NENA Model Baseline Guidelines for Drafting Statutes or Rules Associated with Prepaid Wireless Service and 9-1-1 Emergency Service Fees

Regulatory/Legislative Information Document (RLID)

NENA Model Baseline Guidelines for Drafting Statutes or Rules Associated with Prepaid Wireless Service and 9-1-1 Emergency Service Fees Regulatory/Legislative Information Document
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1 Executive Overview

This document is provided as a model baseline guideline for those responsible for drafting statutes or rules associated with prepaid wireless service and 9-1-1 emergency service fees. While not full model legislation, the model guidelines are intended to assist in the drafting of new or modified rules, regulations or statutes concerning the application of 9-1-1 fees/surcharges for prepaid wireless service.

2 Introduction

2.1 Purpose and Scope of Document

This document is intended to assist the drafting of new or modified rules, regulations or statutes concerning the application of 9-1-1 fees/surcharges for prepaid wireless service. The language provides more than one method for implementing a 9-1-1 fee/surcharge for prepaid wireless service. This approach was taken due to the reality that not all stakeholders in the states (prepaid wireless service providers, retail providers, 9-1-1 governing authorities, Public Safety Answering Points (PSAPs) and others) will necessarily agree on a single method to impose and collect a 9-1-1 fee for prepaid wireless service. The options described in the document have largely been taken from versions of existing state statutes with some modifications.

2.2 Reason to Implement

This document has been issued because prepaid wireless service is a growing segment within the overall consumer wireless industry. Increasingly, consumers are opting for a form of prepaid wireless service whereby a specified number of minutes are purchased at retail outlets or online rather than the traditional monthly billed wireless service. This form of wireless service offers challenges in implementing a 9-1-1 fee and does not always fit nicely within statutes/regulations that may not have fully contemplated these types of services. This is particularly true for those wireless providers whose only service offerings are in the form of a prepaid service. Nonetheless, ensuring that the 9-1-1 system is funded in a fair and equitable manner is a priority for the sustainability of the 9-1-1 system.

2.3 Reason for Reissue

NENA reserves the right to modify this document. Upon revision, the reason(s) will be provided in this section.

2.4 Cost Factors

There will be some costs associated with the administration, collection and remittance of 9-1-1 fees associated with prepaid wireless service. Cost factors are also currently present for the collection of 9-1-1 fees for post-paid wireless and wireline service providers. Costs for any stakeholders involved in the administration, collection and remittance of prepaid wireless 9-1-1 fees should be addressed in rules, regulations or statutes that are developed for prepaid wireless service. (Currently, a one or two percent administrative fee has been used in practice to defray collection and remittance costs)
3 Model Baseline Guidelines for Drafting Statutes or Rules Associated with Prepaid Wireless Service and 9-1-1 Emergency Service Fees

3.1 Purpose and Rationale

Because the issue of prepaid wireless service and wireless 9-1-1 fees/surcharges (hereinafter “wireless 9-1-1 fees”) is being considered or studied by legislative, administrative, regulatory, tax and/or policy making bodies, specific basic model guidelines for drafting may assist these bodies and other interested parties on these issues and may promote greater fairness, parity, and stabilization of wireless 9-1-1 fees and 9-1-1 funding associated with growing consumer use of prepaid wireless service.

3.2 Basic Definitions

"Prepaid wireless service" means wireless service that is activated in advance by payment for a finite dollar amount of service or for a finite set of minutes that terminates either upon use by a customer and delivery by the wireless provider of an agreed-upon amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following the initial purchase or activation, unless the customer makes additional payments. The term does not include a wireless service plan that automatically charges the customer’s or subscriber’s credit card, debit card, or registered financial account for a specific amount on a recurring date or arrangement.

"Prepaid wireless telephone service provider" means a cellular or wireless telecommunications service provider that sells prepaid wireless telephone service at wholesale or retail.

“Retail” means sales by a prepaid wireless telephone service provider directly to the end user customer or to a non-prepaid wireless telephone service provider through a voluntary contractual relationship in which the service is sold directly to the end user customer on behalf of the prepaid wireless telephone service provider.

“Wholesale” means sales by the prepaid wireless telephone service provider to a non-prepaid wireless telephone service provider who sells service on behalf of the prepaid wireless telephone service provider.

3.3 Basic Alternatives

For prepaid wireless service, the prepaid wireless telephone service provider shall:

(1) collect the wireless 9-1-1 fee on a monthly basis from each customer whose account balance is equal to or greater than the amount of the wireless 9-1-1 fee on the last day of the month for remittance to the government entity; or

(2) collect the wireless 9-1-1 fee, or make voluntary contractual arrangements with a retail seller of prepaid wireless telephone service to collect the wireless 9-1-1 fee and transfer those funds to the wireless
telephone service provider for remittance to the governmental entity, from the customer at the point-of-sale for each 30-day increment of prepaid wireless telephone service that is purchased at the time of sale. [note: states may wish to provide more detail in defining “30 day increment” or consider alternative increments. Such detail could be provided in the statute or be adopted via a rulemaking if applicable], or

(3) collect the wireless 9-1-1 fee indirectly from customers by calculating the total wireless 9-1-1 fee owed by its customers and remitting that amount to the government entity. A prepaid wireless telephone service provider that elects the collection method specified in this subparagraph must calculate the total wireless 9-1-1 fee owed for the month by:

(A) dividing its total intrastate prepaid wireless revenue for the month by the national Average Revenue Per User for prepaid wireless service, as defined by the relevant statutory agency [note: several state statutes incorporate $50.00 as the national Average Revenue Per User amount; statutes may want to have the ARPU determined by FCC reports, if available]; and

(B) multiplying the result obtained under subparagraph (1) by the amount of the wireless 9-1-1 fee.

3.4 Monitoring and Enforcement

(1) In general, regardless of the method of collection chosen, the wireless service provider shall be subject to audit by the governmental entity and shall be subject to penalties and interest for violations or improper remittances to the governmental entity for each violation or improper remittance.

(2) The wireless service provider that enters into voluntary contractual arrangements with a retail seller of prepaid wireless telephone service to collect the wireless 9-1-1 fee and transfer those funds to the wireless telephone service provider for remittance to the governmental entity shall provide to the governmental entity a monthly list of each of such retail seller and the amount of funds transferred and remitted to the governmental entity. Both the wireless service provider and the retail seller shall be subject to audit by the governmental entity and shall be subject to penalties and interest for violations or improper remittances to the governmental entity for each violation or improper remittance.

(3) The wireless service provider that provides both prepaid and postpaid wireless services shall separately identify the amount of prepaid and postpaid wireless services in its remittance reports to the governmental entity.

4 Point of Sale Approach

This document articulates three methods for providers of prepaid wireless telephone service to choose from to collect 9-1-1 fees on behalf of their customers, including a voluntary contractual arrangement with retail outlets that sell prepaid service. Some, including the Cellular Telecommunications and Internet Association (CTIA), advocate a model that mandates collection by retail outlets as the only method for 9-1-1 fee
collection, referred to as the “Point of Sale (POS) Model”. At this time, NENA does not support the POS model as the only approach to collecting 9-1-1 fees for prepaid wireless sales. However, NENA and others in public safety remain open to further discussions with representatives of the wireless and retail industries to pursue the potential viability of this option.