

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T-17504
November 19, 2015**

RESOLUTION

Resolution T-17504. Approval of the Mobile Telephony Services surcharge rates to be assessed on prepaid wireless telephone service effective January 1, 2016.

SUMMARY

This resolution adopts the 2016 prepaid Mobile Telephony Services surcharge rates to recover the California Public Utilities Commission's Public Purpose Program Surcharges and User Fee, as well as the costs associated with the implementation and administration of Assembly Bill 1717. These new rates are effective January 1, 2016 through December 31, 2016. They are to be assessed on prepaid wireless telephone service intrastate revenues subject to surcharge and collected from end-users in California. The aggregate of these rates, the Commission's prepaid Mobile Telephony Services surcharge rate, is 8.51%.

BACKGROUND

Public Purpose Program Surcharges and User Fee

There are numerous surcharges, taxes and fees assessed on telecommunications services by the State of California, city and county governments, and federal agencies. These charges are collected from customers by telecommunications carriers, who then remit these funds as directed to the appropriate authorities.

The California Public Utilities Commission (Commission or CPUC) is responsible for the administration of the State's Public Purpose Program Surcharges and the Commission's User Fee, with each required to be assessed on intrastate telecommunications services sold in California. The Commission collected approximately \$470 million in surcharge revenue and \$23 million in user fee revenue in fiscal year 2014-2015 and incurred roughly \$1 million in administrative expenses.

There are presently six Commission mandated telecommunications all-end-user surcharges supporting various telecommunications public purpose programs in California. The all-end-user surcharge rates vary from program to program and are adjusted periodically based on the forecasted demand of the programs. These surcharges are generally assessed by carriers as a percentage of a customer's bill. After collection by the carrier, the surcharges are remitted to the Commission.

The Commission's Public Purpose Program Surcharges are set forth in Public Utilities Code Sections 270 to 281¹ and includes the following six programs:

- **Universal Lifeline Telephone Service (ULTS):** provides discounted home phone and cell phone services to qualified households.
- **Deaf and Disabled Telecommunications Program (DDTP):** provides telecommunications devices to deaf or hearing impaired consumers.
- **California High Cost Fund-A (CHCF-A):** provides subsidies to 13 small local exchange carriers (LECs) for providing telephone service to residential customers in rural high-cost areas.
- **California High Cost Fund-B (CHCF-B):** provides subsidies to carriers of last resort (COLRs) for providing telephone service to residential customers in rural high-cost areas.
- **California Teleconnect Fund (CTF):** provides a 50% discount on select communications services to schools, libraries, hospitals, and other non-profit organizations.
- **California Advanced Services Fund (CASF):** supports the deployment of broadband facilities and adoption of broadband services in unserved and underserved areas through project specific grant funding.

Article 3, Sections 431 to 435 set forth the User Fee the Commission is authorized to assess on intrastate telecommunications services. The CPUC collects the annually-established user fee from all telephone corporations providing services to end users within California. Revenues collected in the form of this fee fund the Public Utilities Commission Utilities Reimbursement Account, which provides the Commission's operating budget. The amount to be paid by each telecommunications corporation is

¹ All section references hereafter are to the Public Utilities Code unless otherwise stated.

determined by multiplying the User Fee factor by end-user intrastate telecommunications service revenues.

Assembly Bill 1717

“The Prepaid Mobile Telephony Services Surcharge Collection Act” (The Act) was enacted by Assembly Bill 1717, (Chapter 885, Statutes 2014, Perea).² The Act creates an entirely new point-of-sale mechanism for the collection and remittance of the taxes and fees assessed on prepaid wireless telephone service³. This new mechanism collects the following charges:

- Commission Public Purpose Program Surcharges,
- Commission User Fee,
- Emergency Telephone Users (911) Surcharge, and
- Local utility user taxes (UUT).

The Act aggregates the surcharges, taxes and fee listed above and creates the new prepaid Mobile Telephony Services (MTS) surcharge⁴ that is required to be imposed on prepaid wireless telephone services in lieu of the individual fees. The Act becomes effective January 1, 2016 and remains in effect until January 1, 2020.

For those sales defined as “**indirect**,”⁵ or sales transacted by a third party retailer, the Act creates a new collection, reporting and remittance process. That new process requires the prepaid MTS surcharge to be collected at the point of sale by the third party retailer, rather than by the telephone corporation, as previously required. The retailer then must report and remit those monies collected from customers to the Board of Equalization (BOE), less 2% of the MTS surcharge revenue the retailer collected. The 2% hold back is allowed to compensate the retailer for its duties to collect, report, and remit the MTS surcharge to the BOE.

² Added Section 319 to the Public Utilities Code and added and or modified multiple sections of the Revenue and Taxation Code relating to telecommunications.

³ Referred to in AB1717 as prepaid mobile telephony services

⁴ “Prepaid MTS surcharge”, “MTS surcharge”, “prepaid Mobile Telephony Services surcharge” and “MTS” all have the same meaning.

⁵ An indirect sale includes, any sale made at a third party retailer not affiliated with or acting as an agent of the, telephone corporation or VoIP provider.

The Act also permits the BOE to recover its costs of administration and collection of the MTS surcharge from the agencies and localities for which it has collected revenues. The BOE is to allocate those expenses, on a pro-rata basis, dependent on the amount of fee revenue it has collected for that agency. Lastly, the BOE is required to remit the resulting funds to the appropriate agency or local jurisdiction for whom they were collected.

For those monies due to the Commission, the BOE is required to deposit funds into the Prepaid MTS PUC Account. The Commission is then responsible to disperse those monies to the individual public purpose program and user fee accounts that it administers.

The Act requires the MTS surcharge to be assessed on all prepaid wireless services. For those sales that are “**direct**,”⁶ or sales transacted directly with the prepaid wireless carrier, telephone corporations must continue to collect and remit the individual fees to the appropriate state agency or locality as is currently required. The telephone corporation will therefore remit the Emergency Telephone Users (911) Surcharge to the Office of Emergency Services and the Local utility user taxes (UUT) to the local jurisdiction.

The telephone corporation providing prepaid wireless service will directly remit to the Commission the public purpose program surcharges and user fee at MTS rates (e.g., 8.51% for 2016). More specifically, the Act requires carriers to report direct prepaid wireless intrastate revenue subject to surcharge and remit the accompanying fees and to report total prepaid wireless service revenue. It also provides the Commission with authority to require any other reporting it determines is necessary.

Prepaid Wireless Market

The Act does not apply to the sale of wireline, VoIP, post-paid wireless, or any other type of telecommunications services sold in California. Therefore, only being applicable to prepaid wireless telephone services, the new prepaid MTS surcharge will be applied to about 13.26% of the telecommunications revenue subject to its surcharges and fees, according to the Commission’s most recent data.

⁶ A direct sale is one made by the provider, or its agent, to the end user. This would include online sales, sales through a telephone corporation or VoIP provider’s Interactive Voice Response or customer service channel, sales over an enabled handset, or sales at a retail location owned or controlled by the telephone corporation or VoIP provider, or the agent of same.

However, as shown in Chart 1 below, 74.83% of prepaid wireless sales are transacted via a direct sale with the telephone corporation from which services are to be provided. This means that the vast majority of prepaid customers are likely purchasing their services by automatic billing, online, over the phone or by another means that is administered by the telephone corporation. Most prepaid wireless customers are therefore not purchasing prepaid wireless phone cards at a third party retailer to procure services.

As discussed, a lesser part of the prepaid wireless market, namely 25.17%, is transacted at a third party retailer. This is the market segment that the new MTS surcharge collection and remittance process was designed to collect from. According to 2014 data,⁷ indirect sales annually account for about 3.34% of those surcharges and fees collected by the Commission from telephone corporations and VoIP providers.

Chart 1: California Telecommunications Market by Service and Sales Type

Market Percentage by Service Type		
Service	% of market segment	% of all Telco
All Telco	100.00%	100.00%
Non Wireless	45.21%	45.21%
Wireless	54.79%	54.79%
% of wireless- Postpaid	75.79%	41.53%
% of wireless- Prepaid	24.21%	13.26%
% of Prepaid-Direct Sale	74.83%	9.92%
% of Prepaid-Indirect Sale	25.17%	3.34%

DISCUSSION

Calculating the MTS Surcharge

The Act requires the Commission to start the calculation of the new prepaid MTS surcharge rates, which will become effective on January 1, 2016, by October 1, 2015, to post notice of the proposed rates by October 8, 2015, and to notify the BOE and Office of Emergency Services of the rates, as well as the method used for calculation. The Commission will thereafter start the calculation of the new MTS surcharge rates by October 1st and post notice by October 8th of subsequent years, until the Act becomes inoperative in 2020.

⁷ Data derived from the CPUC's TUFFS, User Fee Filing System and wireless carrier data requests.

The Act directs the Commission to prepare a resolution, or other public document, to provide public notice of the proposed MTS rates and to adopt the proposed rates. In response to this requirement, this resolution provides the methodology and specific calculations used to arrive at the new prepaid MTS surcharge rates for 2016. The proposed rates are to be assessed on the sale of intrastate prepaid wireless telephone services in California.

Although the Act shifts certain surcharge collection activities to the BOE, due to the bifurcation of the collection and remittance process for surcharges and user fees between prepaid wireless services and all other services, the Act has resulted in increased costs and administrative activity for the Commission. The State legislature has authorized the CPUC to hire additional staff and develop new systems and business processes for the special MTS surcharge. This includes, but is not limited to, at least two new processes, one for those fees required to be remitted directly by prepaid wireless carriers and another for those funds collected by the BOE.

The prepaid MTS surcharge rates are inevitably different from the current public purpose program and user fee rates, as they must also recover the current program costs, as well as the additional cost to administer the MTS surcharge. These additional costs include both the BOE and Commission related expenses of implementing and administering the new MTS surcharge, as well as compensation to third party retailers.

MTS Expenses Subject to Recovery

Due to the new requirements imposed by the Act, the Commission's additional expenses resulting from the implementation and administration of the Act total more than \$4.4 million. These new costs are subject to recovery through the 2016 prepaid MTS surcharge. Approximately \$1.9 million of these expenses were incurred due to MTS implementation in fiscal year 2014-2105. The majority of this cost being contracted expenses for information technology services to develop and add functionality the Telecommunications and User Fee Filing System (TUFFS) that will allow for the reporting and remittance of MTS monies. The 2015-2016 fiscal year expenses total approximately \$2.5 million and include, but are not limited to, new staffing resources in the Commission's fiscal, communications, audit, legal and information technology sections, as well as additional modifications to the Commission's electronic surcharge payment system. More detailed information about the MTS surcharge expenses are provided in the Commission's Budget Change Proposal for Fiscal Year 2015/2016.⁸

⁸ CPUC MTS Budget Change Proposal for Fiscal Year 2015-2016.

As previously discussed, for the indirect sale of prepaid wireless services, retailers are responsible to report and remit the MTS surcharges collected to the BOE. The BOE is then responsible to remit those monies to the appropriate state and local agency for whom they have been collected. Those agencies for which the BOE collects fees and surcharges under the new MTS process include the Commission for its surcharges and user fee, the Office of Emergency Services for the Emergency Telephone Users (911) Surcharge and Local governments for their Local utility user taxes. The BOE's expenses related to this collection are to be allocated to each agency for which the BOE collects the MTS surcharge, based on each agency's pro-rata share of the MTS revenues.

As identified in its Budget Change Proposal for Fiscal Year 2015/2016,⁹ the BOE estimates its total MTS surcharge administration and collection expenses will be \$5.733 million in 2016. As shown in Chart 2, based on the estimated surcharge and fee revenue to be collected by BOE through the MTS surcharge (from indirect sales at third party retailers), the Commission estimates its pro-rata share of BOE's administrative expenses at present rates to be 42.66%¹⁰, for a total of \$2,445,558.

Chart 2: Projected MTS Surcharge Revenue Collected by the BOE

Prepaid Wireless Fee Revenue -from indirect sales		
Agency and Fees	Fee Revenue	Percentage
Emergency Telephone Users (911) Surcharge	\$3,258,148	3.96%
CPUC Public Purpose Program Surcharges	\$34,275,712	41.71%
CPUC User Fee	\$781,955	0.95%
Local utility user taxes (UUT)s	\$43,868,133	53.38%
Total	\$82,183,949	100.00%

The last expense item the Commission's MTS surcharge rates must recover is the retailer compensation. The Act compensates those third party retailers who sell prepaid wireless telephone services. The Act provides that a retailer may retain 2% of the MTS surcharge revenues collected as compensation for collecting, reporting and remitting the MTS surcharge to the BOE. Direct sales are not subject to the 2% retailer compensation. The Commission estimates its share of the third party retailer

⁹ BOE MTS Budget Change Proposal for Fiscal Year 2015-2016.

¹⁰ The addition of surcharges at 41.71% plus user fees at 0.95% equals a total of 42.66%. This is the CPUC's percentage of BOE's expenses.

compensation for those services sold via an indirect sale will total approximately \$701,159, or 2% of \$35,057,668,¹¹ in CPUC fee revenue collected.

The Commission therefore estimates that the total expense it will incur as a result of implementation and administration of the prepaid MTS surcharge in 2016 to be \$7,559,452, as shown in the Chart 3 below. This is the amount subject to recovery in the 2016 MTS surcharge rates. As stated, this is the cost to collect only prepaid wireless service revenues, or 13% of those fees which are collected within the current mechanism. This translates to a cost of collection, specifically for the prepaid MTS surcharge, of approximately 11.5 cents per dollar collected, as compared to the current cost of .002 cents per dollar collected, for all surcharges and fees.

Chart 3: Expenses Subject to Recovery in the Commission’s MTS Surcharge rates

MTS Surcharge Expenses	
Source	Amount
CPUC	\$4,412,741
BOE	\$2,445,558
Retailer	\$701,153
Total	\$7,559,452

Prepaid Wireless Billing Base

Establishing the Commission’s telecommunications public purpose program surcharge and user fee rates has traditionally only required the identification of California’s total intrastate billing base from which surcharges are to be assessed. However, unlike the standard surcharge and user fee rates, the new MTS surcharge is only to be assessed on prepaid wireless telephone service revenues. Therefore, in establishing the billing base subject to the new MTS surcharge, the Commission identified the sub-set of the intrastate telecommunications market that represents pre-paid wireless revenues subject to surcharge in California. As identified in the Chart 4 below, in 2014, prepaid wireless accounted for \$1,725,862,016 of the California telecommunications market revenue subject to surcharge.

Chart 4: California Intrastate Telecommunications Revenue Subject to Surcharge

¹¹ Estimated total of revenue collected by BOE on behalf of the CPUC at the current surcharge and user fee rates. The percentage assessed at the current rates is 8.07%.

Telco Revenue by Service Type	
Service	Revenue
All Telco	\$13,013,919,694
Non Wireless	\$5,883,845,280
Wireless	\$7,130,074,414
Postpaid Wireless	\$5,404,212,398
Prepaid Wireless	\$1,725,862,016
Direct Sale-Prepaid wireless	\$1,291,442,340
Indirect Sale-Prepaid Wireless	\$434,419,676

The prepaid wireless billing base estimate is derived from 2014 surcharge payment and revenue reporting data collected by the Commission through TUFFS in conjunction with additional information provided by prepaid wireless telephone corporations in response to Commission data requests.

MTS Surcharge Rates

The current rates of the six public purpose program surcharges and user fee are listed in Chart 5, column (b) below. The surcharge rates vary from program to program, and are adjusted periodically in response to over or under collection, changes in program demand or projected changes in expenses or revenues. These rates do not include recovery of the expenses related to implementation or administration of the MTS surcharge. The resolutions approving these surcharge rates¹² and the user fee¹³ can be found on the Commission's website.

The MTS rates shown below in column (c) of Chart 5 reflect the adjustments to the standard surcharge rates and user fee. These adjustments to the standard rates are necessary to recover the additional \$7,559,452 expense directly related to implementation and administration of the new prepaid MTS surcharge. To arrive at the additional MTS increment per program, the new MTS costs were allocated based on the Commission adopted program budgets for each of the public purpose programs and the user fee.

The 2016 prepaid MTS surcharge and user fee rates listed below in column (d) shall be assessed on prepaid wireless telephone service revenues subject to surcharge in California from January 1, 2016 through December 31, 2016. The aggregate of these

¹² <http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information/surcharges.htm>

¹³ <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/userfee.htm>

rates, the Commission's MTS surcharge rate, is 8.51%. This rate does not include either the Emergency Telephone Users (911) Surcharge or the Local utility user taxes, which must also be assessed as part of the greater MTS surcharge. The total MTS surcharge will be calculated and posted by the BOE prior to January 1, 2016.

Chart 5: California Telecommunication Surcharge and User Fee Rates

2016 CPUC MTS Surcharge and User Fee Rates					
CPUC Program	Base Rates 1/1/2016		Additional Increment for MTS		MTS Rates 2016
(a)	(b)	+	(c)	=	(d)
Universal Lifeline Telephone Service (ULTS)	5.50%	+	0.18%	=	5.68%
Deaf and Disabled Telecommunications Program (DDTP)	0.50%	+	0.03%	=	0.53%
California High Cost Fund-A (CHCF-A)	0.35%	+	0.04%	=	0.39%
California High Cost Fund-B (CHCF-B)	0.00%	+	0.03%	=	0.03%
California Teleconnect Fund (CTF)	1.08%	+	0.09%	=	1.17%
California Advanced Services Fund (CASF)	0.46%	+	0.04%	=	0.50%
California Public Utilities Commission User Fee	0.18%	+	0.03%	=	0.21%
Total	8.07%	+	0.44%		8.51%

MTS Surcharge Reporting and Remittance for Direct Sales

The MTS surcharge monies from direct sales are due in accordance with the Commissions surcharge and user fee reporting and remittance rules. Therefore, reporting and remittance schedules, late payment fees, reporting and remittance methods and any other rules that specify these and/or other requirements of how, when and where to remit and report surcharges and user fees will apply to all prepaid MTS surcharges and user fees due directly to the Commission.

Furthermore, the Act makes explicit the obligations of telephone corporations offering prepaid wireless telephone services. It directs carriers to report direct prepaid wireless intrastate revenue subject to surcharge and then remit the accompanying fees. The Act

also requires carriers to report total prepaid wireless service revenue to the Commission¹⁴ and authorizes the Commission to specify those reports it may require.¹⁵

Therefore, in accordance with Commission Decision 98-01-023 and General Order 153 (11.4), surcharge monies must be reported and remitted no later than 40 days following the close of the reporting period. Carriers that report and/or remit directly the surcharge monies after the due date will be assessed a penalty equal to an annual interest rate of 10%. The penalty is to be assessed on the surcharge amount due, including any adjustments, starting from the 41st day after the close of the reporting period to the date that the carrier reports or surcharge monies are remitted, whichever is later. Additional instructions regarding how to use the online system to report and remit payments can be found in the TUFFS and EFT payment system user guides on the Commission's website.¹⁶

The User Fee amounts due as part of the MTS surcharge will continue to follow the reporting and remittance rules as established in Section 405. Therefore, telephone corporations providing prepaid wireless telephone services are required to remit the User Fee amount due on a quarterly basis by the 15th of April, July, October, and January. User Fees remitted later than 30 days after the reporting period continue to be subject to a penalty of up to 25%.

All reporting and remittances are subject to audit verification by the Commission or Commission designee(s).¹⁷ Carriers are expected to maintain data for at least five (5) calendar years, unless specifically authorized otherwise by a CPUC order or a director's letter. Carriers that are 90 days or more in arrears in reporting and remitting surcharges, or 30 days for user fees, may be subject to administrative or judicial collection actions and/or revocation of their authority to operate in California.

Customer Notice of the MTS surcharge

Notice

The Commission shall require any telephone corporation offering prepaid wireless telephone service to provide customer notice of the new MTS surcharge prior to

¹⁴Pub. Util. Code § 319 (5) (f-h).

¹⁵ Revenue and Taxation Code § 42010.

¹⁶ <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/Surcharge+Remittance.htm>

¹⁷ See Pub. Util. Code § 274 which states, "commission may on its own order, whenever it determines it to be necessary, conduct financial audits."

implementation. This will be necessary to eliminate potential confusion over the new charges, and to assure prepaid wireless customers are not surprised by potentially significant cost increases.

Prepaid wireless telephone service providers shall therefore notify customers by text message on or before December 1, 2015, of the new MTS surcharge rates. This notice shall include, at a minimum, the following information:

- An explanation of the new MTS surcharge, which shall make clear that these charges only apply to prepaid wireless telephone service.
- A direct link to a carrier webpage providing additional information that includes but is not limited to,
 - One or more examples of a current customer's prepaid wireless charges.
 - One or more examples of a prepaid wireless customer's charges with the new MTS surcharge rate on January 1, 2016¹⁸.
- A customer service number from which the customer can request more information and/or request the calculation of their specific MTS charges

We will also require that a copy of the notice be concurrently provided to the Communication's Division Director so that we may monitor carrier compliance.

Disclosure

Surcharges and user fees are to be disclosed on a customer's bill as separately stated line items.¹⁹ Likewise, the Act, in Revenue and Taxation Code Section 42010 (3)(i), requires that,

The amount of the combined prepaid MTS surcharge and local charges shall be separately stated on an invoice, receipt, or other similar document that is provided to the prepaid consumer of mobile telephony services by the seller, or otherwise disclosed electronically to the prepaid consumer, at the time of the retail transaction.

¹⁸ Sample customer charges and accompanying comparisons may be provided separately online or by other means as long as access to this information is provided directly from the MTS notice.

¹⁹ Existing California law requires telephone corporations to identify on subscribers' bills the amount and nature of the surcharge for the DDTP. (Pub. Util. Code § 2881(g)) By decision, the PUC has extended this requirement to other surcharges. (*See Rulemaking on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643; Investigation on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643* [D.96-10-066] (1996) 68 Cal.P.U.C.2d 524.)

Therefore, a telephone corporation shall assure that beginning January 1, 2016; all transactions for the purchase of prepaid wireless telephone service include the assessment and explicit disclosure of the MTS surcharge as a separately stated line item.

COMMENTS

Public Utilities Code section 311(g)(1) requires that a draft resolution be served on all parties, and be subject to a public review and comment period of 30 days or more, prior to a vote of the Commission on the resolution. A draft of today's resolution was distributed for comment to utilities and other interested parties.

On October 26, 2015, the Communications Division received one set of comments from the wireless industry, jointly filed by CTIA – The Wireless Association, AT&T Mobility, MetroPCS California, Sprint, T-Mobile West LLC *dba* T-Mobile, TracFone Wireless, Inc., and Cellco Partnership *dba* Verizon Wireless (collectively “Joint Wireless Carriers”).

Joint Wireless Carriers' propose a modification to the Ordering Paragraphs (OPs) to clarify that the Commission surcharges and fee should be assessed only on intrastate revenue. The Commission finds this clarification would be helpful and we thus modify OP 2 accordingly.

Joint Wireless Carriers' propose an alternate approach for the assessment of the prepaid MTS surcharge. They recommend the Commission “take the rate of the aggregated Commission surcharges and fees (e.g., 8.07%), multiply it by a reasonable estimate of the intrastate portion of prepaid revenues (e.g., weighted average of the major carriers' intrastate factors), and then post that adjusted rate with the BOE.”²⁰ The Joint Wireless Carriers' would apply the adjusted rate to all prepaid wireless services regardless of whether a service would be subject to surcharge. They contend this adjustment would have the effect of removing interstate and international charges from the surcharge base.²¹

The Commission finds the methodology proposed in the Resolution to be more reasonable and more consistent with the operating statutes than the Joint Wireless Carriers' alternate approach. The Joint Wireless Carriers' alternate approach is unnecessarily complex and may inappropriately assess surcharges and fees on

²⁰ Joint Wireless Carriers' Comments, at 3.

²¹ Joint Wireless Carriers' Comments, at 3.

interstate, international and other revenues and services not subject to the Commission's or other State surcharges.

Currently, carriers assess surcharges only on those intrastate revenues subject to surcharge, regardless of whether the revenues derive from prepaid, postpaid, wireline or wireless service. Consistent with this practice, the Act directs the Commission to do so for the "reimbursement fee or universal service surcharge... on both postpaid and prepaid intrastate service."²² We therefore calculated the MTS surcharge to be applied only to intrastate service revenues. The Act further supports the adoption of a rate that is only applied to intrastate services in it requiring that, "a prepaid MTS provider or direct seller shall report the intrastate revenue portion subject to the reimbursement fee and the telecommunications universal surcharges."²³ We therefore do not find it consistent with the Act to calculate a prepaid MTS surcharge rate that would not be limited to intrastate prepaid wireless service revenue.

We also note that the prepaid MTS surcharge rates proposed by the Commission and the Office of Emergency Services for the Emergency Telephone Users (911) Surcharge, "are applicable to the intrastate portion of prepaid mobile telephony services."²⁴ As such, their application should be consistent as they are to be jointly assessed as part of the MTS, not on all prepaid wireless service revenue, but more precisely on, intrastate prepaid wireless telephone service revenues subject to surcharge and sold in California.

We therefore, decline to adopt the Joint Wireless Carriers' proposed adjustment methodology for assessing the MTS surcharge.

Joint Wireless Carriers' assert that the proposed Resolution's specific notice requirement to "provide a customer's prepaid MTS surcharge rate by January 2016" is not possible. They also contend that it is not feasible to provide notice of the "estimated impact to the [particular] customer's bill." Alternatively, the Joint Wireless Carriers' suggest that they provide a general notice by text message, which directs customers to websites for additional information and that customer service and sales representatives be available to address customer questions.

The Commission recognizes that wireless carriers may communicate with their prepaid customers through text messages and by other means. And while text messages may limit the amount of information that could be effectively conveyed to a customer, we

²² Pub. Util. Code Section 319 (5).

²³ Pub. Util. Code Section 319 (g) (2).

²⁴ Revenue and Taxation Code Section 41030 (b) (2).

find it to be a practical and efficient means by which to provide notice to these customers. Carriers must provide their customers with the information necessary to allow them to make informed decisions about the services they purchase, including information about applicable fees and surcharges. Given the limitations raised by the Joint Wireless Carriers' concerning the specificity of the notice, the Commission will allow prepaid wireless carriers to satisfy this requirement by providing a more general type of notice in the text message that directs them to the more detailed information we will require.

However, the Commission rejects the Joint Wireless Carriers' request to forego providing advance notice of the MTS surcharge to prepaid customers of all-inclusive plans. Joint Wireless Carriers' contend that prepaid wireless customers with all-inclusive plans will not see any increase in their total cost of service as a result of the new MTS surcharge and therefore notice of the MTS surcharge "will only lead to customer confusion."²⁵

We are not persuaded that all-inclusive plan customers will be confused if they receive a simple notice that informs them that, due to a new law, they may see a significant difference in the appearance of their bill, receipt, or invoice, even though their total cost of service may remain unchanged. For instance, some carriers do not disclose the individual taxes, surcharges and fees due on their all-inclusive prepaid wireless plans. However, after January 1, 2016, the MTS surcharge and fees must be disclosed on all pre-paid wireless bills, receipts, or invoices. Customer confusion is more likely to occur without prior notice an all-inclusive customer would, without notice, see a new surcharge and fee appear, (and presumably have their service rate decreased significantly to offset the new surcharge), but would presumably not know why. For most customers, the new MTS surcharge will account for about 15% and as much as 20% of their total charges for service, and knowing why these charges are being assessed is important if customers are to be sufficiently-informed, even in the limited instances where the customer's total cost of service does not increase. Therefore, we will require notice to be provided to *all* pre-paid wireless customers, including all-inclusive plan customers.

Joint Wireless Carriers "have no objection to the Commission recovering its administrative and implementation expenses" associated with implementing the MTS surcharge pursuant to AB 1717. However, Joint Wireless Carriers' object to "imposing

²⁵ Joint Wireless Carriers' Comments, at 6.

those incremental costs exclusively on prepaid wireless customers.”²⁶ They claim that those costs should be allocated to all telecommunications customers by adjusting the surcharge rates for the Commission’s Public Purpose Programs. The Joint Wireless Carriers’ claim AB 1717’s legislative history “seems to confirm that the MTS surcharge was intended to merely aggregate the existing Public Policy Program surcharges and End User fee; not to increase those charges for this particular set of customers.”²⁷ However, neither AB 1717’s provisions nor its legislative history supports this argument.

Rather, AB 1717’s Senate Appropriations Committee Fiscal Summary (Bill Analysis) makes clear that the Legislature was well-aware that the Commission would incur new administrative costs with AB 1717’s enactment and that those new administrative costs would be borne by prepaid customers. The Bill Analysis specifically addressed the issue of “Who pays for the cost of the new administrative costs caused under this bill?,” stating:

The bill has several provisions suggesting that the administrative costs are to be built into the MTS fee rate only because the MTS fee is specific to prepay consumers. Specifically, in §3 of the bill, the bill directs the CPUC to calculate a specific prepaid MTS fee for the user fee, the cumulative universal service surcharges, and the 911 surcharge. Furthermore, the bill directs the CPUC to take steps should there be over or under collection of surcharges from prepaid MTS customers, implying bifurcation of funds between prepaid wireless customers and all other telecom customers. The bill also explicitly requires the CPUC to calculate expenses from prepaid services. The CPUC notes that if the administrative costs for the new collection mechanism for indirect prepaid sales must be paid by just prepaid customers, the MTS surcharge rate will be 11.88% plus local charges.²⁸

²⁶ Joint Wireless Carriers’ Comments, at 7.

²⁷ Joint Wireless Carriers’ Comments, at 7, fn. 22, *citing* Senate Appropriations Committee Fiscal Summary (August 11, 2014) found at http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1701-1750/ab_1717_cfa_20140811_102148_sen_comm.html.

²⁸ Senate Appropriations Committee Fiscal Summary (August 11, 2014), at 10, found at http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1701-1750/ab_1717_cfa_20140811_102148_sen_comm.html (last visited November 16, 2015).

Accordingly, we find the Resolution's inclusion of the Commission's new administrative costs into the Commission's MTS surcharge rate is consistent with AB 1717.

Lastly, Joint Wireless Carriers' assert that the cost of implementation should be reexamined because the Commission's costs appear to be overstated. They argue that the expected share of BOE expenses and the 2% compensation to retailers are not "costs" but reductions in anticipated revenue and therefore should not be recovered from the MTS surcharge. We reject this argument.

First, the Commission has reviewed the expense figure and finds that the Commission's direct costs are correct and the \$4.4 million figure is not overstated in the Resolution. However, we have modified the discussion of the Commission's specific MTS-related costs to provide greater detail and some additional explanation of those costs.

Second, AB 1717's legislative history supports the Resolution's interpretation of BOE's expenses as "costs" recoverable through the MTS surcharge. The Bill Analysis expressly states that the bill would cause BOE and the CPUC to incur substantially higher "administrative costs":

Administrative costs will be substantially higher for both the BOE and the CPUC: Under the current system, the administrative costs to determine how much state and local surcharges to remit are being borne by the carrier. This bill would shift the administration, and the associated costs, to the state.

To collect the MTS and local combined surcharges from indirect sellers of prepaid wireless services, the BOE estimates administrative costs of \$8.3 million for FY 2015-16, \$13.6 million for FY 2016-17, \$12.3 million for FY 17-18, and \$12.1 million thereafter. The BOE also anticipates incurring additional unknown costs associated with the sunset of this bill's provisions."²⁹

²⁹ Senate Appropriations Committee Fiscal Summary (August 11, 2014), at 9, found at http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1701-1750/ab_1717_cfa_20140811_102148_sen_comm.html (last visited November 16, 2015).

The Resolution appropriately accounts for the conditions under which the new MTS surcharge will be collected, which will now include BOE and third party retailer costs. As is done in each and every instance in which the Commission determines a surcharge rate, the Commission has adjusted the proposed rates based on estimated expenses and revenues.

FINDINGS

1. There are a number of surcharges, taxes and fees assessed on telecommunications services by the State of California, city and county governments, and federal agencies.
2. These charges are collected from customers by telecommunications carriers, who then remit these funds as directed to the appropriate authorities.
3. The California Public Utilities Commission (Commission or CPUC) is responsible for the administration of the State's Public Purpose Program Surcharges and the California Public Utilities Commission User Fee, with each required to be assessed on intrastate telecommunications services sold in California.
4. Assembly Bill 1717 enacted "The Prepaid Mobile Telephony Services Surcharge Collection Act" (The Act) and added Public Utilities Code Section 319.
5. The Act becomes effective January 1, 2016, and will remain in effect until January 1, 2020.
6. The Act creates an entirely new point-of-sale collection and remittance system for the taxes and fees assessed on prepaid wireless telephone service.
7. The Act aggregates the California Public Utilities Commission Public Purpose Program Surcharges, California Public Utilities Commission User Fee, Emergency Telephone Users (911) Surcharge and Local utility user taxes and creates the new Mobile Telephony Service (MTS) surcharge that is required to be imposed on prepaid wireless service in lieu of the individual fees.
8. The Commission is required by the Act to calculate the new prepaid MTS surcharge rates which will become effective on January 1, 2016 and calculated annually thereafter.

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9. The Commission is required to post notice of the proposed rates by October 8, 2015 and to notify the Board of Equalization and Office of Emergency Services of the rates, as well as the method used for calculation.
10. The Commission is required to prepare a resolution or other public document to provide public notice and adopt the proposed rates.
11. The proposed prepaid MTS surcharge rates are reasonable and reflect the additional costs to the Commission of collection and administration of the MTS surcharge.
12. The MTS surcharge and user fee monies from the direct sale of prepaid wireless telephone services are due in accordance with the Commission's surcharge and user fee reporting and remittance rules.
13. The Act makes explicit the obligations of telephone corporations offering prepaid wireless telephone services to report direct prepaid wireless intrastate revenue subject to surcharge and remit the accompanying surcharges and fees to the Commission.
14. Telephone corporations offering prepaid wireless telephone service should provide customer notice of the new MTS surcharge on or before December 1, 2016.
15. Beginning January 1, 2016, all transactions for the purchase of prepaid wireless telephone service should include the assessment and explicit disclosure of the MTS surcharge as a separately stated line item.

THEREFORE, IT IS ORDERED that:

1. The California Public Utilities Commission's Mobile Telephony Service surcharge rates for 2016, in Appendix A, are adopted and shall become effective January 1, 2016.
2. All telephone corporations shall, beginning January 1, 2016, assess the adopted Mobile Telephony Service surcharge on intrastate prepaid wireless telephone service revenues subject to surcharge and collected from end-users in California.
3. All telephone corporations offering prepaid wireless telephone services shall report prepaid wireless intrastate revenue subject to surcharge and remit the accompanying surcharges and fees as directed by the California Public Utilities Commission.
4. All telephone corporations offering prepaid wireless telephone service shall provide customer notice of the new Mobile Telephony Service surcharge on or before December 1, 2015 and concurrently provide a copy of the notice to the Communications Division Director.
5. All telephone corporations shall report and remit Mobile Telephony Service surcharge and user fee monies from the direct sale of prepaid wireless telephone services in accordance with the California Public Utilities Commission's surcharge and user fee reporting and remittance rules.
6. All telephone corporations shall, beginning January 1, 2016, assure that all transactions for the purchase of prepaid wireless telephone service include the assessment of the Mobile Telephony Service surcharge and shall disclose it as a separately stated line item.

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This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on November 19, 2015, the following Commissioners voting favorable thereon:

/s/ Timothy J. Sullivan

TIMOTHY J. SULLIVAN

Executive Director

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners

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APPENDIX

APPENDIX A

2016 CPUC MTS Surcharge and User Fee Rates					
CPUC Program	Base Rates 1/1/2016		Additional Increment for MTS		MTS Rates 2016
(a)	(b)	+	(c)	=	(d)
Universal Lifeline Telephone Service (ULTS)	5.50%	+	0.18%	=	5.68%
Deaf and Disabled Telecommunications Program (DDTP)	0.50%	+	0.03%	=	0.53%
California High Cost Fund-A (CHCF-A)	0.35%	+	0.04%	=	0.39%
California High Cost Fund-B (CHCF-B)	0.00%	+	0.03%	=	0.03%
California Teleconnect Fund (CTF)	1.08%	+	0.09%	=	1.17%
California Advanced Services Fund (CASF)	0.46%	+	0.04%	=	0.50%
California Public Utilities Commission User Fee	0.18%	+	0.03%	=	0.21%
Total	8.07%	+	0.44%		8.51%