other appropriate legal proceedings to enforce the provisions of this act and regulations promulgated under it.

HISTORY: Act 2003-56 (H.B. 1018), § 6, approved Dec. 30, 2003, eff. in 90 days.

NOTES:

PENNSYLVANIA ADMINISTRATIVE CODE REFERENCES.

1. *4 Pa. Code § 89.1 (2008)*, Definitions.



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35 P.S. § 7021.14 (2008)

§ 7021.14. Collection and disbursement of VoIP 911 fee

(a) VOIP SERVICE CUSTOMER 911 CONTRIBUTION.--

(1) Each VoIP provider or telecommunications carrier, on the first monthly billing cycle after the effective date of this section, shall collect a \$ 1 fee per month for each telephone number or successor dialing protocol assigned by a VoIP provider to a VoIP service customer number that has outbound calling capability and remit the collection quarterly or, at the option of the provider or telecommunications carrier, monthly, less the actual uncollectibles experienced by the VoIP provider to the county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds or, as provided in subsection (d), to the State Treasurer. This fee shall be stated separately in the VoIP service customer's paper or electronic billing and the fee shall be collected apart from and in addition to any fee levied by the VoIP provider in whole or in part for the provision of 911 services or E-911 services.

(2) In the case of VoIP service customers purchasing multiple dial tone telephone access lines from a VoIP provider, the following multipliers shall be applied to determine the contribution rate of each customer:

(i) For the first 25 lines, each line shall be billed at the approved contribution rate.

(ii) For lines 26 through 100, each line shall be billed at 0.75 of the approved contribution rate.

(iii) For lines 101 through 250, each line shall be billed at 0.50 of the approved contribution rate.

(iv) For lines 251 through 500, each line shall be billed at 0.20 of the approved contribution rate.

(v) For lines 501 or more, each line shall be billed at 0.172 of the approved contribution rate.

(3) If a VoIP provider receives a partial payment for a monthly bill from a VoIP service customer, the VoIP provider may apply the payment against the amount the VoIP service customer owes the VoIP provider first and then shall remit to the county or the State Treasurer the lesser amount, if any, as shall result therefrom.

(4) The fees collected and remitted under this subsection shall not be subject to taxes or charges levied by the Commonwealth or any political subdivision of this Commonwealth, nor shall the fees be considered revenue of the VoIP provider for any purpose.

(5) As reimbursement for administrative costs to cover its expenses of billing, collecting and remitting the fees during the reporting period, the VoIP provider is allowed to retain for reimbursement up to 2% of the total fees collected under this subsection, if remitted to the county, or up to 1% of the total fees collected if remitted to the State Treasurer.

(6) To the extent that a VoIP provider obtains connections to the public switched telephone network from a telecommunications carrier, that telecommunications carrier shall not be required to assess or make contributions to any 911 or E-911 fund in connection with the customers or the telephone numbers for which the VoIP provider is responsible for collecting and making contributions under this section. If, however, the telecommunications carrier is, by agreement with the VoIP provider, required to make 911 or E-911 contributions on behalf of the VoIP provider customer, the VoIP provider will not be responsible for collecting and making contributions under this section.

(b) REPORTING BY VOIP PROVIDERS.-- With each remittance, a VoIP provider and telecommunications carrier shall supply the following information to the county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds or, as applicable under subsection (d), to the State Treasurer and to the agency:

(1) The total fees collected under subsection (a)(1) from its VoIP service customers during the reporting period. If the telecommunications carrier has remitted the fees to the county or the agency pursuant to an agreement with the VoIP provider, the VoIP provider must provide notification of such reporting agreement along with the telecommunications carrier's name and 911 or E-911 account number.

(2) All VoIP providers and telecommunications carriers shall provide the county or, if remitting to the State Treasurer, the agency with such information as it shall request, including the primary place of use of each interconnected VoIP service customer, in writing in order to discharge its obligations under this section, including, but not limited to, the collection and deposit of the VoIP fee and its administration of the fund. Information supplied by VoIP providers pursuant to this section shall remain confidential and release of such information shall be governed by section 11.7

(c) COLLECTION ENFORCEMENT.-- A VoIP provider has no obligation to take any legal action to enforce the collection of any fee imposed pursuant to this section.

(d) REMITTANCE OF FEES.-- Remittance of fees shall be to the county treasurer or, in a home rule county, the county official responsible for the collection and disbursement of funds, who shall deposit receipts into the Restricted Account established under section 7(c) Remittance to counties shall consist of the fees collected from VoIP service customers located in that county, less any reductions or administrative fees permitted by this section. The VoIP provider may instead, at its option, remit the fees to the State Treasurer for deposit and distribution as provided under subsections (e) and (f). Elections shall be by rules established by the agency, which shall include appropriate notification to the affected counties of the exercise of this option.

(e) ESTABLISHMENT OF FUND.-- There is hereby established in the State Treasury a nonlapsing restricted interest-bearing account to be known as the VoIP 911 Emergency Services Fund. The fund shall consist of the fees remitted to the State Treasurer pursuant to this section.

(f) DISTRIBUTION OF FEES.-- Moneys in the fund established by subsection (e) and the interest it accrues are hereby appropriated on a continuing basis to the agency to be disbursed by the agency. The agency shall make quarterly disbursements from the account to each county by March 31, June 30, September 30 and December 31 of each year in an amount equal to the amount of fees collected from VoIP service customers located in that county and for the purpose of assisting counties with the implementation of an agency-approved plan adopted under section 5 The agency may retain up to 1% of the fees for costs incurred in administering this subsection.

HISTORY: Act 2008-72 (S.B. 385), § 3, approved July 9, 2008, eff. in 120 days.