

CR 88-46

RECEIVED

OCT 3 1988

2:00 pm  
Revisor of Statutes  
Bureau

CERTIFICATE

STATE OF WISCONSIN	)	
PUBLIC SERVICE COMMISSION	)	File 1-AC-110
OF WISCONSIN	)	

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Jacqueline K. Reynolds, Secretary of the Public Service Commission of Wisconsin, and custodian of the official records of said commission, do hereby certify that the annexed order adopting cellular mobile radio telecommunications utilities rules was duly approved and adopted by this commission on September 15, 1988.

I further certify that said copy has been compared by me with the original on file in this commission and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the commission at Hill Farms State Office Building in the City of Madison, WI September 28, 1988.

Jacqueline K. Reynolds  
 Jacqueline K. Reynolds  
 Secretary to the Commission  
 PUBLIC SERVICE COMMISSION OF  
 WISCONSIN

RECEIVED

OCT 3 1988

Revisor of Statutes  
Bureau



COMPARED WITH AND CERTIFIED BY ME  
TO BE A FULL, TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE IN MY OFFICE

SEP 15 1988

*Jacqueline K. Reynolds*  
Secretary to the Commission  
Public Service Commission of Wisconsin

DATE MAILED  
SEP 16 1988

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Regulation of Cellular Mobile )  
Radio Telecommunications Service ) 1-AC-110  
and Cellular Mobile Service Providers )

ORDER OF THE PUBLIC SERVICE COMMISSION  
ADOPTING RULES

To create Ch. PSC 172 relating to cellular mobile radio  
telecommunications utilities.

ANALYSIS PREPARED BY THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

On June 4, 1986, the commission opened an investigation  
in docket 05-TI-109 to consider the impact of 1985 Wis. Act 297 on  
cellular mobile radio telecommunications service and for cellular  
mobile radio telecommunications utilities. On September 18, 1986,  
the commission issued an order in docket 05-TI-109 which  
established, inter alia, how a cellular utility qualifies for  
provisional exemption from regulation and the appropriate level of  
regulation for cellular mobile radio telecommunications service  
providers.

On November 13, 1986, the commission gave notice in this  
docket of its intention to adopt administrative rules implementing  
the requirements found to be reasonable in docket 05-TI-109. A

hearing was held on December 17, 1986, on rules proposed by the commission in its notice of November 13, 1986. Written comments concerning the proposed rules were also received from interested persons.

On April 2, 1987, the commission reopened docket 05-TI-109 for the purpose of considering a staff-sponsored amendment which sought to create an exception for cellular mobile radio service providers operating in adjacent competitive and noncompetitive markets from the general requirement that cellular mobile radio service providers in both competitive and noncompetitive markets be fully regulated in each market.

On April 7, 1987, comments on the staff-sponsored amendment to 05-TI-109 were solicited. Comments were received from Milwaukee SMSA Limited Partnership and Milwaukee Telephone Company and reply comments were also filed by Milwaukee SMSA Limited Partnership.

On July 31, 1987, s. 196.202, Stats., was amended by Sections 1920cg - 1920or of 1987 Wisconsin Act 27. One of the principal purposes of this amendment was to permit cellular mobile radio telecommunications utilities in noncompetitive markets to be regulated as alternative telecommunications utilities (ATUs) under s. 196.203, Stats. Since much of the regulation found to be reasonable for cellular mobile service providers in docket 05-TI-109 was predicated on the requirement of s. 196.202 that cellular mobile service providers in noncompetitive markets be fully regulated, the amendment of s. 196.202, permitting

regulation of such sole providers as ATUs, now compels a determination by the commission concerning the appropriate level of regulation for cellular mobile radio telecommunications service providers which are sole providers and are being regulated as ATUs.

Under Wisconsin law, as amended by 1987 Wis. Act 27, a cellular mobile radio telecommunications utility in Wisconsin can provide service in one of three situations. First, it can be the only provider of cellular mobile radio service in a particular service area. Second, it can be one of two facility-based providers in a service area in which less than two percent of the population of the service area subscribes to cellular mobile radio telecommunications service. Third, it could be one of two cellular mobile telecommunications service providers in a service area in which two percent or more of the population of the service area subscribe to cellular service.

In the first instance, the provider in a noncompetitive service area may qualify for ATU status. In the second situation, the two utilities are provisionally exempt from regulation. In the third situation, the utilities may qualify for ATU status.

These rules apply to firms which are authorized by the Federal Communications Commission to operate cellular mobile radio telecommunications facilities and are seeking permission from the commission to provide cellular mobile radio telecommunications service in Wisconsin as a public utility. These rules also apply to existing cellular utilities which are either sole providers or one of two providers in a

service area in which less than two percent of the population subscribes to cellular service. These rules do not apply to cellular mobile radio telecommunications utilities providing service in a service area in which two or more percent of the population subscribes to cellular service.

The rules adopted in this order will implement ss. 196.203 and 196.202, Stats., as amended by Sections 1920og-1920or of 1987 Wis. Act 27. It is the commission's intent that these rules will supersede the requirements found to be reasonable in docket 05-TI-109.

#### RULES AND STATUTORY AUTHORITY

Pursuant to the authority vested in the Public Service Commission by ss. 196.202, 196.203 and 227.11 (2) (a) and (c), Stats., the Public Service Commission creates the following rules:

SECTION 1: Ch. PSC 172 is created to read:

PSC 172 CELLULAR MOBILE RADIO TELECOMMUNICATIONS SERVICE PROVIDERS

PSC 172.01 PURPOSE. The purpose of this chapter is to establish regulations for cellular mobile radio telecommunications utilities providing service in service areas in which less than two percent of the population of the service area subscribes to cellular service.

PSC 172.02 DEFINITIONS. (1) "Cellular mobile radio telecommunications utility" means a person authorized by the Federal Communications Commission to provide domestic public cellular radio telecommunications service under 47 USC 154 (i).

(2) "Cellular mobile service provider" means a cellular mobile radio telecommunications utility subject to s. 196.202 (4) (a) or (b).

(3) "Service area" means the geographical area in which a cellular mobile radio telecommunications utility is authorized to operate cellular radio facilities by the Federal Communications Commission under 47 USC 154 (i).

(4) "IntraLATA" means within a single Local Access and Transport Area as identified by the District Court for the District of Columbia in U.S. v. Western Electric Co., 569 F. Supp. 990, 1039 and 1040 (D.D.C. 1983).

PSC 172.03 PETITION FOR PROVISIONAL EXEMPTION FROM REGULATION. (1) Any cellular mobile radio telecommunications utility may file a petition with the commission for a determination of its status as a utility provisionally exempt from regulation under s. 196.202 (2), Stats.

(2) A petition filed by a provider currently providing service may refer to information already on file with the commission.

(3) The petition shall include the following information:

(a) Name and address of the cellular mobile radio telecommunications utility and the name, title, and phone number of a contact person;

(b) Copy of the FCC license to operate cellular mobile radio facilities and a map of the service area to be served under that license;

(c) Population of the service area to be served on the last day of October of the year prior to the year of petition;

(d) Number of customers (estimated or actual) on the last day of October of the year prior to the year of petition;

(e) Nature of the cellular services to be provided;

(f) The identity of the carriers with which interconnection will be made and a copy of each interconnection agreement;

(g) Identification of any affiliated interest contracts or arrangements as defined in s. 196.52, Stats.;

(h) Name and address of other cellular mobile radio telecommunications utilities within the service area to be served.

(4) The original and four copies of the petition shall be filed with the commission.

NOTE: Petitions shall be addressed to the Secretary to the Commission, Public Service Commission of Wisconsin, P.O. Box 7854, Madison, Wisconsin 53707.

(5) Pursuant to ss. 196.202 (2) and (4), Stats., no cellular mobile radio telecommunications utility may be

provisionally exempt from regulation under chs. 196 and 184, Stats., in a service area if it is the sole provider of cellular mobile radio telecommunications service in that service area or if two percent or more of the population in that service area subscribes to cellular mobile radio telecommunications service.

PSC 172.04 PETITION FOR CERTIFICATION AS AN ALTERNATIVE TELECOMMUNICATIONS UTILITY. (1) Any cellular mobile radio telecommunications utility may file a petition with the commission for a determination of status as an alternative telecommunications utility under ss. 196.202 (2) and (4) (b) and 196.203, Stats.

(2) A petition filed by a utility currently providing service may refer to information already on file with the commission where that is the case.

(3) The petition shall include the following information:

(a) Name and address of the cellular mobile telecommunications utility and the name, title, and phone number of a contact person;

(b) Copy of the FCC license to operate cellular mobile radio facilities and a map of the service area to be served under that license;

(c) Population of the service area to be served on the last day of October of the year prior to the year of petition;

(d) Number of customers (estimated or actual) in the service area receiving cellular service on the last day of October of the year prior to the year of petition;



(e) Nature of the cellular services to be provided;

(f) The identity of the carriers with which interconnection will be made and a copy of each interconnection agreement;

(g) Identification of any affiliated interest contracts or arrangements as defined in s. 196.52, Stats.;

(h) Name and address of other providers of cellular mobile radio telecommunications service within the service area to be served.

(4) The original and four copies of the petition shall be filed with the commission.

NOTE: Petitions shall be addressed to the Secretary to the Commission, Public Service Commission of Wisconsin, P.O. Box 7854, Madison, Wisconsin 53707.

PSC 172.05 DETERMINATION OF STATUS. Upon receipt of a petition under ss. PSC 172.03 or PSC 172.04, the commission shall issue a notice of investigation. No hearing shall be held unless there is an assertion by any person, including commission staff, that a factual matter is in dispute. The commission shall issue a determination of status not less than 30 days, nor more than 60 days, after issuance of the notice of investigation or after hearing, if a hearing is held.

PSC 172.06 NOTICE OF PETITIONS. A person wishing to receive notice of investigation of a cellular mobile radio telecommunications utility's petition under either ss. PSC 172.03

or 172.04 shall request to be placed on the commission's standing notice list for cellular mobile service providers.

NOTE: Requests shall be addressed to Records Management, Public Service Commission of Wisconsin, P.O. Box 7854, Madison, WI 53707.

PSC 172.07 COMPLIANCE WITH STATUTES. (1) Pursuant to s. 196.202 (2), Stats., a cellular mobile radio telecommunications utility which is not the sole provider of cellular mobile radio telecommunications service within a service area in which less than two percent of the population subscribes to such service is provisionally exempt from the requirements of chs. 196 and 184 in that service area, except for the following:

(a) The cellular mobile service provider shall file annual reports pursuant to s. PSC 172.08 for all service areas in which it provides service on forms provided by the commission;

(b) The cellular mobile service provider shall comply with the requirements of s. 196.52, Stats., as required by s. 196.202 (3), Stats.; and

(c) The cellular mobile service provider shall be subject to s. PSC 172.09.

(2) A cellular mobile radio telecommunications utility providing intrastate, intraLATA service in Wisconsin as an alternative telecommunications utility is exempt from the requirements of chs. 184 and 196 except as follows:

(a) Ss. 196.02, 196.202, 196.203, 196.25, 196.39, 196.395, 196.40, 196.41, 196.43, 196.44, 196.65, and 196.66, Stats.

(b) The cellular mobile service provider shall file annual reports pursuant to s. PSC 172.08, for all service areas in which the utility provides service, on forms provided by the commission;

(c) The cellular mobile service provider shall comply with the requirements of s. 196.52, Stats., as required by s. 196.202 (3), Stats.;

(d) The cellular mobile service provider shall be subject to the commission's authority to investigate complaints pursuant to s. 196.26, Stats; and

(e) The cellular mobile service provider shall be subject to s. PSC 172.09.

PSC 172.08 REPORTS AND ACCOUNTS. In order to enable the commission to monitor and carry out its responsibilities under ss. 196.195 (11), 196.202 (4) (a), and 196.203, Stats., each cellular mobile radio telecommunications utility shall file with the commission an annual report providing details as to its identity, ownership, affiliated interests, service areas, the number of customers being served in each service area, the revenues generated by the provision of cellular telecommunications services in each service area, and the population of each service area.

NOTE: Although the commission has adopted a Uniform System of Accounts for Cellular Communications Utilities in Docket 05-US-100, cellular mobile radio telecommunications utilities are not required under these rules to maintain accounts in accordance with this system of accounts. However, if, at a future date, the commission determined that use of the Uniform System of Accounts for Cellular Communications Utilities was necessary and in the public interest, the commission might require that cellular mobile radio telecommunications utilities establish and maintain their respective regulated accounts as if the Uniform System of Accounts had been in effect for the intervening period.

ADDITIONAL NOTE: Copies of annual report forms and the Uniform System of Accounts for Cellular Communications Utilities may be obtained from the Public Service Commission of Wisconsin, P.O. Box 7854, Madison, WI 53707.

PSC 172.09 NOTICE OF CHANGES. Within 20 days of the occurrence, all cellular mobile radio telecommunications utilities shall file with the commission the following information.

(1) Notice of changes in information filed with the commission in support of its petition for a determination of status.

(2) Notice of all organizational changes.

(3) Notice of exit from any market in which it offers cellular mobile telecommunications service.

No additional fiscal burden will be imposed on the state or municipalities as a result of these rules.

This action is classed as a Type 3 action according to PSC 2.90, Wis. Adm. Code. No unusual circumstances have come to the attention of the commission that would require further environmental review. The rules consequently require neither an environmental impact statement under s. 1.11, Stats., nor an environmental assessment.

These rules were forwarded to the legislature for review pursuant to s. 227.19, Stats. They will take effect as final rules on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Dated at Madison, Wisconsin,

September 15 1981

By the Commission.

Jacqueline K. Reynolds  
Jacqueline K. Reynolds  
Secretary to the Commission

JKR:RJM:rjm05138801



State of Wisconsin \ PUBLIC SERVICE COMMISSION

RECEIVED

OCT 3 1988

Revisor of Statutes  
Bureau

CHARLES H. THOMPSON, CHAIRMAN  
MARY LOU MUNTS, COMMISSIONER  
GEORGE R. EDGAR, COMMISSIONER

4802 Sheboygan Avenue  
P. O. Box 7854  
Madison, Wisconsin 53707

September 28, 1988

Mr. Gary Poulson  
Assistant Revisor of Statutes  
Suite 904  
30 West Mifflin Street  
Madison, WI 53703

Re: Ch. PSC 171, Cellular Mobile Radio Telecommunications  
Utilities  
Clearing House No. 86-220 - Docket 1-AC-110

Enclosed are two copies (one certified) of an order of the Public Service Commission adopting rules regarding cellular mobile radio telecommunications utilities. Copies of the rules were sent to the legislature in July, and there has been no objection. Please call with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Steve Levine'.

Steve Levine  
Assistant Chief Counsel

Enc.