

423.20 Telecommunications service sourcing.

1. As used in this section:

a. “*Air-to-ground radiotelephone service*” means a radio service, as that term is used in 47 C.F.R. § 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

b. “*Call-by-call basis*” means any method of charging for the telecommunications service where the price is measured by individual calls.

c. “*Communications channel*” means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

d. “*Customer*” means the person or entity that contracts with the seller of the telecommunications service. If the end user of the telecommunications service is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service, but this sentence only applies for the purpose of sourcing sales of the telecommunications service under this section. “*Customer*” does not include a reseller of a telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider’s licensed service area.

e. “*Customer channel termination point*” means the location where the customer either inputs or receives the communications.

f. “*End user*” means the person who utilizes the telecommunications service. In the case of an entity, “*end user*” means the individual who utilizes the service on behalf of the entity.

g. “*Home service provider*” means the same as that term is defined in the federal Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 124(5).

h. “*Mobile telecommunications service*” means the same as that term is defined in the federal Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 124(7).

i. “*Place of primary use*” means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications service, “*place of primary use*” must be within the licensed service area of the home service provider.

j. “*Postpaid calling service*” means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A “*postpaid calling service*” includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service.

k. “*Prepaid calling service*” means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the amount declines with use in a known amount.

l. “*Prepaid wireless calling service*” means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance and that is sold in predetermined units or dollars of which the amount declines with use in a known amount.

m. “*Private communication service*” means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

n. “*Service address*” means one of the following:

(1) The location of the telecommunications equipment to which a customer’s call is

charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(2) If the location in subparagraph (1) is not known, “*service address*” means the origination point of the signal of the telecommunications service first identified by either the seller’s telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) If the locations in subparagraphs (1) and (2) are not known, the “*service address*” means the location of the customer’s place of primary use.

2. Sales of telecommunications services shall be sourced in the following manner:

a. Except for the defined telecommunications services in paragraph “c”, the sale of telecommunications services sold on a call-by-call basis shall be sourced to one of the following:

(1) Each level of taxing jurisdiction where the call originates and terminates in that jurisdiction.

(2) Each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

b. Except for the defined telecommunications services in paragraph “c”, a sale of telecommunications services sold on a basis other than a call-by-call basis is sourced to the customer’s place of primary use.

c. Sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction as follows:

(1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service, prepaid calling service, or prepaid wireless calling service is sourced to the customer’s place of primary use as required by the federal Mobile Telecommunications Sourcing Act.

(2) A sale of postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either of the following:

(a) The seller’s telecommunications system.

(b) Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of prepaid calling service or a sale of prepaid wireless calling service is sourced in accordance with section 423.15. However, in the case of a sale of a prepaid wireless calling service, the rule provided in section 423.15, subsection 1, paragraph “e”, shall include as an option the location associated with the mobile telephone number.

(4) A sale of a private telecommunications service is sourced as follows:

(a) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.

(b) Service where all customer termination points are located entirely within one jurisdiction or level of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located.

(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of a channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located.

(d) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

2003 Acts, 1st Ex, ch 2, §113, 205; 2006 Acts, ch 1158, §72 – 74, 80