Taxing Voice over Internet Protocol (VoIP) To Support Enhanced 911 (E911) Programs

November 1, 2005

A report to the Legislature by the Washington State Military Department and Department of Revenue in compliance with requirements set forth in ESSB 6090, Section 151, Chapter 518, Laws of 2005.

Taxing Voice over Internet Protocol (VoIP) To Support E911 Programs

Executive Summary **1**

1. Introduction **2**

2. Purpose **2**

- Legislative Mandate 2

3. Situation **3**

- Increase in VoIP Usage 3
- E911 Program Tax Revenue Structure 3
- How VoIP works 4
- How VoIP Service is Provided 5
  - By Phone Service Provider 5
  - By TV Cable Service Provider 5
  - By Electrical Utility Service Provider 5
  - By Third Party Via Internet 6
- How Does E911 Tax Work Under Current Law 6
- Concept of Taxable Nexus 8
- Revenues Impacts 9

4. Possible Ways to Tax VoIP for Enhanced 911 Support **9**

- Tax Phone Numbers, Not Switched Access Lines 9
- Tax the Service Provided 11
- Clarify the Definition of Switched Access Line 11

5. Recommendation **12**

Endnotes: **13**

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Executive Summary

Voice over Internet Protocol (VoIP) as a technology supporting voice telecommunications has become a prominent concern for Enhanced 911 systems. The technology is promoted as the replacement for traditional telephone services. Until recently it did not provide Enhanced 911 (E911) calling capabilities equal to those provided by wireless and wireline services; however that capability is now being implemented. There remain questions concerning state and local government's ability to apply E911 excises taxes to the service and to require tax collection by the providers. In April 2005, the Legislature requested that the Military Department in conjunction with the Department of Revenue review the issue and report on suggestions for assuring that Voice over Internet Protocol services be taxed on a par with wireless and wireline telephone services.

The Federal Communications Commission recently required VoIP phone systems to have the ability to indicate to an E911 emergency dispatch center the location of the person using the system and for the VoIP system to have the ability to place a call to the proper E911 emergency dispatch center. The tax parity issue depends upon whether or not a company providing VoIP services has taxable nexus or a physical presence in Washington.

There are a number of options ranging from the modification of definitions to a general revision of the basis for the tax that may help resolve this issue. Various technologies used to provide VoIP services further complicate any of the possible solutions explored in this report. VoIP providers' business models may set up conditions that create no nexus in Washington. Therefore, the state may have no means to enforce collection and remittance of the tax.

The time provided to compile this brief report does not allow for a complete, collaborative, in-depth examination of the issues involving VoIP providers and other communications businesses or the technologies used to provide Internet Protocol services. Additional time is needed to study the possible ways of establishing provider nexus for the purposes of collecting and remitting taxes on subscribers. In addition, federal law and state tax streamlining efforts further complicate the discussion of what communications can be taxed and how. The Military Department and Department of Revenue recommend a more in-depth examination of VoIP and other now emerging communications technologies. Following a thorough examination a report of recommended solutions for taxing VoIP services will be provided to the Legislature in time to be considered in the 2008 session.

Taxing Voice over Internet Protocol (VoIP)
To Support E911 Programs

1. Introduction

Voice over Internet Protocol (VoIP) is a technology for providing voice grade telecommunications services using internet connections to replace the traditional wireline or wireless (cell phone) circuit switched telephone systems. In effect, it permits a voice conversation with someone at another location using the same tools that permit email messaging. It is a change in call transmission and call management technology, but because internet service providers are offering it with a new business model it is often considered a new type of telecommunications service.

For E911 programs, VoIP provides two challenges. First VoIP must be integrated into the technical operations of the traditional Enhanced 911 systems to provide caller location. Second, not all subscribers are paying the same Enhanced 911 excise taxes as the competitive traditional wireline and wireless telephone services. Many believe that the persons using VoIP service should be paying the same small, monthly tax that wireline or wireless phone service subscribers pay.

The first issue becomes moot with the requirement from the Federal Communications Commission that VoIP providers integrate their services to provide wireline like Enhanced 911 connectivity by November 28, 2005. The Federal Communications Commission may extend this deadline. Because most major VoIP providers will be close to compliance by the deadline, any extension would likely be for only a short period. The second parity of taxation issues for Enhanced 911is the subject of this report to the Legislature.

2. Purpose

- Legislative Mandate

The 2005-07 Budget included the following proviso:

> *"No funds from sources other than fees from voice over internet protocol (VOIP) providers may be used to implement technologies specific to the integration of VOIP 911 with E911. The military department, in conjunction with the department of revenue, shall propose methods for assuring the collection of an appropriate enhanced 911 excise tax from VOIP 911 providers and shall report their recommendations to the legislature by November 1, 2005."*

The second sentence of the proviso directs the Military Department in conjunction with the Department of Revenue to look at VoIP technologies and

to suggest to the Legislature methods for ensuring that the State Enhanced 911 excise tax is appropriately applied to VoIP services. Responding to this requirement is the primary focus of this paper.

3. Situation

- Increase in VoIP Usage

Telegeograph, a firm doing communications market research, estimates that by the end of 2005 more than four million people or businesses in the United States will be VoIP subscribers. VoIP usage has grown to become approximately one percent of the United States telecommunications market.[1] This figure is limited to the companies offering telephone services in competition to traditional service providers. These providers may also be utilizing VoIP technology within their networks but do not publicly distinguish between or describe the technologies they are using. The cost for a provider to implement VoIP services to the consumer is generally lower than those for traditional phone communications services. This is especially true where the implementation can be done over existing infrastructure such as cable TV connections or telephone lines. Some industry watchers have predicted that VoIP will become the primary type of telephone technology in very few years. However, the current consumer economic advantages may be limited to savings in long distance costs and the fact that few, if any, state or local taxes or fees are applied to the service. Wireline long distance costs continue to drop as wireless companies offer nationwide toll free calling. This may negate some of the long distance cost savings one receives by using VoIP services.

There are several bills in Congress that would enforce the concept that VoIP, as a telephone service application should be treated equally with traditional services diluting the VoIP tax advantage. However, to date, these measures are not close to passing. Those factors combined with VoIP quality issues, such as signal delays, signal loss, and poor sound quality, may limit VoIP's growth. In contrast, VoIP can be used by cable TV providers to provide telephone services to existing customers as an attractive package. VoIP as and "add-on" to TV cable service could increase its use.

- E911 Program Tax Revenue Structure

The Washington Enhanced 911 Program was implemented in 1992 as a result of Referendum 42. At the time, the program was financed by a 20¢ per phone line per month statewide excise tax on telephone services. The Referendum also permitted counties to implement a 50¢ per line per month excise tax for

[1] The FCC reported that there were 178 million wireline customers (ILEC+CLEC) and 181 million wireless customers at the end of 2004. Current estimates of the number of VoIP customers vary from 3 to 4 million subscribers. Wireless continues to grow at 15% per year while wireline is relatively stable. VoIP is seen as a direct replacement for wireline.

911 emergency telecommunications systems and included provisions that counties would not be eligible for state assistance until the locally collected funds had been expended. The excise taxes were applied to switched access lines as the definition of a taxing unit. In 2002, the legislature extended the Enhanced 911 tax collections to radio access lines (cell phones) to achieve tax parity for wireline and wireless services. The service provider collects the tax and pays it to the Department of Revenue, which deposits the tax in the Enhanced 911 account maintained by the State Treasurer. Although the tax collections are deposited into a single fund, the Office of Financial Management requires that the Military Department track all revenue and expenditures separately for wireless and wireline services.

- How VoIP works

Voice over Internet Protocol is a technology that permits telephone calls to be made over internet services. The internet is a system of connected data facilities using a common protocol for the transmission of data between connected equipment. It is an advanced packet network where all transmitted information is carried in packets or groups of digital code of a predefined size. Each packet has an address to which it is sent so that the network can deliver it. Although for voice applications there are subtle differences in how packets are managed, the technology is the same as that used for delivering email or in retrieving information from web sites.

All information is sent in these packets and the route any particular packet takes can vary from others in the same data set. For example in a phone conversation between a person in Seattle and another person in Miami, the different sounds making up one word could be broken into digital packets. One packet could be routed via satellite to New York and on to Miami, another routed by microwave transmission to Chicago and then by landline to Miami and yet another by fiber optic cable to St. Louis and then by microwave to Miami. The equipment along the way can hold packets for a very short time if congestion is encountered. The packets are reassembled in correct order at the receiving end. Voice transmission is packet intensive requiring high-speed internet services to keep the voice signal from being distorted. The prevalence of high capacity optic fiber data circuits for transmitting internet data makes VoIP practical.

One aspect of VoIP service that differs from other internet services is that at some point, if the telephone call is to a non-VoIP telephone, such as a receiving phone in an E911 emergency dispatch center, the call must be translated back to traditional circuit switched protocols for connection to the called party.

- How VoIP Service is Provided

  - By Phone Service Provider

    Local Exchange Carrier (LEC) telephone companies, both regulated and non-regulated, have used VoIP technologies within their networks for some time for certain special applications. These applications may not be apparent to the customers or the public. The telephone companies have in many areas made Digital Subscriber Line (DSL) services available to customers who want high-speed internet connections. This DSL connection generally is an added service to a customer's traditional circuit switched voice line and is capable of VoIP transmission.

  - By TV Cable Service Provider

    Cable television service providers, due to the nature of cable television transmission facilities, have been able to offer customers high-speed internet services. These companies are now using the internet service to add telephone service utilizing VoIP technologies. Because of the size of their networks and ownership of networks in many markets, these local VoIP offerings are typically connected to a nationwide network, which permits improved subscriber-to-subscriber call management.

  - By Electrical Utility Service Provider

    A relatively new technology permits the transmission of Voice over Internet Protocol signaling over existing power lines. At this time, it is questionable if this technology can support VoIP and provide the same quality of voice communications other VoIP media provide. However, it should be assumed that its capabilities would be improved as the technology matures. This could provide more opportunities for VoIP based telephone service offerings by power utilities. In addition, to providing service over power lines, it should be noted that many of the power utilities in the Pacific Northwest have installed fiber based communications networks that are suitable for high-speed VoIP services. Most of these companies are currently restricted by Washington statutes from entering the consumer market for telecommunications services, but the capability certainly exists for them to become VoIP based telephone providers using either their power lines or their fiber networks.

- By Third Party Via Internet

Third party providers have recognized that the large number of households with high-speed internet connections creates a potential market for the introduction of VoIP telecommunications services. They have also recognized that the advent of a competitive wireline telecommunications market has resulted in companies with nation-wide access to the Public Switched Telephone Network (PSTN). To provide consumer telephone service using Internet Protocol requires that the company supply to the customer an Analog Terminal Adapter (ATA) that connects the existing telephones to the customer's existing internet connection, and a method of translating the call back to, or accepting calls from, the Public Switched Telephone Network. The Analog Terminal Adapter is readily available technology and multiple Competitive Local Exchange Carriers (CLEC) exist that can provide the PSTN access. *(See Endnote B)*

This business model has many variations depending on how the service is marketed and how involved the provider chooses to be in managing the call transport facilities. The service could be sold over the internet with the ATA delivered by carrier services for the customer to install, or the service could be sold through local representatives who deliver and install the ATA. The transport could be processed over the internet with widely dispersed connections to the PSTN supplied by a contract with a CLEC, or the VoIP provider could acquire access to telecommunications transport facilities and manage much of the network used to support customer calling. Thus, a VoIP service provider does not necessarily have a physical presence or physical activity in Washington sufficient to create a legal responsibility to collect and remit E911 taxes.

- How Does E911 Tax Work Under Current Law

Under current statutes, the Enhanced 911 Excise tax is applied to switched access lines[2] and radio service lines[3]. Cell phone services, or radio services

2 (3) RCW 82.14B.020 defines the taxing of landline phone service in terms of Switched Access Line: "Switched access line" means the telephone service line which connects a subscriber's main telephone(s) or equivalent main telephone(s) to the local exchange company's switching office. "Local exchange company" has the meaning ascribed to it in RCW 80.04.010, "Local exchange company" means a telecommunications company providing local exchange telecommunications service.

[3] RCW 82.14F.030 (4) A state enhanced 911 excise tax is imposed on all radio access lines whose place of primary use is located within the state in an amount of twenty cents per month for each radio access line. The tax shall be uniform for each radio access line. The tax imposed under this section shall be remitted to the department of revenue by radio communications service companies, including those companies that resell radio access lines, on a tax return provided by the department. Tax proceeds shall be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540. The tax imposed under this section is not subject to the state sales and use tax or any local tax.

lines, are taxed to provide tax parity with wireline telephone services. It was relatively easy for the state to define since Cellular Mobile Radio Service customers as subject to the E911 excise taxes. The Federal Communications Commission declared that cell phone service was a telecommunications service like wireline service when it decided to make available radio frequencies for wireless telecommunications applications. "Switched access line" is a widely used but relatively archaic term that stems from the early days of telephone service. At that, time connections between customers were actually a pair of wires. The connection was established by a physical switching action, beginning with telling an operator who you wanted to connect to and later evolving to a capability to spin a dial that caused a switching device to close connecting relays. In today's telephone systems the dialing is most often accomplished with a keypad that generates tones interpreted by a computerized switch that establishes a virtual connection to the called party[4]. That virtual connection can vary depending on circumstance from a fixed talk path between the parties to the transmission of digitized voice packets on very high capacity digital networks. Though not technically accurate, the definition continues to be serviceable more because it is based on the function performed rather than on the actual technology employed and the embedded billing systems of the telephone service providers use this functionality for defining the elements of customer bills. Where digital telephone services to the customer are used, the Department of Revenue has in cooperation with carriers adopted definitions for those services to provide a guide to taxation based on the functional concept of a single voice path being the taxable equivalent to a "switched access line." The service providers collect the tax from the subscribers and forward the collected tax to the Department of Revenue.

It should be noted that one of the concerns raised about the state is the ability to tax VoIP services was that internet taxes were precluded by Federal statute. In renewing that prohibition against the taxation of internet services, Congress made a clear and specific provision that state and local taxes for the support of 911 is not prohibited by anything in the act. While the language does not prohibit taxes in support of E911 programs, neither does it expressly permit the taxation of VoIP services provided over the internet for the support of E911 programs. At the same time, many view the Internet Tax Freedom Act and other similar legislation as limiting the state's ability to apply taxes to services or property purchased over the internet. Unfortunately, this still leaves the state with unanswered legal questions about whether or not a phone service provided over the internet can be taxed for the purposes of supporting E911 programs.

[4] The switching is done with digital switching systems that process the voice internally as data packets and which generally do not even establish a call path until the called party answers.

- Concept of Taxable Nexus

Nexus is the term used to describe the concept that there must be a connection between an agent of the state that collects tax on behalf of the state (a telecommunications provider) and the state itself. In general, terms before a service provider is obliged to collect a tax in a state it must have a physical presence in the state. Wireline carriers and wireless carriers have a clear physical presence in the state. For some telecommunications providers utilizing VoIP such as cable television providers there will be a clear physical presence. However, for some companies who offer VoIP telecommunications services there may not be a clear physical connection since these companies' business model closely resembles that of mail order catalog sales companies or internet sellers.

The Federal Communications Commission has required all VoIP to provide connections to the Enhanced 911 systems so that calls to 9-1-1 appear to the PSAP, or emergency dispatch center, as they would with traditional wireline 9-1-1 calls by November 28, 2005. This requirement may have answered the nexus question for VoIP services depending on how physical connections to the E911 systems are deployed to meet this requirement[5]. To provide the required service, each VoIP carrier will need to establish service connections to every Enhanced 911 Selective (call) Router in Washington State. Although that connection can be and likely will be acquired under contract with a third party, the connection will be unique to the VoIP provider and will supply data to the PSAP that identifies the carrier. In addition, each carrier or its representative will need to gather information from all counties in the State and will need to provide ongoing assistance for emergency purposes. Implementing these requirements may or may not create nexus between VoIP providers and Washington. The specific activities undertaken will determine whether the E911 tax has to be collected from subscribers.

This last point underscores the problems the state has in pinning down a common way VoIP services are provided. Ideally, the state needs to better understand the technologies involved and to find some common point or points of nexus before it can enforce the E911 tax or make concrete recommendations for changing existing laws in order to collect the tax.

The Federal Communications Commission did include in its requirements for Enhanced 911 compatibility a requirement that nomadic VoIP services also be made compatible for purposes of locating the caller. Nomadic services occur when a person uses a laptop computer with Wi-Fi connections to access the internet and use VoIP technologies to make phone calls. This sets up the possibility for treating Wi-Fi, Wi-Max and other wireless network technologies as nomadic wireless for purposes of taxation versus inclusion of these with wireline services. However, it is not clear from a tax or tax nexus

[5] FCC 05-166, WC Docket 04-36, WC Docket 05-196, June 3, 2005

standpoint that using Wi-Fi is the same as using cell phone or wireless services, and therefore, the E911 tax may not apply.

This discussion is further complicated by apparent federal prohibition of state taxes applied to internet commerce and various states' efforts to streamline the taxes applied to communication services. Sorting out these factors in addition to those listed above makes determining taxability and nexus very difficult.

- Revenues Impacts

The current revenue from VoIP Enhanced 911 excise tax collection, if any, is not known. Some Competitive Local Exchange Carriers (CLECs) are known to be using VoIP to connect to customers, but those customers are treated as wireline services equal to all other customers of the CLEC. Some VoIP service providers have indicated their intent to collect the Enhanced 911 excise taxes if it is determined that their subscribers are obligated to pay the tax. Because the growth of VoIP is anticipated to be a direct replacement for wireline services, if VoIP communications are taxed on parity with wireline and wireless services the switch in technology should have little impact on overall tax revenues.

If VoIP services are not taxable because the way services are provided in whole or partly do not constitute taxable nexus in Washington or because they do not meet the functional definition of "switched access line," the impact over time could be significant. Although the technology is used in a very small percentage of telephone service today, many industry experts anticipate that it will become the standard for voice communications service delivery replacing traditional telephone technologies. The timing for that conversion is estimated to be from 10 to 20 years[6]. Replacing wireline to reach a 50% penetration level in five years would require a growth rate of approximately 60% per year for VoIP services from their current position. If wireless continues to grow at close to the current 15% per year an actual decrease in total Enhanced 911 excise tax revenue would not be noticed for about four years. *(See Endnote A)*

4. Possible Ways to Tax VoIP for Enhanced 911 Support

- Tax Phone Numbers, Not Switched Access Lines

For wireless services and residential wireline services, a phone number in service is virtually equal to an access line. Phone numbers are assigned to carriers and are placed in operation by the carriers so there is a clear record of usage within the carrier automated systems making a count of the number of

[6] No qualified projections can be made for this type of technology evolution. Unlike wireless, which took almost 20 years to equal wireline service VoIP will not be an additional service and as a replacement for existing similar services penetration may be relatively slow. Local Exchange Carriers have a significant investment in switching systems and a conversion to VoIP would require a change in customer equipment.

phone lines in service an attractive count for taxation purposes. Each phone line assigned is either associated with the physical address of the termination of a wireline service or, in the case of cell phone (wireless) service the address of the user of the service. In some cases, the user's address may be a billing address, or in some cases, the users address and the billing address may be different. That said, in the telecommunications industry telephone numbers are assigned for many purposes many of which would not be taxed as access lines but which may appear as in service numbers for taxation purposes. These vary from numbers used to designate customer facility groups to numbers that are used to forward calls to prevent loss of service when customers are moving.[7]

Because business services typically concentrate internal telephones to a limited number of connections to the Public Switched Telephone Network, provisions would need to be included to mitigate their count to a level similar to the actual capability to process calls to 911. For example, large businesses typically install their own phone systems within large office complexes. There are a limited number of commercial wirelines coming into the office building. However, inside the company's office phone system there may be hundreds of individual lines. These businesses would in all likelihood want to be billed only for the few lines coming into the building and not for all of the phone numbers of individual desks within its office system. Assuming variable limits on business lines and exclusions for telephone numbers used for other purposes such as pagers and access to voice mail services the total count of taxable units should be very close to that of access lines.

It is likely that there would be considerable trepidation about this proposal from the business community until they have confirmed a minimal impact. It may be necessary to exclude telecommunications carriers to accommodate the use of phone numbers for circuit identification and other purposes. Incumbent Local Exchange Carriers typically do not pay excise taxes since they do not bill themselves for telephone service, and this practice would need to be evaluated when billing by phone number. It is also likely that carriers would need to make automated system changes to accommodate the change in accounting procedures. The state of Minnesota in a study just released is exploring the possibility of taxing assigned numbers to support E911 programs. As might be expected, telecommunications companies and some businesses have expressed concerns about this method.

[7] Nationally, the access line estimates from the Federal Communications Commission for end of 2004 indicate approximately 362 million lines that would be taxable. Telephone number utilization as reported by the administrator of the North American Numbering Plan (USA, Canada, Mexico) shows that reporting carriers have over 1.3 billion telephone numbers, of which nearly 550 million were assigned to customers, more than 665 million were available to be assigned, and about 86 million were used for other purposes, such as for administrative use.

- Tax the Service Provided

Voice over Internet Protocol could be established as a new tax category similar to what was done for wireless telephone services. The category would need to be defined widely to assure that yet to be developed Internet Protocol supported services would be included along with the emerging Wi-Fi and Wi-Max voice capability. This option has the clear advantage of being specific. It has the disadvantage that VoIP is not defined specifically by regulatory bodies in a manner that makes it easy to qualify. It also creates a potential problem for the use of the funds should it be assumed that a distinction can be made in what type of service is supported by any particular expenditure with the three types of collected funds only contributing appropriate to their use of the expenditure. However, if the VoIP service company provides the services over the internet and sells the necessary hardware and software through third party venders such as electronics stores, the service provider may not have taxable nexus in Washington. The VoIP service provider would therefore not be liable for the collection and remittance of the tax. Third party sellers and companies providing connection services to E911 systems would not be providing the VoIP service, and therefore they would not be liable for collecting and remitting the tax from VoIP subscribers. Thus, though this might be a partial solution to taxing VoIP services, it still is not clear that the state can accurately define what technological connections make a service taxable when technological inventions and innovations are rapidly changing how the services are evolving.

- Clarify the Definition of Switched Access Line.

The proposal would change the statutory definition of "switched access line" to include VoIP as a functional equivalent service to the traditional voice phone line. This would appear to be a simple way to assure tax parity between services, but it has pitfalls in that the term is used in different ways and many places in statute including within the regulatory provisions for the Washington Utilities and Transportation Commission.

This option would have the Legislature reinforce the statutes so that the definition of a switched access line includes any VoIP line located in Washington. Because each VoIP service phone number must have an accompanying address, as required by the Federal Communications Commission, any VoIP service number with a Washington address would be taxable. The Legislative definition option is preferable to Legislative permission for a department to adopt rules which would define VoIP as functionally equivalent to existing services. Legislative action with a clear definition avoids a potential state constitutional conflict of delegating taxing powers to a state agency.

Even so, designating VoIP services as taxable does not mean that the tax can be collected or remitted. As noted previously, a company providing VoIP services may not have nexus or a taxable presence in Washington allowing the Department of Revenue to require registration with the state, collection and remittance of VoIP E911 taxes. The requirement that all VoIP providers connect their systems to permit Enhanced 911 services equivalent to wireline does require either direct or through third parties multiple connections to the E911 system in the state. A thorough examination of tax law, the technologies involved, and the status of companies providing those connections will be necessary to determine if that requirement results in nexus for the VoIP service provider.

5. Recommendation

The impact of VoIP on Enhanced 911 tax collection appears to be negligible for the next two years. The use of a different measure of taxation in all cases appears to require considerable vetting with industry groups if it were to receive reasonable support. More importantly, the state does not have a good handle yet on the many technologies used to provide VoIP services, and the technologies are rapidly evolving. What is Hi Tech today will likely be retired technology tomorrow. There are reportedly more that eighty companies providing VOIP services through various media in the United States. Although we do not think all of them are providing services in Washington, we cannot be sure. Many of these companies could be easily located out of state or outside the United States. In a world connected by the internet, one does not have to be next door to provide internet services. This is true for VoIP, as well.

What is needed and recommended is that the Legislature mandate and provide the necessary resources for an in depth study of the issue with a requirement that the Department of Revenue make a final report and recommendation to the legislature for the 2008 session. As part of the study, the Department of Revenue and the Military Department Enhanced 911 Program should open an immediate and ongoing dialog with VoIP service providers to develop information aimed at determining provider nexus.

Some VoIP providers have indicated that they would be willing to participate in collecting E911 excise taxes from their Washington subscribers if their subscribers legally owe the tax. These carriers also may have nexus due to some physical presence in the state. Whether or not the nexus is sufficient for tax collection purposes remains to be seen. It is suggested that as part of the study the option legislating that VoIP be considered a functional equivalent to wireline "switched access lines" be examined as a potential solution. Any study should also consider the potential lifetime of a proposed solution or solutions. As our current situation demonstrates, emerging technologies and business models can easily provide barriers to state and local governments' attempts to ensure continued, necessary support for vital community services such as E911 emergency dispatch centers.

Endnotes:

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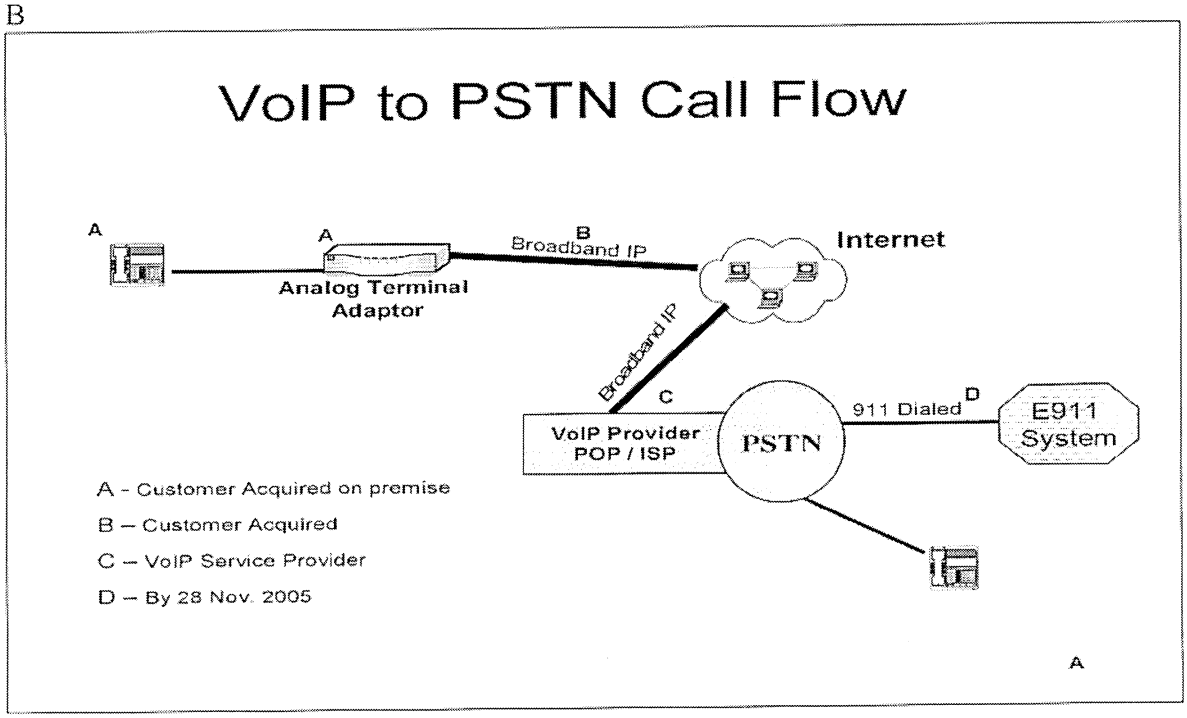
PROJECTIONS OF SERVICE PENETRATION

	2005	2006	2007	2008	2009	2010
Wireline	178	172	163	149	126	89
Wireless	181	208	233	256	280	302
VoIP	3.5	6	9	14	23	37
TOTAL	362.5	386	406	420	429	428
% change		6.5%	5.0%	3.5%	2.1%	-0.1%
Per year change						
Wireline		-3.2%	-5.5%	-9.6%	-18.2%	-41.0%
Wireless		15.0%	12.0%	10.0%	9.0%	8.0%
VoIP		60.0%	60.0%	60.0%	60.0%	60.0%

B



TELEPHONE TAXES
RCWs 82.14B.030, 80.36.430, and 43.20A.725

Tax Base — Telephone access lines (both switched and radio access lines).

Tax Rate

State
- Enhanced 911 Tax: up to 20 cents per month for each switched and radio access line (RCW 82.14B.030(3 & 4)). The State Enhanced 911 Coordinator recommends the tax rate for switched lines to the Utilities and Transportation Commission, and the Commission formally determines the rate for the following year.
- Telephone assistance tax (WTAP tax): rate of 14 cents per month for each switched telephone line (RCW 80.36.430).
- Telecommunications relay service tax (TRS tax): rate of up to 19 cents per month for each switched telephone line (RCW 43.20A.725(5)). The rate of this tax is computed annually by the Department of Revenue, based on budgetary information submitted by the DSHS Office of Deaf and Hard of Hearing. The rate that applied during fiscal year 2005 was 13 cents per switched telephone line.

Counties
- County enhanced 911 tax: up to 50 cents per month for each switched and radio access line, RCW 82.14B.030(1 & 2).

Current Maximum State/Local Tax Rates:

Switched lines	= 97 cents per month
Radio access (wireless) lines	= 70 cents per month

Levied by — State and counties

Administration

These taxes are collected by telephone companies from the customer; the amount of the tax is separately stated on billings to the customer. The state tax receipts, after deduction of the company's collection costs, are reported on the state Combined Excise Tax return and are remitted to the Department of Revenue. The tax on switched lines (combined rate of 47 cents) is reported on line 64 of the tax return, while the wireless tax (20 cents) is reported on line 64b of the return. A new statute, Chapter 82.72 RCW, pertains to administration of the WTAP and TRS excise taxes that were previously under the purview of DSHS.

Counties are responsible for administering the county 911 tax via local ordinance, and the tax is paid directly to the County Treasurer by the telephone companies.

Distribution of Receipts

State enhanced 911 tax (both switched and wireless): proceeds go to the enhanced 911 account per RCW 38.52.540 and are used to fund the state 911 program and to assist counties in implementing enhanced 911 telephone services.

Telephone assistance tax (WTAP tax): receipts are deposited in the telephone assistance fund which is administered by DSHS to provide financial assistance for local exchange services to needy families that utilize various DSHS services (see RCW 80.36.410 - 475). Up to 8 percent of the receipts go to the Department of Community, Trade and Economic Development as reimbursement for costs of providing community service voice mail services.

Telecommunications relay service tax (TRS tax): proceeds are used by the DSHS Office of Deaf and Hard of Hearing to provide telecommunications equipment and services to persons with a hearing or speech impairment.

County enhanced 911 tax: local funds are used to finance the county emergency services communication system.

Recent Collections ($000)

STATE ENHANCED 911 TAX

Fiscal Year	Collections	% Change	% of All State Taxes
2004	$16,115	58.4%	0.1%
2003	10,172	18.3	0.1
2002	8,595	(6.4)	0.1
2001	9,187	(4.2)	0.1
2000	9,588	15.3	0.1
1999	8,313	(2.7)	0.1
1998	8,544	(18.5)	0.1
1997	10,489	47.4	0.1
1996	7,114	0.3	0.1
1995	7,090	4.2	0.1

STATE TELEPHONE ASSISTANCE TAX (WTAP)

Fiscal Year	Collections	% Change	% of All State Taxes
2004	$5,529	4.0%	0.0%
2003	5,318	(3.9)	0.0
2002	5,490	(4.7)	0.0
2001	5,762	(0.3)	0.0
2000	5,778	5.4	0.0
1999	5,484	1.9	0.0
1998	5,384	7.3	0.0
1997	5,018	5.9	0.0
1996	4,739	-.-	0.0

STATE TELECOMMUNICATIONS RELAY SERVICE TAX (TRS)

Fiscal Year	Collections	% Change	% of All State Taxes
2004	$5,980	4.0%	0.0%
2003	5,749	(3.5)	0.0
2002	5,957	(9.1)	0.1
2001	6,551	(1.2)	0.1
2000	6,633	-.-	0.1

According to data reported by counties to the State Auditor via the Local Government Financial Reporting System, counties collected a total of $30.4 million in county 911 telephone taxes during calendar year 2003. Thirty counties reported a total of $17.4 million from the county 911 tax on switched lines, and 25 counties reported a total of $13 million from wireless lines.

Exemptions

- federal and foreign governments.
- enrolled members of Indian tribes.
- any activity which the state or counties are prohibited from taxing under the state constitution or the constitution or laws of the U.S.

History

The original county tax on switched telephone lines was authorized in 1981; the tax had to be imposed on a countywide basis. In 1987, the county legislative authority was permitted to levy the tax on behalf of an emergency service communication district which could serve an area less than countywide. The state enhanced 911 excise tax was approved by the

voters in 1991 (Referendum 42); the tax was first effective on January 1, 1992. The state rate has always been the maximum 20 cents per switched line to ensure funding for the implementation of an enhanced 911 telephone system on a statewide basis. The county tax on wireless lines was authorized by the Legislature in 1994 at a maximum rate of 25 cents per line. In 2002, the state tax was extended to wireless telephones and the maximum rate of the county tax on wireless lines was increased to 50 cents. Also, in 2002 responsibility for collecting the state enhanced 911 telephone tax was transferred from the State Military Department to the Department of Revenue.

The TRS tax which funds telephone services for persons with hearing difficulties was established in 1987 at a maximum rate of 10 cents per switched line. The WTAP tax that funds telecommunication services for low-income households was also adopted in 1987 at a maximum rate of 16 cents per switched line. Both taxes were administered by the Department of Social and Health Services through the end of fiscal year 2004; responsibility for collecting these taxes was transferred to the Department of Revenue effective July 1, 2004.

Discussion/Major Issues

These revenue sources fund the acquisition and operation of "911" emergency systems, as well as telecommunication services for individuals who are hard of hearing and certain low-income households. Legislation adopted in 1992 mandates statewide implementation of "enhanced" 911 emergency communications (systems which recognize the telephone number and location of the caller) by December 31, 1998.