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Rahm Emanuel, Mayor

Department of Law

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December 5, 2018

Stanley R. Kaminski
Duane Morris
190 S. LaSalle St., Suite 3700
Chicago, Illinois 60601

Re: [REDACTED] - Private Letter Ruling

Dear Stan:

Pursuant to Uniform Revenue Procedures Ordinance ("URPO") Ruling #3, I am writing in response to your letter dated November 19, 2018 ("Request") (copy attached), requesting a private letter ruling ("PLR") concerning the application of the Chicago 911 Surcharge Ordinance ("911 Surcharge Ordinance"), Chapter 3-64 of the Municipal Code of Chicago ("Code"), to the telecommunication services purchased by [REDACTED]

(" [REDACTED])

Based on the facts set forth in your Request, along with our subsequent communications, we agree that [REDACTED] may use the formula set forth at the top of page 5 of your Request, with the modification that 23 should be used instead of 24, as it is our understanding that only 23 of the 24 channels in a typical Advanced Service trunk are voice grade communication channels capable of providing access to 911 emergency telephone service. The approved formula therefore will be: $1,102 \div 23 = 48$ equivalent lines $\times 64\% = 31 \times 12 = 372 \times \$5.00 = \$1,860$ per month.

This PLR is based on the text of the 911 Surcharge Ordinance as of the date of this letter and the facts as represented in the Request. The opinions contained herein are expressly intended to constitute written advice that may be relied upon pursuant to the Code Section 3-4-325. This PLR is subject to the terms of URPO Ruling #3, including the proviso that a taxpayer may not reasonably rely on a PLR that is ten or more years old unless the PLR is ratified in writing by the Corporation Counsel's Office.

Very truly yours,

Weston W. Hanscom
Deputy Corporation Counsel
City of Chicago, Law Department
Revenue Litigation Division
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Cc: Joel Flores, Department of Finance

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November 19, 2018

Chicago Department of Finance
Attn: Tax Policy Section
DePaul Center, Room 300
333 South State Street
Chicago, Illinois 60604-3977

Re: Private Letter Ruling Request for [REDACTED]

Dear Sir or Madam:

On behalf of [REDACTED] (" [REDACTED] ") we hereby request the issuance of a private letter ruling under Section 5 of the Uniform Revenue Procedures Ordinance Ruling Number 3. [REDACTED] is not currently under audit for any tax by the Chicago Department of Finance ("DOF").

[REDACTED] headquarters is located at [REDACTED] Chicago, Illinois 60603, and it has facilities located in multiple jurisdictions throughout the United States. [REDACTED] purchases telecommunication services from Sprint, Inc. ("Sprint"). Recently, Sprint has given [REDACTED] the ability to aggregate its inbound and outbound voice traffic over the network using a limited number of lines. Because of this new technology, a question has arisen over the proper Chicago Emergency Telephone System Surcharge ("9-1-1 Surcharge") that is due.

The purpose of this letter ruling request is to obtain a ruling on the application of the 9-1-1 Surcharge to this new technology. A copy of a power of attorney is enclosed as required by Revenue Ruling Number 3.

FACTS

[REDACTED] is an Illinois banking corporation. It has branches in selected states throughout the United States, as well as foreign branches located in Beijing, London, Melbourne, Singapore, and Toronto. [REDACTED] is the predominant subsidiary of [REDACTED]. Because

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██████ has offices all over the United States, it has employees and thus telephone lines running throughout the country.

The new technology provided by Sprint gives ██████ virtual Voice Over the Internet Protocol (VOIP) trunks, also known as Session Initiated Protocol (“SIP”) trunks that carry local and long distance traffic to multiple destinations. Unlike normal Private Branch Exchange (“PBX”) “Advanced Service” trunks, a SIP trunk can only carry one (1) voice path from ██████ internet protocol private branch exchange system to the Public Switched Telephone Network (“PSTN”), so it can only carry one (1) voice call at a time. This is done using Cisco’s Unified Communication Manager system. As noted, this is dissimilar to a normal “Advanced Service” which channels multiple calls (up to 24 channels) at one time.

The individual trunks are aggregated into a virtual pool available to ██████ to support voice calls, and are allocated on a call-by-call basis rather than on a location basis. When a call is placed to or received from the PSTN, a trunk for the pool is allocated to support the call. The trunk remains allocated to the call throughout the length of the call. When the call is terminated, the trunk is returned to the pool and is now available to support another call at any locations in the enterprise. For example, a person at one of the Chicago, Illinois, offices place a call to a client in St. Louis, Missouri. The carrier’s SIP service assigns trunk #1 to the call. When the call ends, trunk #1 is returned to the pool. Later in the day, a person at the Denver, Colorado, office places a call to a client in the Denver area. If trunk #1 is not active, it can be assigned to this call, *i.e.*, SIP trunks are dynamically allocated by call and not by geographic location; therefore, they are non-jurisdictional in nature.

██████ currently has 13,726 telephones throughout the country that are capable of making 9-1-1 calls, 10,353 of these lines are in Illinois: 8,776 originate in Chicago and 1,577 originate outside of Chicago. However, none of these lines can make outbound calls directly to a PSTN. Rather, all outbound calls from all U.S. locations are sent across one of the two 100 Mbps circuits terminating in ██████ data centers in ██████ Illinois, and ██████ Illinois, to the carrier network. The carrier routes the calls across the 1,102 SIP trunks to the PSTN for further processing. Calls originating from the PSTN follow the same route in reverse. The carrier’s responsibility for the call starts and ends at the data centers. ██████ assumes full responsibility for routing calls between the carrier circuit and the endpoint located within one of the ██████ U.S. offices using this IP-PBX equipment (the Cisco Unified Communications Manager voice system).¹

¹ Prior to this new technology, ██████ used T-1 Advanced Service trunk lines to route calls to a PSTN. ██████ had 20 of these T-1 Advanced Service trunk lines for its Chicago subscriber lines in 2016.

LAW

The City of Chicago imposes a 9-1-1 Surcharge “upon billed subscribers of telecommunication services within the corporate limits of the city.” Chgo. Mun. Code, § 3-64-030A. The charge is imposed at a monthly rate “per voice grade communication channel between a subscriber’s premises and the public switch network capable of providing access to the 9-1-1 emergency telephone system.” *Id.*

Where “multiple voice grade communication channels are connected between the subscriber premises and the public switch network through a Private Branch Exchange service (PBX), five surcharges shall be imposed on every such regular service provided trunk line leaving the subscriber premises,” while “12 surcharges shall be imposed on every Advanced Service trunk line leaving the subscriber premises.” *Id.*

An “Advanced Service” trunk line is a DS-1, T-1 or other un-channeled or multi-channeled facility capable of transporting multiple subscribers voice telecommunicating to a public switch network or its 9-1-1 calls to the public agency, for up to 24 voice grade channels of telecommunications. § 3-64-020.

The current rate of tax is \$5 per network connection. § 3-64-030.A.(2).

ISSUES

1. Please confirm that the City’s 9-1-1 Surcharge is imposed on only that percentage every month of the 1,102 SIP trunk lines which are accessible by Chicago-based [REDACTED] telephones that can make 9-1-1 calls divided by the total telephones of [REDACTED] that can assess the 1,102 SIP lines.

2. Please confirm that in using the percentage in #1 above, the SIP lines that are subject to 9-1-1 Surcharge are either: (a) that number of equivalent Advanced Service lines, using an “equivalency” formula, by taking the number of 1,102 SIP lines that are “equivalent” to the telecommunication service provided by an “equivalent” number of Advanced Service lines, and then multiplying by 12 the 9-1-1 Surcharge, or (b) that number based on a single 9-1-1 Surcharge for that portion of the 1,102 SIP lines allocated to Chicago;

ANALYSIS

A. Portion of 1,102 SIP Lines Subject to Chicago 9-1-1 Surcharge

The 9-1-1 Surcharge is based on the number of “voice grade communication” channels between the subscriber’s premises and the public switch network capable of providing access to 9-1-1 emergency telephone service. Here, the number of total lines that can connect to the public

switch network for 9-1-1 purposes is limited to 1,102 SIP lines. These lines are shared between the various Chicago and non-Chicago offices of [REDACTED]

Out of the 13,726 total phones capable of 9-1-1 calls, approximately 8,776 are phones originating from inside of Chicago at a Chicago office of [REDACTED]. So Chicago subscriber lines make up 64% of all such 9-1-1-capable lines that travel through the SIP lines (*i.e.*, 8,776/13,726).

So what is clear is that only one (1) call can be channeled through each of these 1,102 lines at any one time. And, that 64% of the 1,102 SIP lines will predominantly originate at Chicago-based [REDACTED] subscriber lines and 36% at non-Chicago originated lines. Therefore, using this ratio, 705 of such SIP lines should be subject to the Chicago 9-1-1 Surcharge.

We believe using this allocation method would appear to be the only logical interpretation of this law, and an interpretation that would avoid double taxation of the same telecommunications services by multiple municipalities. This allocation would provide Chicago with its fair share of 9-1-1 Surcharge revenues for telephone lines originating in Chicago.

B. Calculation of Chicago 9-1-1 Surcharge

The Chicago 9-1-1 Surcharge is imposed on each "voice grade communication channel between a subscriber's premises and the public switch network capable of providing access to the 9-1-1 emergency telephone system." § 3-64-030A. The surcharge is \$5.00 per month per connection. For Advanced Service lines, "12 surcharges shall be imposed on every Advanced Service trunk line leaving the subscriber premises."

- SIP lines are a new technology that competes with Advanced Service PBX trunks. As a result, in imposing a 9-1-1 Surcharge on such SIP lines, they then should be charged a 9-1-1 Surcharge by looking at the "equivalency" of the voice grade channels in an SIP trunk to the voice grade channels in an "Advanced Service" trunk. This is similar to how the DOF's Emergency Telephone Surcharge Ruling #1 has an "equivalency" formula for Centrex lines.

In an Advanced Service trunk, multiple channels of up to 24 calls at a time can be carried through each trunk line. Each of these "multiple" line trunks is deemed an "Advanced Service" trunk by the 9-1-1 Surcharge Ordinance. *See*, § 3-64-020. These Advanced Service trunks are charged a 9-1-1 Surcharge of 12 times the usual surcharge.

In doing an "equivalency" calculation of the new SIP lines to an "Advanced Service" trunk, the 1,102 SIP lines should be converted into comparable capacity "Advanced Service" trunk lines by dividing the 1,102 SIP lines by 24 (the number of channels in an "Advanced Service" trunk). This results in 46 "equivalent" Advanced Service trunk lines. These 46 trunk lines are then multiplied by the Chicago allocation percentage of 64%, giving us 30 Advanced Service trunk lines subject to the Chicago 9-1-1 Surcharge. Under this equivalency formula, the

9-1-1 Surcharge would be calculated as follows: $1,102 \div 24 = 46$ equivalent lines $\times 64\% = 30 \times 12 = 360 \times \$5.00 = \$1,800$ per month.

This "equivalency" formula is also required to avoid any uniformity issue by equalizing the application of the 9-1-1 Surcharge on SIP lines to Advanced Service Trunk line, in that the 9-1-1 Surcharge will then be applied in a uniform manner to "equivalent" capacity SIP lines as compared to Advanced Service trunk lines.

The Uniformity Clause of the Illinois Constitution requires that the application of a tax be reasonable and not arbitrary. *Primeco Personal Communications, L.P. v. Ill. Commerce Comm.*, 196 Ill. 2d 70 (2001). Therefore, any tax classification must be "based on a real and substantial difference between those persons assessed and those who are not" and must "bear some reasonable relationship to the object of the legislation or to public policy." *Northern Illinois Home Builders Ass'n v. County of DuPage*, 165 Ill. 2d 25, 44-45 (1995). The Uniformity Clause also applies to classifications created by the interpretation and application of a tax by a taxing agency to a specific product, as well as under inclusive and over inclusive applications of a tax. *Federated Distributors, Inc. v. Johnson*, 125 Ill. 2d 1 (1988). As applied to the SIP lines at issue herein, it is [REDACTED] belief that uniformity requires that the DOF apply the 9-1-1 Surcharge on the 1,102 SIP lines in a manner that recognizes the different capacities of the SIP lines to the Advanced Service trunk (multiple) lines. In other words, the failure to use such an equivalency formula will result in a 9-1-1 Surcharge on channels using SIP lines that is 24 times the surcharge paid for using channels in Advanced Service (multiple) lines, and thus would be a violation of the Uniformity Clause. See, *U.S.G. Italian Marketcaffè, L.L.C. v. City of Chicago*, 332 Ill. App. 3d 1008 (1st Dist. 2002).

Finally, it should be noted that prior to 2017, [REDACTED] utilized Advanced Service T-1 trunk lines for its calls to the PSTN. In 2016, [REDACTED] used 20 T-1 Advanced Service trunk lines to connect its Chicago locations to the PSTN.² It paid approximately \$936.00 in Chicago 9-1-1 Surcharge based on the \$3.90 rate at that time. At today's \$5.00 rate, the 9-1-1 Surcharge would have been \$1,200 if those same Advanced Service lines were still being used. So imposing the equivalency formula would be close to the 9-1-1 Surcharge previously paid by [REDACTED] for the equivalent communication channel service.

- Alternatively, while [REDACTED] believes that the appropriate and logical manner of imposing the 9-1-1 Surcharge is to apply it to the SIP lines based on their "equivalency" to Advanced Service trunk (multiple) lines, if that equivalency is not done, then at most the 9-1-1 Surcharge can only be applied once to each of the 1,102 SIP lines since SIP lines only allow one (1) voice grade communication channel at a time. This alternative application of the 9-1-1 Surcharge would be in line with the literal wording of Section 3-64-030A, which requires that

² [REDACTED] also had six (6) additional T-1 lines for long distance calls only that were not subject to 9-1-1 Surcharge.

Chicago Department of Finance
Attn: Tax Policy Section
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Duane Morris

the \$5.00 surcharge be applied “per voice grade communication channel between a subscriber’s premises and the public switch network capable of providing access to the 9-1-1 emergency telephone system.” In short, since these 1,102 SIP lines can only make 1,102 calls to 9-1-1 at any one time, then only one 9-1-1 Surcharge per SIP line at most can be required under the explicit wording of the ordinance.

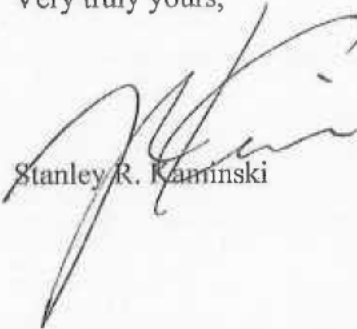
██████ further believes that if the equivalency formula for some reason is not used, the Uniformity Clause would then require the DOF to treat the 1,102 SIP lines like other one-channel lines. *See, Federated Distributors v. Johnson, supra.* As noted above, while an equivalency formula is both the logical and rational route, this equal treatment of one channel lines would at least be in harmony with the objective of the 9-1-1 Surcharge to only be imposed on each “communication channel” that is “capable of providing access to the 9-1-1 emergency telephone system.” § 3-64-030A. Under this formula, the 9-1-1 Surcharge would be calculated as follows: 1,102 lines x 64% Chicago portion = 705 lines x \$5.00 = \$3,525 per month.

CONCLUSION

██████ respectfully requests that the DOF issue a private letter ruling confirming ██████ understanding of the application of the 9-1-1 Surcharge to the issues discussed herein.

If you have any questions, please do not hesitate to call me.

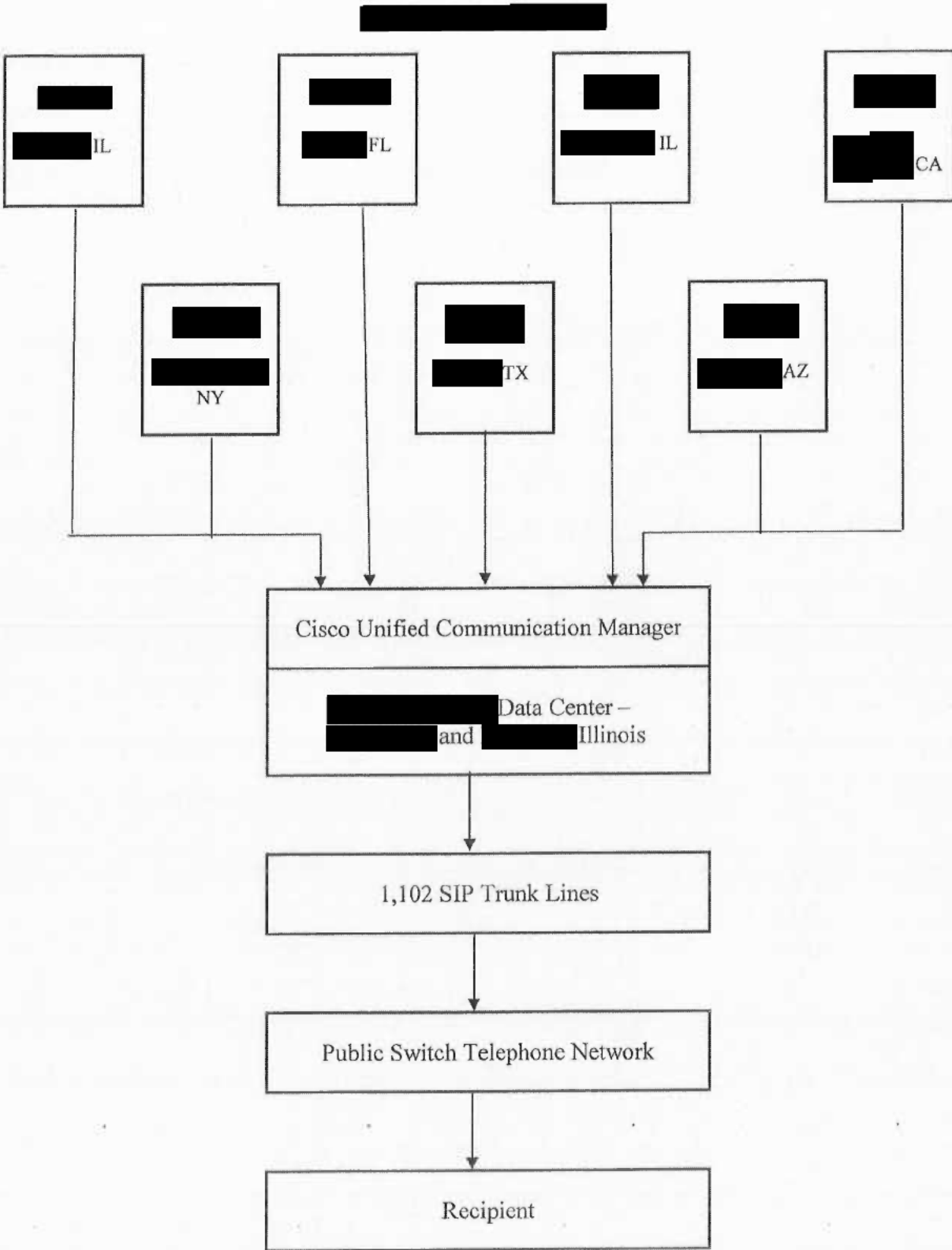
Very truly yours,



Stanley R. Kaminski

SRK:dmb
Enclosure

FLOW CHART



City of Chicago
Department of Revenue



Power of Attorney and
Declaration of Representative

PART I - Power of Attorney

Taxpayer(s) name, identifying number, and address including ZIP code (Please type or print)

██████████, ██████████, Chicago, Illinois 60603

hereby appoints (name(s), address(es), including ZIP code(s), and telephone number(s) of individual(s))*

Stanley R. Kaminski

Duane Morris LLP

190 South LaSalle Street, Suite 3700, Chicago, Illinois 60603

Telephone #: 312.499.0105

as attorney(s)-in-fact to represent the taxpayer(s) before any office of the Chicago Department of Revenue for the following tax matter(s). Specify the type(s) of tax and year(s) or period(s).

Type of Tax	Year(s) or Period(s)
9-1-1 Surcharge	2017 -- to-date

The attorney(s)-in-fact (or either of them) are authorized, subject to revocation, to receive confidential information and to perform any and all acts that the principal(s) can perform with respect to the above specified tax matters (excluding the power to receive refund checks, and the power to sign the return, unless specifically granted below).

Send copies of notices and other written communications addressed to the taxpayer(s) in proceedings involving the above tax matters to:

- 1 the appointee first named above, or
- 2 (names of not more than two of the above named appointees)

Initial here ⇨ if you are granting the power to receive, but not to endorse or cash, refund checks for the above tax matters to:

- 3 the appointee first named above, or
- 4 (name of one of the above designated appointees)

This power of attorney revokes all earlier powers of attorney and tax information authorizations on file with the Department of Revenue for the same tax matters and years or periods covered by this power of attorney, except for the following:

.....
.....
(Specify to whom granted, date, and address including ZIP code, or refer to attached copies of earlier powers and authorizations.)

Signature of or for taxpayer(s)

(If signed by a corporate officer, partner, or fiduciary on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.)

██████████ (Title, if applicable) (Date)

(Also type or print your name below if signing for a taxpayer who is not an individual.)

..... (Signature) (Title, if applicable) (Date)

*You must authorize an organization, firm, or partnership to receive confidential information, but your representative must be an individual who must complete part II.

