

911 Surcharge Clarification

Proposed clarification of how access lines are counted for the enhanced 911 surcharge

**New Mexico Science, Technology, and Telecommunications
Legislative Committee**

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Why is this clarification needed?

New Mexico's statute is ambiguous about how 911 fees are assessed on access lines.

That ambiguity led to litigation seeking to charge every phone number behind a customer's PBX, rather than the maximum number of simultaneous 911 calls that location can place.

The clarification in one sentence

Count the provider-enabled capacity for simultaneous calls to the public switched telephone network, not the number of internal extensions behind customer equipment.

What changes

The definition gains a measurable technology-neutral capacity standard that is consistent with long-standing practice and federal law.

What does not

The surcharge remains a monthly charge supporting New Mexico's 911 system.

Proposed language

In plain terms: count the calls a line can place to 911 at once, not the phones behind the PBX.

New language shown in gold; deleted language struck through.

“access line” means ~~a telecommunications company’s line that has the capability~~ **the number of simultaneous calls a telecommunications company’s line can make** to reach local public safety agencies by dialing 911, **regardless of hardware, technology or actual use**, but does not include a line used for the provision of interexchange services or commercial mobile radio service;

“enhanced 911 surcharge” means the monthly uniform charge assessed on each access line in the state, **measured by the number of access lines for which the access line provider enables the capacity for simultaneous calls to be connected to the public switched telephone network, regardless of hardware, technology or actual use and** on each active number ...

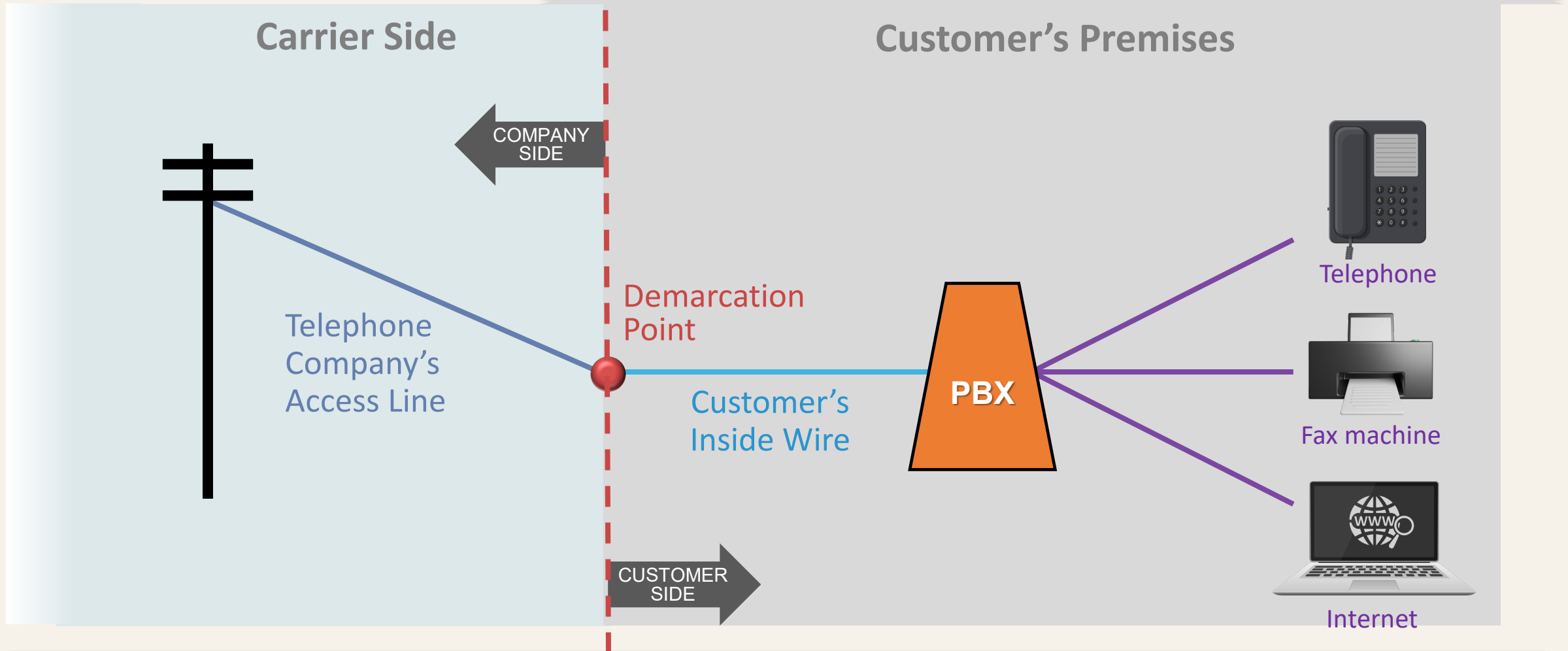
Measure: simultaneous call capacity

Network point: connection to PSTN

Neutrality: hardware and technology

The provider's line ends at the demarcation point – extensions behind the PBX are the customer's.

Where the provider's access line ends and customer equipment begins.



Federal law requires billing 911 charges by simultaneous call capacity

The amendment aligns New Mexico with an existing standard, upheld on review.

2019 FCC VoIP Parity Order

The FCC clarified that 911 fees must be assessed in a technology-neutral manner. Subscribers with the same 911 calling capacity should pay comparable 911 fees regardless of whether service is provided over traditional telephone networks or VoIP.

2021 Eleventh Circuit upholds the order

Autauga Cnty. Emergency Mgmt. Comm'n Dist. v. FCC, 17 F.4th 88, 100 (11th Cir. 2021), holds that 47 U.S.C. § 615a-1(f)(1) requires 911 fees to be based on maximum concurrent call capacity.

“911 fees non-governmental entities impose and collect must be based on maximum concurrent call capacity.”

— Autauga County v. FCC, 17 F.4th 88, 100 (11th Cir. 2021)

Key questions, answered upfront

Will this impact current 911 collections across the state?

No. The current amount of collections is already based on the long-standing industry practice of assessing fees based on the maximum number of simultaneous calls that could be made.

Does this reduce access to 911?

No. The proposal concerns how the surcharge unit is counted, not whether a user can dial 911.

Why use simultaneous capacity?

The number that matters for 911 is not how many phone numbers a customer has, but how many emergency calls that customer can place at the same time.

Is the proposal technology-specific?

The draft expressly applies regardless of hardware, technology or actual use.

Does this proposal impact the customer surcharge?

No. The proposal does not change the surcharge rate. It simply clarifies the measurement method so customers with the same 911 calling capability are assessed on a consistent, technology-neutral basis.

Our request

We respectfully request that the committee endorse the clarifying amendment to the definitions of “access line” and “enhanced 911 surcharge.”

Why the committee can support it

No change to rates or 911 access

The surcharge rate, current collections, and every customer’s ability to dial 911 remain exactly as they are today.

Matches long-standing practice

Providers have assessed the surcharge on simultaneous call capacity for decades; the amendment writes existing practice into the statute.

Consistent with federal law

The FCC’s 2019 VoIP parity order and the Eleventh Circuit require 911 fees to be based on maximum concurrent call capacity.

Questions?

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