

Emergency Service Communication Surcharges

**In the Counties of: Niagara, Oneida,
Ontario, Rockland, Schenectady and
Suffolk**

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Report Highlights

Audit Objectives

Determine whether counties received and expended all emergency surcharge revenue from communication service suppliers (suppliers).

Determine whether counties used enhanced emergency communication (E911) surcharge revenues to improve their county's 911 systems and operations.

Key Findings

- No resource exists to identify all the suppliers operating within the counties audited. As a result, county officials were unable to determine whether all E911 surcharges were received from their suppliers.
- Officials of all six counties expended their E911 surcharges to improve communication networks and used surcharges received from landline, VoIP¹ and wireless communication suppliers for E911 center expenditures.
- Surcharge revenues alone were not enough to support all the counties' 911 related expenditures.

Key Recommendations

- Officials should track all landline suppliers remitting surcharges to ensure the monthly amounts are remitted and allow for trend analysis and audit reconciliation.
- Counties should continue improving their 911 systems to handle the latest technologies, including NG911 capabilities such as sending text, picture and video messages to 911.

¹ Voice over Internet protocol

² Chapter 59 of the Law of New York, 2017

Background

We audited the E911 surcharges received and expended by the following six counties; Niagara, Oneida, Ontario, Rockland, Schenectady and Suffolk

To fund E911 systems, most counties are authorized to impose surcharges on wireless and landline communication devices. All surcharges are collected by the suppliers and remitted directly to the counties imposing the surcharge. Various county departments are responsible for the collection of these surcharge revenues, while the Department of Emergency Services, 911 centers or Police Departments are responsible for E911 expenditures.

Under a new law, enacted in December 2017², wireless surcharge payments will be made to the NYS Department of Taxation and Finance. See Appendix A for additional background information and relevant statistics for each county.

Quick Facts: Surcharges Received

| County | Number of Payments | Amount |
|-------------|--------------------|----------------|
| Niagara | 896 | \$750,000 |
| Oneida | 1,134 | \$806,000 |
| Ontario | 1,014 | \$1.1 million |
| Rockland | 780 | \$3.1 million |
| Schenectady | 1,472 | \$1.4 million |
| Suffolk | 2,791 | \$17.5 million |
| Totals | 8,087 | \$24.7 million |

Audit Period

January 1, 2014 – June 30, 2016

Surcharge Collection

How Should Counties Ensure All Surcharge Revenue Is Collected?

Counties should maintain a comprehensive list of all landline and wireless suppliers operating within their counties. Counties should also monitor the monthly payments of surcharge revenue from identified suppliers to determine whether any revenue remittances were missed. In addition, counties should perform a trend analysis to ensure remittances are accurate.

Counties Can Not Determine Whether All Revenue Is Collected

Each county in our audit could improve controls over E911 revenues. One county (Schenectady) made significant improvements in controls over E911 revenues after we began our audit. However, because no resource exists to identify all the communication suppliers operating within the counties audited, county officials were unable to determine whether all E911 surcharges were received from their suppliers.

Two counties (Schenectady and Suffolk) created spreadsheets with a list of all suppliers to track monthly payments.

- Schenectady County officials created and have used a spreadsheet to track monthly payments since 2008. Officials used this tracking sheet to ensure all suppliers made their monthly payments and perform trend analysis to identify fluctuations in payment amounts that might have been made in error.
- Suffolk County officials created a tracking spreadsheet to ensure all monthly payments were received. However, the tracking sheet was incomplete for six months of our audit period (January through June 2014) and had not been used to identify missing payments or analyze trends in the amounts submitted.

In an attempt to obtain a list of all suppliers that should have made surcharge payments, officials of two counties (Suffolk and Rockland) told us they contacted outside agencies to request a list of suppliers operating in their counties, but found no such list existed. Suffolk County officials contacted both the Federal Communications Commission (FCC) and NYS Department of Public Service. Rockland County officials also contacted the FCC and found that no list of suppliers operating within each county was available. Rockland County officials told us that they also contacted neighboring counties in 2012 to determine the wireless suppliers operating in those counties and alerted the suppliers of their county's surcharge requirements in an attempt to collect all available surcharge revenue.

Officials for four of the six counties either did not contact suppliers to notify them of the legal requirements to remit surcharges or the contact was undocumented.

The most recent supplier contacts were made by Rockland County officials in 2012 to wireless suppliers they were aware of and Suffolk County officials in 2009 to their four largest wireless suppliers. As a result, the counties essentially relied upon the suppliers to be familiar with the surcharge requirements and submit payment to the appropriate counties at the correct amount.

If county officials are not receiving all surcharges collected by suppliers, the counties may not be able to finance its E911 service as intended or upgrade to the latest available technology, such as next generation E911 (NG911) features like sending text, picture and video messages to 911, due to insufficient funds.

Under a new law enacted in December 2017,³ wireless surcharge payments will be made to the Department of Taxation and Finance.

How Should Counties Verify Surcharge Payment Accuracy?

In accordance with New York State County Law (County Law),⁴ suppliers are allowed to keep 2 percent of collected landline and wireless surcharges as an administrative fee. As a best practice, counties should at least periodically recalculate these amounts to determine whether suppliers retained the 2 percent allowed and the appropriate surcharge rate was used for the amounts billed and remitted.

County Law also requires each supplier to send an annual accounting report of the surcharge amounts billed and collected during the year to each county. County officials can use these reports as a tool for reconciliation and to identify whether all payments were received and deposited as E911 revenue.

Payments Lacked Information and Annual Reports Were Not Provided

We reviewed a sample of 1,049 surcharge payments⁵ totaling approximately \$1.9 million received by the counties and found administrative fees were not always separately broken out and some bills did not include enough information to determine whether the amounts remitted were accurate.

While officials for two counties (Ontario and Schenectady) recalculated the administrative fees and surcharge payments during our audit period, these calculations were undocumented. Although Schenectady County officials did not document their results during our audit period, they began doing so in December 2016. The remaining four counties (Niagara, Oneida, Rockland and Suffolk) were not performing any such recalculations.

3 Chapter 59 of the Laws of New York, 2017

4 New York State County Law §§305, 308a, 308t, 308w and 308x

5 See Appendix C for information on our methodology.

For approximately 69 percent of payments we reviewed (728 payments totaling about \$1.5 million) administrative fees were broken out and calculated correctly. However, for 321 surcharge payments (totaling approximately \$285,000) the supplier did not always indicate an administrative fee was withheld. Generally, the surcharge payments contained information necessary to verify payment accuracy. However, 28 payments totaling approximately \$275,000 did not include either the number of customers, lines or devices the payment amounts were based on. Additionally, 11 of these payments indicated that this information was confidential and not provided. Therefore, County officials could not verify the administrative fees retained were accurate.

Figure 1: Testing for Payment Accuracy

| County | Payments Reviewed | | Administrative Fees Not Broken Out or No Amount Withheld | | Missing Necessary Information | |
|---------------|-------------------|--------------------|--|------------------|-------------------------------|------------------|
| | Number | Amount | Number | Amount | Number | Amount |
| Niagara | 162 | \$117,481 | 66 | \$4,745 | 0 | \$0 |
| Oneida | 136 | \$81,760 | 27 | \$2,467 | 10 | \$6,984 |
| Ontario | 129 | \$91,967 | 44 | \$5,244 | 5 | \$2,879 |
| Rockland | 282 | \$435,381 | 101 | \$92,110 | 9 | \$90,792 |
| Schenectady | 179 | \$154,576 | 49 | \$2,969 | 0 | \$0 |
| Suffolk | 161 | \$973,502 | 34 | \$176,787 | 4 | \$174,779 |
| Totals | 1,049 | \$1,854,667 | 321 | \$284,322 | 28 | \$275,434 |

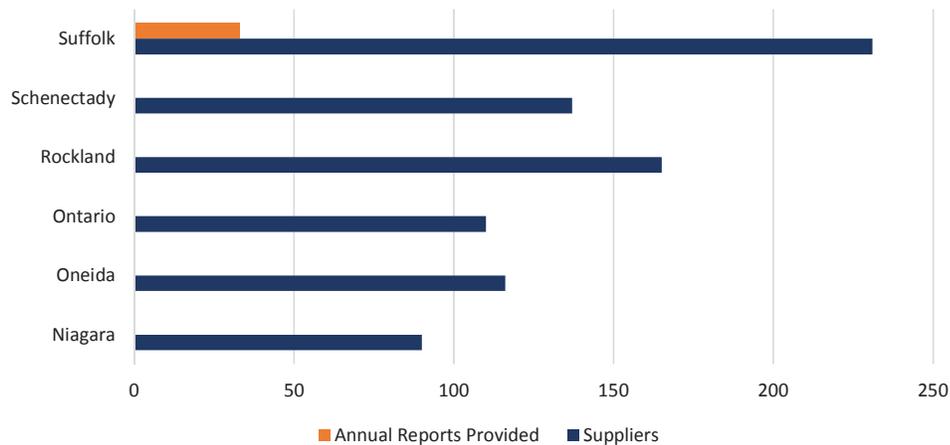
In addition, officials accepted in good faith that supplier remittances included all applicable revenue and withheld the appropriate amount of administrative fees. As a result, officials cannot be sure that their county received all the surcharges to which it was entitled and amounts suppliers remitted were accurate and appropriate.

We reviewed all annual accounting reports provided to the six counties in 2014 and 2015 and found none of the six counties had full compliance from the known suppliers operating within their respective counties.

In 2014, 380 suppliers made surcharge payments to the six counties. However, 358 of these suppliers (94 percent) did not provide an annual accounting report. Similarly, in 2015 there were 469 suppliers making surcharge payments to the six counties. However, 458 of these suppliers (98 percent) did not provide an annual accounting report. Specifically, five counties (Niagara, Oneida, Ontario, Rockland and Schenectady) did not receive any reports during the audit period.

FIGURE 2

Annual Reports Provided By Suppliers in 2014 and 2015



Suffolk County officials received 22 annual accounting reports for 2014 and 11 for 2015. Suffolk County’s local law⁶ establishes penalties for suppliers that do not submit annual accounting reports at \$250 for each day past due, up to \$5,000 annually. However, officials did not assess penalties to suppliers who did not comply with the local law. Had officials assessed these penalties, we estimate that \$990,000⁷ in additional revenues for 2014 and 2015 would have been generated, which could have been used to fund E911 upgrades.

Schenectady County officials received 52 annual accounting reports for 2014 and 65 for 2015. However, these reports were received retroactively in December 2016 by requesting them from suppliers after we began our audit. Similarly, subsequent to our audit fieldwork, Suffolk Officials provided us with accounting reports for 2014 and 2015. Officials for the remaining four counties (Niagara, Oneida, Ontario and Rockland) have not requested the annual accounting reports from the suppliers that failed to provide them.

What Do We Recommend?

County officials should:

1. Track all landline suppliers remitting surcharges and the monthly amount submitted, to ensure all surcharges are remitted and allow for trend analysis and audit reconciliation.

6 Suffolk County Local Law No. 3-2014

7 See Appendix C for information on our methodology.

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2. Perform trend analysis from the monthly landline payments and the annual accounting reports.
 3. Recalculate the administrative fee on all landline bills and the landline amounts billed and collected.
 4. Contact the major landline and VoIP suppliers to request all annual reports accounting for surcharges billed and collected.

911 System Improvements

How Should Counties Use Surcharge Revenue?

County Law requires that the surcharges (landline, VoIP or wireless) received by the counties be used to provide an E911 emergency telephone system including costs related to the design, installation, operation and maintenance of the system. Annually, each county is required to reserve any revenues that exceed expenditures to fund E911 system costs. In addition, counties should upgrade and update their E911 systems to support the latest technologies.

Counties Appropriately Spent Surcharge Revenue

Officials of all six counties expended their E911 surcharges to improve communication networks and surcharges received from landline, VoIP and wireless communication suppliers were used for E911 center expenditures. We commend officials of five counties (Oneida, Ontario, Rockland, Schenectady and Suffolk) for improving their E911 systems and operations by funding improvements with a combination of grants, real property taxes, sales tax and surcharges.

We reviewed 300 expenditures (50 in each county), totaling approximately \$1.9 million, and generally found that the counties were spending the surcharge revenue appropriately.

Counties are challenged to improve the E911 systems, while continuing to pay for equipment and services to operate the current system. For the six counties, the deficit calculated for 2014 and 2015 averaged over \$22.5 million per year.

Figure 3: Surcharge Revenues vs. 911 Center Expenditures

| County | Surcharge Revenue | 911 System Expenditures | Surplus (Deficit) | Surcharge Revenue | 911 System Expenditures | Surplus (Deficit) |
|---------------|--------------------|-------------------------|-----------------------|---------------------|-------------------------|-----------------------|
| | 2014 | | | 2015 | | |
| Niagara | \$314,730 | \$2,993,351 | (\$2,678,621) | \$288,443 | \$2,891,075 | (\$2,602,632) |
| Oneida | \$328,757 | \$4,112,878 | (\$3,784,121) | \$338,386 | \$5,108,463 | (\$4,770,077) |
| Ontario | \$448,241 | \$3,245,393 | (\$2,797,152) | \$441,148 | \$3,393,409 | (\$2,952,261) |
| Rockland | \$1,285,594 | \$851,212 | \$434,382 | \$1,284,403 | \$787,917 | \$496,486 |
| Schenectady | \$573,703 | \$2,134,186 | (\$1,560,483) | \$581,735 | \$4,060,401 | (\$3,478,666) |
| Suffolk | \$6,080,113 | \$17,240,291 | (\$11,160,178) | \$7,235,827 | \$17,533,479 | (\$10,297,652) |
| Totals | \$9,031,138 | \$30,577,311 | (\$21,546,173) | \$10,169,942 | \$33,774,744 | (\$23,604,802) |

Surcharge revenues alone were not enough to support all of the 911 related expenditures. Although Rockland County received more surcharge revenue than the E911 related expenditures, dispatcher salaries and benefits were not funded by surcharge revenues. If these had been included as E911 related expenditures,

the expenditures would have increased by approximately \$2.7 million in 2014 and \$3 million in 2015. As a result, counties relied on additional revenue sources such as grants, real property taxes and sales tax to fund the E911 system expenditures and NG911 improvements.

We reviewed the current status of each county's E911 system capabilities through interviews with county officials and walkthroughs of their E911 centers. We found that five counties (Oneida, Ontario, Rockland, Schenectady and Suffolk) had begun the process of implementing some aspects of NG911 technologies.

- Oneida County – The system became text-to-911 ready in November 2014 for two suppliers and has the equipment necessary to handle receiving picture and video messages. However, the text-to-911 feature may not be available because wireless suppliers have not yet updated their equipment and do not yet support photo or video messages.
- Ontario County – The system became text-to-911 ready in November 2015 for four suppliers, but cannot yet support picture or video messages. Other suppliers may not be able to handle the text-to-911 function because they have not yet updated their equipment.
- Rockland County – The system became text-to-911 ready in October 2015 for five suppliers and can support picture messages but not video messages. Other suppliers may not be able to handle the text-to-911 function because they have not yet updated their equipment.
- Schenectady County – The system is currently being upgraded and features including text, picture and video messages were expected to be available in April 2017. However, as of November 2017, these features were not yet available for public use. County officials are waiting for updates from one supplier before announcing these features are available for public use. The estimated date of availability for these NG911 capabilities is the end of 2017.
- Suffolk County – The system's equipment supports text, picture and video messages and text-to-911 is expected to be available by May 2018. County officials told us they need to complete training before these capabilities can be used.

Niagara County's system is not upgraded for text, picture and video capabilities and officials have no immediate plans to implement these technologies. They told us that the current funding streams are not sufficient to support this technology and that, if implemented, only two suppliers can currently support these features.

What Do We Recommend?

County officials should:

5. Continue improving their 911 systems to handle the latest technologies, including NG911 capabilities such as sending text, picture and video messages to 911.

Appendix A: Additional Background Information

We audited the E911 surcharges received and expended by the following six counties: Niagara (S9-17-14), Oneida (S9-17-16), Ontario (S9-17-13), Rockland (S9-17-12), Schenectady (S9-17-15) and Suffolk (S9-17-11).

To summon emergency aid, people commonly call 911, a nationally recognized number. An E911 effective system reduces response delays with rerouting and automatic number and location identification through the use of technology. Each county operated an E911 system and had at least one public safety answering point,⁸ which received emergency calls. In 2016, approximately 1.8 million emergency E911 calls were answered through the counties' 26 answering points.

Figure 4: Calls Answered in 2016

| County | Number of Answering Points | Number of Calls |
|---------------|----------------------------|------------------|
| Niagara | 3 | 148,226 |
| Oneida | 1 | 125,381 |
| Ontario | 1 | 180,740 |
| Rockland | 8 | 268,176 |
| Schenectady | 1 | 220,050 |
| Suffolk | 12 | 887,324 |
| Totals | 26 | 1,829,897 |

More than half of American homes, or 50.8 percent, rely solely on wireless telephone service.⁹ Furthermore, the majority of 911 calls are received from cell phones. Data from reporting states showed 70 percent of consumers use cell phones to call 911, compared to 25 percent of consumers using landline telephones. If counties want to ensure the general public has 911 access from multiple communication devices, they need to ensure that the 911 infrastructure can accommodate new technologies. If left unchanged, the current 911 systems face increasing challenges in providing service as society and technology continue to advance.

The evolution of 911 systems has had several phases including E911 Phase I, which enabled the call taker to see the wireless callback number and location of the cell tower closest to the caller. Phase II encompassed Phase I, but also allowed call takers to view the location of the caller by latitude and longitude with improved accuracy to within 125 meters (137 yards). NG911 is the latest phase, which allows callers to text, send pictures, videos and other data to the answering points. Figure 5 shows each county's E911 system capabilities.

⁸ Sites designated and operated by a local government to receive emergency calls from customers of a telephone service supplier.

⁹ National Health Interview Survey Early Release Program *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey*, July – December 2016.

Figure 5: 911 System Capabilities

| County | Phase II | NG911 | | |
|-------------|----------|-----------------|------------------|-----------------|
| | | Text-to-911 | Picture Messages | Video Messages |
| Niagara | Yes | No | No | No |
| Oneida | Yes | Yes | No ^c | No ^c |
| Ontario | Yes | Yes | No | No |
| Rockland | Yes | Yes | Yes | No ^c |
| Schenectady | Yes | No ^a | No | No |
| Suffolk | Yes | No ^b | No | No |

a Estimated to be capable by the end of 2017.

b Estimated to be capable by May 2018.

c Officials from these counties explained that their systems are capable of receiving these messages, but that the suppliers need to upgrade their systems to support these functions. Because there is currently no mandate requiring suppliers to make these upgrades, no timetable for their expected implementation is available.

A major obstacle of a fully upgraded E911 program is the cost of the equipment and services to operate the system. NYS legislation allows counties to fund E911 services through surcharges generated from using wireless and landline devices for communication services. Most counties are authorized to impose a surcharge not exceeding 30 cents per device per month on wireless services provided to a customer whose place of primary use (customer billing address) is a local government.

Currently, 49 counties impose the wireless surcharge, although surcharges on prepaid wireless devices are not permitted currently. All surcharge money is collected by the suppliers and remitted directly to the counties imposing the surcharge. Similarly, all NYS counties are authorized to impose a surcharge, up to 35 cents on landlines. For both surcharge types, communication service suppliers are allowed to keep 2 percent of the amount collected to cover administrative costs.

The new law¹⁰ repealed all NYS counties' prior wireless surcharge authorizations and allow counties to collect surcharges on wireless communication services at 30 cents per device (per month). The legislation will also allow surcharges on prepaid wireless communication services at 30 cents per retail sale.

Surcharge payments authorized by the counties will be made quarterly to the Department of Taxation and Finance with the suppliers able to keep 3 percent of the amount collected to cover administrative costs. Unlike prior wireless surcharge authorizations, there is no requirement for these suppliers to submit an annual accounting report of the surcharge amounts billed and collected for the

¹⁰ Chapter 59 of the Laws of New York, 2017

year. The landline and VoIP surcharge payments will continue to be made directly to the counties.

Appendix B: Responses From County Officials

We provided a draft copy of the global report to all six counties we audited and requested a response from each. We received responses from four counties: Ontario, Rockland, Schenectady and Suffolk. The counties of Oneida and Niagara did not respond.

Two of the four counties that responded (Rockland and Schenectady) generally agreed with our findings and recommendations and two counties (Ontario and Suffolk) chose not to provide comments related to the global draft. Each county's individual report includes its response to our audit of the specific county.

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We judgmentally selected the counties audited based on population size, E911 surcharge revenues, E911 system capabilities and geographical location.
- We interviewed county officials and staff, and reviewed the governing body's minutes, resolutions and policies to gain an understanding of the process and procedures over each county's E911 revenues and expenditures.
- We performed a walkthrough of each county's emergency communication center to observe and document the E911 system capabilities.
- We reviewed all available annual accounting reports of surcharge amounts billed and collected submitted by the suppliers to the six counties for 2014 and 2015 and whether penalties were enforced for suppliers not providing these reports if outlined in local law.
- We reviewed two to three months of surcharge remittances at each county to determine whether the suppliers properly retained the 2 percent administration fee. We selected months when remittances included average and larger dollar amounts to try to capture all suppliers including any that might be making year-end payments.
- We judgmentally selected and reviewed samples of 50 expenditures at each county to determine whether the purchases were appropriate E911 Center costs.
- We estimated the total penalty for non-compliance with Suffolk County's local law regarding annual accounting reports by multiplying the penalty of \$5,000 by 74 suppliers in 2014 and 124 suppliers in 2015.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or relevant population size and the sample selected for examination.

Appendix D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/lgli/pdf/cybersecurityguide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

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